ACTS
of the
LEGISLATURE
of
WEST VIRGINIA
MUNICIPAL CHARTERS
REGULAR AND FIRST EXTRAORDINARY SESSIONS
1925
NOTE BY CLERK OF THE HOUSE OF DELEGATES.

The general laws of the regular and first extraordinary session are published in a separate volume.
List of Members and Officers of the Legislature of West Virginia

1925

SENATE

President—M. Z. White, Williamson.
Clerk—John T. Harris, Parkersburg.
Chief Assistant—Homer Gray, Wheeling.
Sergeant-at-Arms—John Hallanan, Huntington.
Door-Keeper—W. R. Meserve, Cairo.

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(R)...... Republican.
(D)...... Democrat.
(=)...... Holdover Senators.
Standing Committees of the Senate

ON PRIVILEGES AND ELECTIONS.
Messrs. Jackson (Chairman), Hardman, White, Devore, Wilkin, Darnall, Herold, Boley and Cannon.

ON THE JUDICIARY.

ON FINANCE
Messrs. Hogg (Chairman), White, Wilkin, Willis, Hardman, Helmick, Smith, Jackson, Reynolds, Herold, Henshaw, Yoho, Nixon, Boley, Suddarth, Cannon and Johnson.

ON EDUCATION
Messrs. Willis (Chairman), Marsh, Hugus, Hogg, Jackson, Boley, Byrer, Henshaw and Kee.

ON ROADS AND NAVIGATION.

ON COUNTIES AND MUNICIPAL CORPORATIONS.
Messrs. Smith (Chairman), Hogg, White, Highland, Jackson, Kee, Johnson, Henshaw and Suddarth.

ON BANKS AND CORPORATIONS.
Messrs. Jackson (Chairman), Smith, Hardman, White, Hugus, Herold, Yoho, Byrer and Cannon.

ON PUBLIC BUILDINGS AND HUMANE INSTITUTIONS.
Messrs. Woods (Chairman), Baker, Devore, Hogg, Marsh, Suddarth, Henshaw, Darnall and Alderson.

ON PENITENTIARY.
Messrs. Highland (Chairman), White, Hardman, Marsh, Willis, Yoho, Ashworth, Boley and Kee.

ON RAILROADS.
Messrs. Helmick (Chairman), Hugus, Jackson, White, Wilkin, Henshaw, Johnson, Boley and Kidd.
ON MILITIA.

Messrs. Wilkin (Chairman), Hogg, Hugus, Woods, Devore, Byrer, Ashworth, Alderson and Cannon.

ON FEDERAL RELATIONS.

Messrs. White (Chairman), Smith, Hugus, Marsh, Devore, Kidd, Harold, Henshaw and Alderson.

ON INSURANCE.

Messrs. Baker (Chairman), Hardman, Willis, Highland, Reynolds, Kee, Cannon, Suddarth and Nixon.

ON IMMIGRATION AND AGRICULTURE.

Messrs. Reynolds (Chairman), Marsh, Devore, Hardman, Smith, Yoho, Byrer, Kidd and Nixon.

ON MINES AND MINING.

Messrs. White (Chairman), Woods, Hugus, Helmick, Willis, Johnson, Boley, Kee and Alderson.

ON MEDICINE AND SANITATION.

Messrs. Suddarth (Chairman), Marsh, Highland, Smith, Jackson, Wilkin, Kidd, Darnall and Byrer.

ON LABOR


ON CLAIMS AND GRIEVANCES.

Messrs. Marsh (Chairman), Reynolds, Hogg, Devore, Smith, Suddarth, Darnall, Yoho and Boley.

ON FORFEITED AND UNAPPROPRIATED LANDS.


ON PUBLIC PRINTING.

Messrs. Devore (Chairman), Helmick, Highland, Woods, Hogg, Boley, Cannon, Henshaw and Darnall.

ON RULES.

Messrs. Coffman (Chairman Ex-officio), Hugus, Smith, Hardman, Johnson and Boley.

ON PUBLIC LIBRARY.

Messrs. Devore (Chairman), Baker, Reynolds, Jackson, White, Kidd, Kee, Darnall and Suddarth.
TO EXAMINE THE CLERK'S OFFICE.


ON PROHIBITION AND TEMPERANCE.

Messrs. Smith (Chairman), Wilkin, Marsh, Reynolds, Hogg, Yoho, Boley, Nixon and Alderson.

ON FORESTRY AND CONSERVATION.

Messrs. Hardman (Chairman), Hugus, Highland, Helmick, Marsh, Willis, Herold, Boley, Suddarth, Byrer and Henshaw.

ON RE-DISTRICTING.

Messrs. Helmick (Chairman), Hogg, White, Baker, Wilkin, Darnall, Yoho, Nixon and Ashworth.

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

Messrs. Wilkin (Chairman), Woods, Devore, Alderson and Cannon.
### HOUSE OF DELEGATES

#### OFFICERS

Speaker—Hon. Edwin M. Kratley  
Clerk—M. S. Hooges  
Chief Assistant—V. F. Frueell  
Sergeant-at-Arms—W. H. C. Curd  
Sergeant-at-Arms—J. J. Johnson  
Door Keeper—W. H. Hutchinson

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*Died May 26, 1925  
†Qualified May 7, 1925  
‡Died Feb. 9, 1925  
§Resigned June 6, 1925  
**Qualified June 6, 1925
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Standing Committees of the House of Delegates

ON PRIVILEGES AND ELECTIONS.

ON THE JUDICIARY.
Messrs. Underwood (Chairman), Bayer, Bishop, Cotton, Edwards, Harper (of McDowell), Hundley, Morris, Trainer, McColloch, Read, Brown, Coffield, Hill and King.

ON FEDERAL RELATIONS.
Messrs. Rine (Chairman), Moulds, Ball, Harper (of McDowell), Radabaugh, Jackson, Engle, Street, Pettry, Cotton, Bird, Crawford, Davis, Roberts and Smith (of Putnam).

ON TAXATION AND FINANCE.
Messrs. Brewster (Chairman), Robinson, Dean, Federer, Heaberlin, Mathews, Cullen, Smith (of Berkeley), Tutwiler, VanSickle, Weiss, Andrews, Hall (of Mingo), Arnold, Cooke, Grove, Hall (of Wetzel), Holroyd, Sehon and Armstrong.

ON MILITARY AFFAIRS.
Messrs. Brown (Chairman), Cotton, Rine, Beavers, Smith (of Jackson), Cox, Morgan, Beard, Morrison, Spradlin, Taylor, Bird, Campbell, Roberts and Turley.

ON PROHIBITION AND TEMPERANCE.
Messrs. Thompson (Chairman), Morris, Cox, Beard, Federer, Jackson, Rine, Trainer, Miss Jones, Messrs. Street, Brammer, Harvey, Sydenstricker, Coffield and King.

ON EDUCATION.
Messrs. Deuley (Chairman), Engle, Austin, McPherson, Morgan, Pettry, Rine, Street, Morris, Hundley, Brammer, Turley, McCullough, Harvey and Stiles.

ON COUNTIES AND MUNICIPAL CORPORATIONS.
Messrs. Mathews (Chairman), Morris, Embleton, Robinson, Bartlett, Cox, Moulds, Cotton, McPherson, Solins, Armstrong, Bird, Brammer, Brumage, and Marcum.
ON BANKS AND CORPORATIONS.

Messrs. Andrews (Chairman), Cotton, Cox, Edwards, Solins, Trainer, Brewster, Tutwiler, Cullen, Fox, Grove, Brammer, Turley, Harper (of Pendleton), and Cooke.

ON ROADS

Messrs. McCrum (Chairman), Bayer, Dean, Deuley, Spradlin, Radabaugh, Thompson, Cotton, Underwood, Beard, Arnold, Harper (of Pendleton), Hall (of Mingo), Hill and Campbell.

ON FORFEITED AND UNAPPROPRIATED LANDS.

Messrs. Radabaugh (Chairman), Beavers, Andrews, Austin, Ball, Beard, Embleton, Smith (of Jackson), Tutwiler, Underwood, Lockhart, Davis, Fry, King and Dye.

ON CLAIMS AND GRIEVANCES.

Messrs. Beavers (Chairman), Morgan, McPherson, Weiss, VanSickle, Radabaugh, Hundley, Solins, Beard, Smith (of Jackson), Read, Furbee, Pence, Stevens and Smith (of Putnam).

ON HUMANE INSTITUTIONS AND PUBLIC BUILDINGS

Messrs. Austin (Chairman), Bishop, Mrs. Davis, Mr. Hundley, Miss Jones, Messrs. Morrison, Solins, Fox, Ball, Bartlett, Pence, Holroyd, Roberts, Smith (of Putnam), and Furbee.

ON PRINTING AND CONTINGENT EXPENSES

Messrs. Slaughter (Chairman), Austin, Bishop, Jackson, Miss Jones, Messrs. Moulds, Street, Radabaugh, Hundley, Meadows, Duval, Armstrong, Marcum, Pence and Stevens.

ON EXECUTIVE OFFICES AND LIBRARY

Messrs. Taylor (Chairman), Beavers, Harper (of McDowell), Pettry, Mrs. Davis, Messrs. Slaughter, Andrews, Austin, Ball, Bishop, Hays, Stevens, Dye, Armstrong and Coffield.

ON FORESTRY AND CONSERVATION.

Messrs. Cogar (Chairman), Trainer, Bayer, Morrison, Smith (of Berkeley), McColloch, Pettry, Ball, Edwards, Engle, Read, Arnold, Belknap, Furbee and Hill.

ON ARTS, SCIENCE AND GENERAL IMPROVEMENTS.

Messrs. Jackson (Chairman), Underwood, Beavers, Meadows, Moulds, Mrs. Davis, Messrs. Ball, Cogar, Cullen, Morrison, Roberts, Davis, Dye, Belknap and McCullough.
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AN ACT to create the municipal corporation of “The City of Thomas,” in the county of Tucker, defining the powers thereof, and describing the limits of said city, and to grant a charter thereto.

(Passed April 17, 1925; in effect from passage. Approved by the Governor.)

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

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

Sec. 2. The corporate boundaries of the said city shall be
2 as follows, that is to say:
3 Beginning at a large hemlock (now concrete stone) southwest
4 of the school house known as "Thomas schoolhouse"; thence
5 south sixty degrees, east one hundred and twenty-two poles to
6 a hemlock with beech and spruce pointers, (now concrete stone),
7 north thirty degrees, east three hundred and fifty-three poles
8 to a stake with hemlock, beech and spruce pointers (now con-
9 crete stone); thence north sixty degrees, west one hundred and
10 twenty-two poles to a bunch of May cherries, (now concrete
11 stone), two poles West Virginia Central railroad (now Western
12 Maryland railroad); thence south thirty degrees, west three
13 hundred and fifty-three poles to the beginning, crossing the
14 North fork of the Blackwater river at fifteen poles and re-cross-
15 ing the same again at three hundred and fifteen poles.

Sec. 3. The territory of said city is hereby divided into two
2 wards, as follows:
3 First Ward: All the territory within said city lying north
4 of First street, and northwest of the main line of the Western
5 Maryland railroad to the corporation line below the Western
6 Maryland depot.
7 Second Ward: Lying south of First street, and southeast
8 of the main line of the Western Maryland railroad.
9 The common council may reduce or increase the number of
10 wards, and change the boundaries thereof, always having due
11 regard to population.
12 The common council shall designate and provide a voting
13 place in each ward.

Officers

Sec. 4. The officers of the city shall be a mayor, clerk, a
2 solicitor, an assessor, a treasurer, two councilmen from each
3 ward, a councilman at large, a chief of police who may at the
4 discretion of the council be also appointed ex-officio collector;
5 and if said chief of police is not appointed ex-officio collector,
6 a collector is to be appointed, and the council shall have
7 authority to appoint a city commissioner if, within their judg-
8 ment, the appointment is necessary to the welfare of the city.
9 The chief of police, the treasurer, the assessor, the solicitor,
10 and the city commissioner shall be appointed by the city council.
11 No person shall be eligible to any elective office unless he or
12 she is a qualified voter of said city, nor unless he or she has
13 resided therein for at least three months next before the elec-
14 tion, and in case of councilmen from one of the wards unless
15 he is a bona fide resident of the ward from which he is elected
16 and was assessed with and paid the tax on either real or per-
17 sonal property that had an assessed valuation of three hundred
18 dollars or more, and the removal of a councilman from a ward
19 in which he was elected in said city or his ceasing to pay tax
20 on an assessed valuation of not less than three hundred dollars
21 real or personal property, shall vacate his office and no person
22 shall be eligible to be appointed to any city office unless he is a
23 qualified voter thereof.

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

Elections

Sec. 6. Elections shall be conducted under the general laws.
2 The first election held hereunder shall be on the first Tuesday
3 in February, one thousand nine hundred and twenty-six, and
4 biennially thereafter as hereinafter provided. Every person who
5 has been a bona fide resident of the city for three months next
6 preceded any election, and otherwise a qualified voter under
the constitution and laws of this state, shall be entitled to vote
at such election in the ward in which he or she resides.

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

First Election Biennial Thereafter

Sec. 7. On the first Tuesday in February, one thousand nine
hundred and twenty-six, there shall be elected by the qualified
voters of said city a mayor, and clerk and one councilman at
large and by the qualified voters of each ward two councilmen.
The term of office of the mayor, clerk, and councilman at large
shall be for a period of two years commencing on the first
Monday in March, one thousand nine hundred and twenty-six,
and until their successors shall be elected and qualified. The
term of office of the councilman from each ward receiving the
greatest number of votes shall be for a period of four years
commencing on the first Monday in March, one thousand nine
hundred and twenty-six, and until their successors shall be
elected and qualified. The term of office of the councilman
from each ward receiving the next highest number of votes
shall be for a period of two years, commencing on the first
Monday in March, one thousand nine hundred and twenty-six
and until their successors shall be elected and qualified.

And on the first Tuesday in February, one thousand nine
hundred and twenty-eight, and every two years thereafter there
shall be elected by the qualified voters of said city, a mayor,
clerk, and one councilman-at-large whose term of office shall be
two years as aforesaid, and by the qualified voters of each ward
one councilman whose term of office shall be four years as
aforesaid.
All of the other officers provided for in this act may be appointed to hold and discharge the duties of more than one of said offices. The same person shall not be eligible for a second appointment unless he shall have fully settled up all business of his former term or terms.

Sec. 8. Every person elected or appointed to any office in said city shall, within twenty days after his election, or appointment, and before entering upon the discharge of the duties thereof, take and subscribe the oath of office prescribed by law for officers generally, which may be done before the mayor or clerk of said city or before any person authorized by law to administer oaths, and the same, together with the certificate of the officer administering the oath shall be filed with the clerk of said city and preserved by him. And if a bond be required by said officer he shall likewise give such bond and with such surety and in such penalty as the council may fix, and to be approved by the council before he shall assume duties of the office to which he is appointed or elected.

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

Sec. 10. The council shall require and take from all officers elected or appointed as aforesaid, whose duty it shall be to receive funds, assets or property belonging to the city, or having charge of the same, such bonds, obligations or other writings as may be deemed necessary and proper to secure the faithful performance of their several duties. All bonds, obligations or other writings taken in pursuance of any of the provisions of this act shall be made payable to The City of Thomas, with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties and for the accounting and paying over as required by law, all moneys coming into their hands by virtue of their offices, and the respective persons and their heirs, executors and assigns bound thereby, shall be subject to the same proceedings on said bonds, obligations and other writings, for enforcing the conditions of the terms thereof,
Sec. 11. The council shall have the authority to remove from office any elective officer of the city for misconduct, drunkenness or neglect of duty, by an affirmative vote of five of the members of the council but only after reasonable notice to such officer, and a hearing of the charges preferred; and any vacancy in office, however occasioned, may be filled by the council for the unexpired term.

Sec. 12. The council shall fix the place and time for holding its regular meetings; may provide for special and adjourned meetings; shall have power to compel the attendance of its members; and may prescribe rules and regulations not inconsistent herewith, for the transaction of business and for its own guidance and government. The council shall be presided over at its meetings by the mayor, or in his absence, by the clerk, or in the absence of both the mayor and clerk, then one of the councilmen selected by a majority of the councilmen present. A majority of the council elected shall be necessary to constitute a quorum for the transaction of business. No member of the council shall vote upon, or take part in the consideration of any proposition in which he is, or may be interested otherwise than as a resident of said city.

Sec. 13. The council shall cause to be kept by the clerk in a well-bound book to be called the minute book, an accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called the ordinance book, accurate copies of all the ordinances adopted by the council, both of which shall be fully indexed and open to the inspection of any one required to pay taxes to the city or who may be otherwise interested. All oaths and bonds of officers of the city and all papers of the council shall be endorsed, filed and securely kept by the clerk, except the bond of the clerk which shall be filed with the mayor. All printed copies of such ordinances purporting to be published, under authority of the council, and transcripts of such ordinances, acts, orders and resolutions, certified by the clerk under the seal of the city, shall be deemed prima facie correct, when sought to be used as evidence in any court or before any justice.
Sec. 14. At each meeting of the council, the proceedings of the last meeting shall be read, and if erroneous, corrected and signed by the presiding officer for the time being. Upon the call of any member, the yeas and nays on any question shall be taken and recorded in the minute book.

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

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

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

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

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

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

(5) To regulate the width of sidewalks and the streets and the width and the care of the public grounds or grass plots abutting thereon, and to order the sidewalks, footways, cross-ways, drains and gutters to be curbed, paved, or re-paved and kept in good order, free and clean, and to provide for the removal of snow and ice therefrom, and for sprinkling the same by the owners or occupants of the real property next adjacent thereto, and to provide and enforce punishments for obstructing, injuring, or preventing the free and proper use
thereof, and to provide and enforce fines and penalties for throwing therein or thereon any paper, glass, rubbish, decay-
ing substances or other things that would make said streets, sidewalks, grass plots, cross-walks, drains, or gutters unsightly or unhealthy.

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

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

(8) The council shall have the right to require the owner or occupier of any property in the city to keep his premises clean and free from all matters that would endanger the health of the city, and may require the removal of any waste paper or waste material of any kind or character upon the private property of any citizen or property owner that would cause the spread of fire or when the council deems the same should be removed; and may require the removal or straightening of any fence, wire, pailings, or other material enclosing any lot, when, in the opinion of the council, the same is dangerous or obstructs or encroaches upon the streets, alleys, or sidewalks; provided, that in all cases, if the owner or occupier of such property fails to do any of the things enumerated in this section required by the council, after notice by the council, the council may take such action as may be necessary to perform such acts and the expense thereof shall be charged to the property owner and collected as taxes are collected.
(9) To regulate the making of division fences of an unsightly nature and party walls by the owners of adjoining and adjacent premises and lots, insofar as the same shall not be in conflict with general law.

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

(11) To regulate or prohibit street carnivals, or street fairs, or street parades, advertising exhibition, or other exhibitions thereon, or the exhibition of goods, wares, merchandise, material or artificial curiosities upon any street, sidewalk, alley or public place of the said town.

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

(13) To license, regulate or prohibit auctioneering.

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

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

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

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

(18) To regulate, assess and collect a license fee for the said city for the doing of anything or business on which a state license is required, subject to the exceptions provided by general law.
155  (19) To provide, assess and collect a license tax from
156 residents in said city who own and operate or run an auto-
157 mobile therein, or from any person, whether a resident of said
158 city or not, who shall run or operate an automobile in said
159 city for hire, or keep the same for hire within said city;
160 provided, that any person, not a resident of said city, who
161 shall run or operate an automobile in said city, not for hire,
162 for a longer period than one month at any time, shall be
163 liable to pay the license tax assessed against resident automo-
164 bile owners.
165  (20) To establish, when the council may deem proper,
166 locate, and keep in repair, market places, market houses, and
167 regulate markets, prescribe the time for holding the same, to
168 authorize the seizure thereat and destruction of any and all
169 such foods and drink products, as shall be found unwhole-
170 some, dangerous or offensive, and without recourse against
171 the municipality for its cost or value.
172  (21) To regulate the sale of food and drink products,
173 milk, fresh meats, fish and vegetables, and to provide penalties
174 for the sale of any such that are unwholesome or unfit for
175 use.
176  (22) To regulate and provide for the weighing of hay, 
177 coal and other articles for sale in the markets, or to residents
178 of said city.
179  (23) To require the merchants and other persons selling
180 goods, foods or materials that must be weighed, to keep cor- 
181 rect scales, to seize and destroy such as may be found to be 
182 incorrect, and not corrected after due and proper notice to 
183 the owner or person using the same, without damage or 
184 expense to the municipality for the value thereof.
185  (24) To prevent injury or annoyance to the public or 
186 individuals from anything dangerous, offensive or unwhole-
187 some.
188  (25) To regulate the keeping, handling and transportation
189 of explosives and dangerous combustibles within the munici-
190 pality; and to regulate or prohibit the use of firecrackers, sky-
191 rockets, toy pistols, air rifles or guns, within the said
192 municipality.
193  (26) To regulate or prohibit the erection or operation, or
194 maintenance in what the council deems an improper locality
195 within said city, any blacksmith shop, livery stable, barn,
196 stable, cattle pen, poultry house, pig pen, privy, bill board,
(27) To regulate or prohibit the use of walls or walks for signs; to regulate or prevent the distribution or posting of any sign, bill or other paper that, in the opinion of the council or mayor, is indecent or immoral.

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

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

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

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

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

(33) To arrest, convict and punish any person for committing adultery or fornication, or for any lewd or lascivious cohabitation within said city, and for keeping an assignation house, house of ill fame, or for leasing or letting to any other person any house or other building to be kept or used as such, or for knowingly permitting any house, under the control or owned by any person, to be used as an assignation house or
249 house of ill fame; and to convict and punish for frequenting,
250 entering or loitering in any assignation house or house of ill
251 fame within said municipality.
252 (34) To arrest, convict and punish any person for im-
253 porting, printing, publishing, selling, giving away, exhibiting
254 or distributing any book, picture or device, or other thing
255 containing any obscene picture or language, or making any
256 indecent representation.
257 (35) To restrain, convict and punish vagrants, mendic-
258 ants, beggars, tramps, common prostitutes, and their asso-
259 ciates, and drunken or disorderly persons within the munici-
260 pality, and to provide for their arrest and manner of punish-
261 ment.
262 (36) To prevent and prohibit the use of indecent or pro-
263 fane language within the corporate limits, and to provide
264 and fix punishment therefor.
265 (37) To prevent and prohibit any tumult, riot, quarrel,
266 angry contention, or abusive language, and to prevent the use
267 of insulting epithets, assaults, assault and battery, and fix
268 fines and punishments therefor.
269 (38) To prevent and prohibit trespass upon private
270 property or the doing of anything which would annoy the
271 owner or occupier of any premises, and to fix and provide
272 fines and punishments therefor.
273 (39) To provide against danger or damages by fire, and
274 to that end, to require, when the council may think necessary,
275 an inspection of all the properties within the said city, and to
276 require the owner or occupier of any property in which a
277 defective or dangerous chimney or flue is found, to imme-
278 diately repair the same, and to prevent the use thereof until
279 repaired as required.
280 (40) To prohibit and prevent intoxication or drunkenness,
281 and the drinking of intoxicants in any public place, store,
282 street, or alley, and to fix fines and penalties therefor.
283 (41) To prohibit and punish for larceny where the amount
284 stolen is less than twenty dollars.
285 (42) To prohibit, prevent, and punish for anything that
286 is against the good morals and common decency, and that
287 would tend to corruption, vice or crime.
288 (43) To protect the public schools in said city, and to
289 prohibit and prevent any disturbance thereof in and about
290 the buildings or upon the grounds, and to prevent injury, 
291 destruction or defacement of any school property or building. 
292 (44) To establish a board of health and vest it with the 
293 necessary power to maintain its object, and to fix fines and 
294 penalties for any violation of its lawful orders. 
295 (45) To establish quarantine, and to erect and maintain 
296 pest houses and places of detention, and to make and enforce 
297 necessary orders for controlling or preventing the spread of 
298 infectious and contagious diseases, and for abating pestilences. 
299 (46) To prohibit the bringing into the corporate limits 
300 by railroads, carriers, persons, or in any manner, persons who 
301 are paupers or persons who are afflicted with contagious 
302 diseases; and to punish by fine and imprisonment, or both, 
303 any person who shall bring into the corporate limits any such 
304 pauper or person afflicted with contagious diseases, knowing 
305 or having reason to believe at the time, that such person is a 
306 pauper or afflicted with such contagious disease, and to collect 
307 and recover from any such railroad company, carrier, or other 
308 person, the expense of keeping and maintaining such pauper 
309 or diseased person, until such person can be lawfully removed 
310 from the corporate limits. 
311 (47) To provide for the poor of the municipality, and to 
312 that end, the municipality may contract with the county court 
313 of Tucker county, for the keeping of such poor person, or any 
314 number of them, at the county poor house, at a price and 
315 on such terms as may be agreed upon between the county 
316 court and the proper municipal authorities. 
317 (48) To authorize the taking up and providing for the 
318 maintenance and safe keeping, and educating of (for such 
319 period as may be deemed expedient) all children within said 
320 city who are destitute of proper parental and other care. 
321 (49) To arrest, convict and punish any person for cruelty, 
322 unnecessarily beating, torturing, mutilating, killing, or over-
323 loading, or over-driving, or wilfully depriving necessary sus-
324 tenance, any horse or other domestic animal. 
325 (50) To regulate the hitching of horses within the corpo-
326 rate limits, and the driving of cows and cattle through, upon 
327 and along the streets and alleys of the said city. 
328 (51) To prohibit, prevent and punish for the pollution 
329 of any stream of water running into or through the said 
330 municipality; and to prohibit and prevent the throwing into
any stream of any trash, dirt, filth, offal, decayed substances
or matters, or anything that would make said water unhealthy
or unfit for domestic use.

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

(53) To restrain, prevent and punish fraudulent practices of any kind or character within the municipality.

(54) To arrest, convict and punish any person for
gambling or keeping any gaming table, commonly called faro
bank, or table and chips used in playing such game, crap, crap
table, chips or dice used in playing such game; or roulette or
the wheel, chips, or other equipment used in playing such
game; or keno table or table of like kind or device used in
playing the same; or table of like kind under any denomination,
whether the game or games be played with cards, dice,
or otherwise on which anything is bet or wagered, whether the
same be played in any public or private room or residence;
and may convict and punish any person who shall be a partner
or concerned in interest in the keeping of any such gambling
devices heretofore enumerated, or in any game played, such
as is prohibited hereby, or in keeping or maintaining any
gambling house or place of gambling for money or anything
of value; and shall have the right to destroy such gambling
paraphernalia as may be found in use on any such premises;
and any officer armed with a warrant for the arrest of any
person engaged in any such unlawful game or for the search
of any room in which gambling is suspected, or for the seizure
of any gambling paraphernalia, shall have the right to break
into any building, other than a private dwelling house, without
notice or demand, and into a private dwelling or room, after
demand and refusal to open same, to execute any such
warrant.

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

(56) To apprehend and punish any person who, without
a state license therefor, is guilty of carrying about his person,
373 within the municipality, any revolver or other pistol, dirk, 374 bowie knife, sling shot, razor, billy, metallic or other false 375 knuckle, or any other dangerous or deadly weapons of like 376 kind and character, as provided by chapter fifty-one of the 377 acts of the legislature of one thousand nine hundred and nine, 378 or any amendment thereof, and the punishment therefor, 379 whether for the first or other offenses, shall be that prescribed 380 by said chapter for any such person guilty under the misde- 381 meanor clause provided therein; provided, that the mayor 382 acting as ex-officio justice of the peace, may, after enforcing 383 this ordinance, hold such offender to answer to an indictment 384 in the circuit court of Tuceler county for such offense, under 385 the state law.

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

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

(59) To establish fire limits and to regulate the construction of buildings, and designate materials to be used in the construction of buildings within such limits.

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

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

(62) To regulate the height, construction and inspection of all new buildings thereafter erected, the alteration and repair of any buildings now or hereafter erected, to require permits to be obtained of the council therefor, and the sub-
mission of plans and specifications to the council for its approval; to regulate the limits within which it shall be lawful to erect any steps, porticos, bay windows, awnings, signs, columns, piers, or other projection or structural ornaments of any kind for the houses or buildings on any street or alley.

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

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

(65) To require any person violating any of the ordinances of said city, or any order for which a fine, imprisonment or both is imposed, to work upon the streets of said city in case of non-payment of said fine, until the same is paid by such labor, or in case imprisonment is imposed, to work upon the streets of said city during the term of such imprisonment in addition to the payment of such fine, under such regulations as the council may prescribe.

(66) To prescribe the powers, define the duties of the officers appointed under the corporate authority, fix their terms of service and compensation, if not otherwise prescribed by this charter, and to acquire and take from them bonds, when deemed necessary, payable to the state of West Virginia,
456 of the city of Thomas, with the sureties, and in such penalties
457 as may be prescribed, conditioned for the faithful discharge
458 of their respective duties; provided, that the compensation of
459 any officer, elected or appointed, shall not be increased nor
460 diminished during the time for which he is elected or
461 appointed, unless due notice of such intention is first served
462 on the officer interested.
463
464 (67) To make regulations with respect to, and have super-
465 vision and control over the erection, removal and relocation
466 of all telephone, telegraph, electric light or other poles within
467 said city, and the extension of wires, lines or poles by any
468 individuals or corporations.
469
470 (68) To grant and regulate all franchises in, upon, over
471 and under the streets, alleys and public ways of said city,
472 under such restrictions as shall be provided by ordinances and
473 general law; but no exclusive franchise shall be granted by
474 said city council to any individual or corporation; nor shall
475 any franchise be granted for a longer period than fifty
476 years.
477
478 (69) To acquire, erect or authorize or prohibit the erec-
479 tion of gas works, electric light works or water works within
480 the city limits; to prevent injury to such works or the pollu-
481 tion of any gas or water used or intended to be used by the
482 public or individuals; and to do all things necessary to ade-
483 quately supply said city and the inhabitants thereof with
484 pure, healthful and wholesome water; to use, generate, dis-
485 tribute, sell and control electricity and gas for heat, light and
486 power, and to furnish light for the streets, highways, build-
487 ings, stores and other places in and about said city.
488
489 (70) To prevent injury to any gas works, electric light
490 works, water system or any gas meter or meters within said
491 municipality.
492
493 (71) The council shall have the right to require of any
494 water company or person furnishing water for the use of the
495 inhabitants of said city, for hire, compensation or reward, to
496 obey any order of the council with respect to keeping the
497 reservoir or other source from which said water is furnished,
498 free from filth and in a good, clean condition, and may require
499 said water company to properly filter the water distributed
500 for use, and may require said company to put in such lines as
501 may be necessary to pump the said water into the reservoir
or other receptacle therefor, without pumping the same into
the main distributing lines, or in any other way or manner
effecting them; and may fix fines and penalties for any failure
on the part of any corporation, company or other person dis-
tributing water, to obey any order of the council or any
authorized officer of the town, respecting the same, or any
ordinance that may be enacted by the council relative thereto.

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

(73) The council shall have the right to provide a sewer-
age system for said city, and may require the owner of any
property abutting upon any street or alley in which a sewer
has been laid or placed, to connect a sewer leading from his
or her property or lot into any public sewer which is located in
such street or alley adjoining same, and if the owner or occu-
pier of said lot or property fails or refuses so to do, after
having been given a reasonable notice, the council may enter
upon such lot and construct such sewers, and may levy the
actual cost thereof against the lot upon which the same is
built and collect such costs from the owner of such lot in the
same manner as city or state taxes are collected; in addition
thereto, the council may punish by fine, or fine and imprison-
ment, any person who permits any drainage from his residence
or lot to enter upon any street or upon any property after a
sewer has been placed in a street or alley adjacent to his
property to which he should connect, after notice has been
given to him by the council to make such connection.
(74) The council shall have the right to impose fines and penalties for any interference with or destruction of the sewer system or any part thereof in said city, or for the destruction of or damage to any street, alley or sidewalk in said city, or any improper use thereof; it shall have the right to regulate or prevent the use of the sidewalk for bicycles, pushcarts, sleds, tricycles, roller skates and other things of like character, and to fix fines and penalties for violation of the ordinances respecting same.

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

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

(77) Whenever in the opinion of the council it is necessary that any sidewalk be built or repaired, it shall first have a competent engineer fix a grade line for such sidewalk and shall then, by order of council, name the character of material out of which same is to be built, and fix the width thereof, and put in such curbing as the council may deem necessary, and shall then give notice, in writing, to the owner or occupier of said lot, if he be found, and if he be not found, by posting a notice thereof upon the said lot and at the front door of the court house of Tucker county for at least ten days, requiring the construction of said sidewalk in accordance with the requirements of the council, and upon the grade fixed by the said engineer, and if such sidewalk be not built, altered or repaired within twenty days after such notice is first given or posted, the council shall proceed to put in the same under its supervision and control, and shall charge the expense thereof against the property along which the same is being placed, altered or repaired, and shall cause an itemized account of the same to be made up and delivered to such
property owner or occupier of such premises, if found, and if he be not found, have the same recorded in the county clerk's office of Tucker county, and the same shall constitute a lien upon the said lot or property and shall be collected as other taxes are collected; provided, nothing herein contained shall prevent the council from requiring immediate repair of such sidewalks now or hereafter constructed that may become dangerous, and after notice to the property owner along which the same run, the council may make such immediate repairs, if the property owner fails to make same after such notice, and the expense thereof shall be a lien in the manner aforementioned.

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

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

(80) To provide for the annual assessment of the taxable property in said city, including dogs kept in said city, and to provide a revenue for said city for municipal purposes and appropriate such revenue to its expenses; provided, nothing hereinafter contained shall require the council to keep in repair and maintain any bridge or bridges within said corporation, nor or hereafter owned by the county of Tucker, but the officers of said corporation in the preservation of law and order shall have jurisdiction over any such bridges within such corporation; and provided, further, that the police regulations as may be ordained by said city, and the right and power to enforce the same shall extend one mile into the
state of West Virginia beyond the corporate limits of said city.

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

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

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

(84) The council shall have the right to enforce the ordinances of said city. And in all cases where a fine is imposed for an amount exceeding ten dollars, or a person be imprisoned or compelled to labor as aforesaid, an appeal may be taken from such decision upon the same terms and
conditions that appeals are taken from the judgment of a justice of this state; and in no case shall a fine of less than ten dollars be imposed where the ordinance prescribes a fine, if the defendant requests that such fine be made at least ten dollars for the purpose of appeal.

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

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

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

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

Nor shall any franchise be hereafter granted by council for a longer period than fifty years; provided, that council shall have the power to renew any such franchise for the term of fifty years when the same shall have expired. No franchise hereafter granted for a longer period than fifty years shall be
of any force or validity. No grant of any such franchise shall be made unless at the time of making it, the grantee, its successors or assigns, shall indemnify the city against all damages caused by the construction of such works.

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

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

Sec. 19. The mayor shall be the chief executive officer of the city and shall see that the orders, by-laws, ordinances and resolutions of the council thereof are faithfully executed; he shall be ex-officio a justice and conservator of the peace within the city and shall within the same, have, possess and may exercise, all the powers and perform all the duties whether in civil or criminal proceedings, vested by law in a justice of the peace. Any summons, warrant or other process, issued by him may be executed at any place within the county; he shall have power during the recess of the regular meetings of council to appoint special police officers when he shall deem it necessary, and it shall be his duty to see that the peace and good order of the city are preserved, and that persons and property therein are
14 protected; and to this end he may arrest and detain, or cause the
15 arrest and detention of all riotous and disorderly persons be-
16 fore taking other proceedings in the case; he shall from time to
17 time recommend to the council such measures as he may deem
18 needful for the welfare of the city; he shall not receive any
19 money due or belonging to the state or corporation or to
20 individuals, nor have civil jurisdiction of a justice, unless
21 and until he shall have given the bond and security required
22 of a justice of the peace by chapter fifty of the code of West
23 Virginia; and all the provisions of said chapter relating to
24 moneys received by justices shall apply to moneys received
25 by him in like cases.
26 The mayor shall receive a salary of one hundred and fifty
27 dollars per annum, to be paid on the first day of March of each
28 year, and in addition thereto the mayor shall receive all fees
29 that accrue to him in proceedings for the enforcement of
30 ordinances and all such fees shall be collected and retained by
31 the mayor; he may tax such costs against any person or corpora-
32 tion found guilty of the violation of any ordinance of the city
33 as are provided to be taxed and recovered by justices of said
34 county in criminal cases, and the mayor shall be entitled to
35 the same fees as those received by a justice of this county in
36 similar proceedings. Each councilman of the city shall receive
37 from the city, to be paid out of the city treasury, the sum of
38 fifty dollars per annum, payable on the first day of March of
39 each year.

Sec. 20. The process in proceedings to enforce any ordi-
2 nance prescribing a fine or imprisonment, or a fine and im-
3 prisonment, for the violation thereof shall be a summons in the
4 name of the City of Thomas, as plaintiff, directed to the chief
5 of police, to one of the regular police officers of the city, or to
6 any constable of any district within the said city, requiring
7 him to summons the person accused of such violation and who
8 shall thereafter be designated as defendant, to appear before
9 the mayor at the time and place therein named, to make
10 answer to such accusation and be dealt with according to law;
11 such summons shall contain such a statement of the facts
12 alleged as will inform such person of the general nature of the
13 offense against the city with which he stands charged, and ex-
14 cept in cases of arrest upon view, shall be issued only upon the
15 complaint on oath, of some creditable person. But the mayor
may for good cause appearing, by endorsement on the summons. 
order the person so accused to be forthwith apprehended and 
brought before him for a hearing of the charge. The clerk of 
said city as well as the mayor, shall have authority to receive 
any complaint in writing of the violation of any ordinance, 
and to sign and issue the proper summons based upon such 
complaint. The mayor shall possess, and may exercise, the 
power and authority belonging to a justice under sections two 
hundred and twenty-four and two hundred and twenty-five 
of chapter fifty of the code of West Virginia, in summoning 
and enforcing the attendance and examination of witnesses, in 
punishing for contempt, in granting continuances, and in 
securing and enforcing the further attendance of the accused 
with a view to a trial or hearing. If any recognizance be taken 
for such further attendance, and is forfeited, the mayor may 
record the default, and an action be maintained in the name 
of the city, before the mayor, or any justice having jurisdiction, 
against the accused and his sureties, if any, to recover the pen-
alty thereof.

Sec. 21. The mayor shall have power to issue an execution 
for any fine and costs assessed or imposed by him, for the 
violation of any ordinances, or he may at the time of rendering 
judgment therefor, or at the time thereafter and before satis-
faction 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 Tucker 
county or in his discretion to the prison of said city, if one 
shall have been provided, and require him to labor on the 
streets until the fine and costs are fully paid; but such impris-
onment shall not exceed ninety days.

Sec. 22. The jail of Tucker county may be used as a lockup 
for said city. The jailer of said county shall take and receive 
his custody by any person authorized to be confined there-
in by the ordinance of said city, or sentenced to imprisonment 
therein, or committed thereto, for non-payment of fine or 
costs or for failure to enter into a recognizance by the judg-
ment or order of the mayor, in proceedings for violation of an 
orinance; and the expense of maintaining such persons while 
so in confinement shall, if such person be found guilty of such
10 violation, be charged to such person as part of the costs, but
11 whether collected from such person or not, such expense shall
12 be paid to said jailer by the city.

**Mayor's Docket**

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

**Appeal**

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

Sec. 25. If such appeal be taken the mayor shall forthwith
2 deliver to the clerk of said court the complaint in writing, if
3 any; the summons, a transcript of the record including the
4 judgment, the recognizance, and any other papers belonging
to the case; and such clerk shall receive and file the same, and
place the case upon the trial docket of the next succeeding
term of said court, and said court shall proceed to try the same
in its order.

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

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

Clerk

Sec. 28. It shall be the duty of the city clerk to keep a
journal of the proceedings of the council, and have charge of
and preserve the records, papers, contracts and other docu-
ments belonging to the city; it shall be his duty to attend the
sessions of the police court, and keep an accurate record of the
proceedings, and all judgments shall be entered by him, within
twenty-four hours after the same is rendered; he shall, in
cases of sickness or disability of the mayor to act, or in case
of his absence from the city, or during any vacancy in the
office of the mayor, perform the duties of the mayor, and shall
be vested with all the powers necessary for the performance
of such duties; he shall also perform the other duties pertain-
ing to the fiscal affairs of the city, or otherwise, as may be
required of him by this act or by the council.
As soon as the rate of levy shall have been fixed by council according to law, the clerk shall furnish the officer whose duty it is to make out the land and personal property books, a certified copy of the order of the council fixing the rate of tax, and such officer shall thereupon extend the tax against the property situated in the city, in the land and personal property books, in separate columns in said book.

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

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

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

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

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

Sec. 30. The said collector shall receive all taxes, assessments, fines and costs, water rents, and other money due the city authorized by this act, or by any ordinance of said city, to be paid to the city and shall receipt for the same; he shall keep an accurate account of all money paid to him for the use
of said city, showing under separate accounts the amounts
received for account of taxes, sewer purposes, street pavements,
licenses, water rents and other bills due the city, fines and
costs and of other matters pertaining to his office, which books
shall at all times be open to the inspection of the council, or to
any committee appointed by it for such purposes; he shall pay
over promptly any money which he may receive, within five
days after the receipt thereof, into the hands of the treasurer
of said city, showing an itemized statement of the several
funds included in such payment, taking the treasurer's receipt
therefor; he shall keep his office at the office of the mayor, unless
otherwise ordered by the council and shall keep his office open
for the transaction of business, as may be directed by the coun-
cil; he shall on or before the first day of January and July of
each year and oftener, if directed by the council, present to the
council a full complete and detailed statement of all money
with which he is chargeable, or that has been received by him
from all sources up to that time, together with a statement of
all money paid to the treasurer and proper receipt therefor.
and he shall at such times return a list of all taxes, levies and
assessments and other claims in his hands for collection which
he shall not have been able to collect by reason of insolvency,
removal, or other cause, to which list he shall append an affi-
davit that he has used due diligence to collect the several items
therein mentioned, but has been unable to do so, and if the
council should be satisfied as to the correctness of such list, it
shall allow him a credit for said claims, but may thereafter take
such lawful measurers to collect same as may be by it prescribed.
The said collector shall receive all taxes on licenses, and receipt
to the party paying same by endorsement upon the permit
granted by order of the council and shall charge himself with
the amount received from the same, and report to the council,
at the next regular meeting thereafter, the amount so received
and pay the same over to the treasurer, taking his receipt for
the same; he shall upon the expiration of his term of office, or
upon order of the council, turn over to his successor all money,
books of account and all other property of said city in his pos-
session; he shall receive such salary as may be fixed by the
council which shall be not less than at the rate of six hundred
dollars nor more than twelve hundred dollars per annum.
Sec. 31. The chief of police of said city before entering upon the discharge of his duties, shall execute a bond conditioned for the faithful performance of the duties of his office, and for the accounting for and paying over, as required by law, all money which may come into his hands by virtue of his office, with sureties satisfactory to the council, payable to the City of Thomas, in a penalty of not less than two thousand nor more than ten thousand dollars, as the council may prescribe; he shall be custodian of all notes, bonds, certificates and other evidences of indebtedness to the city, together with all valuable papers which may be placed in his possession by the council; he shall be chargeable with, and it shall be his duty to collect the city taxes, levies, and assessment, under such regulations as may be prescribed by law and the ordinances of the city, and in case the same are not paid within one year, after they are placed in his hands for collection, he may discharge and sell therefor in like manner, and have the same power and authority possessed by the officer charged with the collection of state taxes.

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

Solicitor

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

Chief of Police

Sec. 33. It shall be the duty of the chief of police to preserve order and quiet in said city, and to see that all subordinate police officers faithfully perform their official duties, and he may for good cause appearing to him, for neglect of duty or
5 insubordination, suspend any such officer from duty, and re-
6 port his actions and reasons therefor, to the next regular meet-
7 ing of the council for action thereon; he shall make a list of
8 all dogs within the said city liable to tax and collect the license
9 tax thereon as may be provided by ordinance of said city; he
10 shall be present in the police court whenever the same shall be
11 in session, and see that all its orders and requirements are
12 properly executed; he shall with the consent of the council
13 entered of record, but not otherwise, appoint one or more
14 policemen as the council may be determine.

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

Treasurer

See. 35. The treasurer may be a citizen, a bank or trust
2 company of said city, and shall be selected by council and shall
3 hold office during the pleasure of the council. All money due
4 the city shall be paid to the chief of police and be by the chief
5 of police deposited with the treasurer. The money deposited
6 with the treasurer shall be disbursed only upon orders drawn
7 against the same, signed by the mayor and countersigned by
8 the clerk. The treasurer shall receipt to the chief of police
9 for all money paid by him, and shall keep regular books of
account, showing the amount of the several funds paid or
deposited with the treasurer by said chief of police, and shall
make report to the council once a month, or at such other times
as the council may direct, showing the receipts and disburse-
ments of the funds of the city, and the treasurer shall produce
his books and accounts to council or any committee of the same
for inspection, upon order of the council.

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

City Commissioner

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

It shall likewise be his duty to report to the council, every
obstruction found in any of the streets or alleys of said city,
and on such report the mayor shall summon the offender to show cause why the same should not be removed at the expense of the offender and why a fine should not be imposed upon the offender for violation of the ordinance of said city in regard thereto. It shall likewise be the duty of the said city commissioner to supervise and protect all of the buildings and other property belonging to said city and to provide for the proper heating and cleaning and lighting of the city buildings and lockup, and such other duties as may be imposed upon him by the common council.

Lien for Taxes

Sec. 37. There shall be a lien on real estate within said city for the city taxes assessed thereon, and for all fines and penalties assessed thereto, or imposed upon the owners thereof, by the authorities of said city from the time the same are so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the state, county and district; and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes. If any real estate within said city be returned delinquent for the non-payment of delinquent taxes thereon, a copy of such delinquent list may be certified by the council to the auditor and the same may be sold for the city taxes, interest and all commissions thereon, in the same manner, at the same time and by the same officer as real estate is sold for the non-payment of state taxes.

License

Sec. 38. The council shall have the authority to require a city license as follows: For anything to be done, carried on or exhibited within the said city, for which a state license is now, or may be hereafter required, for the keeping of hacks, carriages, carts, wagons and other vehicles for hire within the city, and for the keeping of dogs within the city, and the council may provide for the killing of all dogs, the keeping of which is not licensed. And upon all such licenses the council may impose a reasonable tax for the use of the city.

Sec. 39. The council shall prescribe by ordinance, the manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to be made to the chief of police of said city before delivery to
the person applying therefor, and the provisions of sections thirty-nine, forty and forty-one of chapter thirty-six of the acts of one thousand nine hundred and five, relating to licenses, shall govern the city in the granting of licenses similar in character to those herein mentioned, except where otherwise herein provided. Licenses for keeping dogs shall also expire on the thirtieth day of June next after they are granted, and all other licenses may be for such times as the council may determine.

Powers of Council

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

Sidewalks

Sec. 41. The common council shall have power to determine the material to be used in building all sidewalks and shall determine through the city commissioner’s report where such sidewalks shall be erected, and the width and grade thereof, and shall fix upon the material with which the same shall be built, and may make an order requiring the owners of lots, or parts of lots, facing or abutting on such sidewalk or footway, to pave the same with such material and on such grade and of such width as may have been determined at the expense of such owner, and under the supervision of the city commissioner, and if such owner of such abutting lot, or lots, fail or refuse to pave the same in the manner or within the time required by the council, the said common council may cause the same to be done, at the expense of the city, and to assess the amount of such expense upon the owner, and the clerk shall notify the owner of such lot the amount of such assessment and if such assessment be not paid within thirty days from the date of said notice, he shall cause a memorandum showing the name of owner of said lot, a description of the lot, and the amount of assessment to be filed in the office of the county clerk of Tucker county, which shall be entered of record in the judgment lien
22 docket in his office and the same shall constitute a lien upon
23 such property, which may be enforced by a suit in equity in
24 the name of the city, in the circuit court of Tucker county as
25 other liens against real estate are enforced, and upon the
26 payment of such assessment, the clerk shall issue to the person
27 entitled thereto, a release of said lien; provided, however, that
28 reasonable notice shall first be given to said owners that they
29 are required to construct such sidewalks or footways, and in
30 case the owner is a non-resident of the state, the notice afore-
31 said may be given by publication for four successive weeks, in
32 a newspaper published in said city. The provisions of this
33 section shall also be applicable to needed repairs to any of the
34 pavements of the city, and to the substitution of new pave-
35 ments for any which may have been heretofore, or which may
36 hereafter be laid and completed, and which may be deemed
37 insufficient.

Street Paving

Sec. 42. The council shall have the authority to provide
2 that any street or alley or any portion thereof, between the
3 curbstones, shall be macadamized, or paved with bricks or cob-
4 blestones or other suitable material, upon the lowest and best
5 terms available, and the whole cost of macadamizing or paving,
6 from curb to curb of such street or alley, shall be assessed to
7 the owners of the land or lots, or fractional parts of lots, front-
8 ing or abutting on such street or alley, that is to say: The prop-
9 erty owners on each side of said street or alley to be assessed
10 one-third each and the city one-third of the costs of said im-
11 provements, to each property owner a sum proportionate to the
12 distance or extent in feet by him owned and one-third of a sum
13 so assessed shall be paid by each property owner to the city
14 within thirty days after the completion of the work, and the
15 remainder in two equal installments in six and twelve months
16 thereafter, with interest thereon, or at such other times as the
17 council may prescribe. The expense of macadamizing or pav-
18 ing at the intersections of streets or alleys shall be defrayed by
19 the city. After the said improvements have been made, the
20 council shall cause a notice to be published for one week in a
21 newspaper of said city, showing the owners of the property and
22 the number of feet fronting on said improvements, as well as
23 the time and the place where the said council will proceed to
24 fix the assessment as above provided, and giving notice to any
person having any interest in said property to appear and show cause, if any they can, why such assessment should not be made; and the council may, in making such assessments, consider the petition of any person or corporation relative to the inequality of said assessment, and may equalize and adjust the same. A copy of the list of such assessments showing the name of owner, number of lot or parcel of land, amount of said assessment, attested by the mayor and clerk, shall be filed in the office of the clerk of the county court of Tucker county, and recorded in the judgment lien docket in said office within thirty days after the assessments are approved by the said council, otherwise the lien of said assessment shall be void as to any purchaser of said real estate, for value and without notice, who shall have purchased such estate and the clerk shall execute and deliver on behalf of said city a release of such lien, upon the payment in full of said assessment. The assessment so made to any owner of real estate shall constitute a lien on such estate; and like proceedings may be had and taken to enforce such lien, or to recover from such owner the amount of such assessment, or of any installment thereof, as those provided for in the preceding section providing for the laying of pavements.

Sewers

Sec. 43. The council of said City of Thomas shall have the authority under the provisions of ordinances adopted by the council of said city, to cause all necessary sewers to be constructed in any or all of the streets, alleys and public grounds of said city, upon its lowest and best terms to be obtained upon the direction of said council, and shall fix a uniform assessment against the owners of the real estate, lots or parcels of ground within said city, abutting or abounding on the streets, alleys or public grounds, in which sewers are so constructed, which assessment shall not exceed for each front foot of land, lot or parcel of ground in which such sewer is to be constructed; and no other special tax shall be levied against the said real estate, lots or parcels of ground for the use of said sewer, the cost of construction of sewers in the intersection of such streets or alleys to be borne by the city. The one-half of such assessment shall be paid within thirty days after said sewer is completed and ready for use, and the remaining one-half with interest at the rate of six per centum per annum, shall
be paid within six months after said last named date, and the
said council may by ordinance compel the owners of lots or
parcels of ground, fronting or abutting on any street or alley
in which such sewer is constructed, under the supervision of
such officer as the council may designate, to connect any resi-
dence, store, or warehouse, factory or other building occupied
by persons as a place of residence or labor, with such sewer
within thirty days after its completion and may inflict fines
and penalties for any violation of such ordinance.

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

The funds derived by the said city from assessments for construction of sewers, as herein provided, shall be used by said city for sewer construction only, and the collector and treasurer shall keep separate accounts of receipts and disbursements of said fund, and shall make separate report with respect to said fund from time to time as the council may direct, and the said collector and treasurer shall be liable to said city, on their official bonds, for the payment of all money which may come into their hands, respectively, by virtue hereof, and shall pay over the same upon the proper order of the council.

Sec. 44. The sewers heretofore constructed, in any of the streets or alleys of said city at the expense of the property owners abutting thereon, and by authority of said council, may be taken for public use by said city, and the same may be used subject to the provisions of the preceding section, but before any such sewer is so occupied by the city compensation shall be made to the persons having paid for the same or entitled thereto. Such compensation shall be determined by the award of three arbitrators, one selected by the council, one selected by the person or persons having paid for the construction of said sewer, or his assigns, and the two selected shall choose a third arbitrator, and the said arbitrators shall, after hearing all evidence as to what would be a just compensation for such sewer, make their award in writing, which award shall be final, and entered of record by the council. The arbitrators so chosen and selected, shall not be interested in the matters submitted to them other than as taxpayers in said city. And the owners of any real estate abutting on any such street or alley, in which any such private sewer has been constructed by the authority of the council, and at their own expense, shall not be required to pay any assessment levied or assessed against the same for the construction of a sewer in a street or alley, in which such private sewer has been constructed, until said private sewer is taken by said city and compensation made therefor as herein provided, and any private sewer so taken by said city shall be held, used and occupied as provided in the next preceding section, and the property abutting thereon subject to the assessments as therein provided.
Sec. 45. All assessments of property for purposes of taxation, the preparation for, and levying of all taxes and levies, general or special, shall be ascertained, advertised and levied, and in all respects conform to the provisions of chapter nine of the acts of one thousand nine hundred and eight, and any amendments which may be made thereto, any provision, section, or clause in this act to the contrary notwithstanding. An annual capitation tax of one dollar may be levied upon each male inhabitant of said city, who has attained the age of twenty-one years.

Financial Statement

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

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

Bonds, Additional Levy

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

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

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

CHAPTER 2

(Senate Bill No. 39—By Mr. Marsh)

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

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

Sec. 5. Election defined; election board
created; duties of the same; members; appointment and
3 terms; qualification of members; oath; vacancies; electioneering;
4 organization of board; compensation; additional duties; penali-
5 ties; declaration and nomination of candidates; primary bal-
6 lot; number of ballots; distribution; declaration of nominees;
7 ballots for general and special elections; precincts and polls;
8 duties of election officers; appointment of election officers; oath;
Sec. eligibility; compensation; method of appointment; notification; removal; vacancies; conduct of election; canvass; recount; certificates of election; care of poll books, ballots, etc.; tie vote; contests; qualification of voters.

Sec. may be a candidate; other nominations by petition; official ballot; declaration of election; officer so elected to fill unexpired term; purpose.

Be it enacted by the Legislature of West Virginia:

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

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

(b) There is hereby created for said City of Parkersburg an election board for the purpose of preparing and having printed and distributed the ballots and providing and distributing the other supplies for any election held in the city under this act, for which said board is appointed, for appointing election officers, for canvassing, and in proper cases recounting the votes cast at such election, and for declaring the result of such election and for such other purposes as may be specified herein.

This board shall be composed of three members. One member of said board shall be appointed by the council of said city, one member by the county court of Wood county, and one member by the circuit court of Wood county, or the judge thereof. The members of said election board shall be appointed not less than thirty days, nor more than sixty days, prior to each election to be held in said city under this act, and shall serve until the result of the election for which they are appointed has been ascertained and declared and all matters pertaining thereto finally determined.
The members of this board shall be qualified voters of the said city and persons of good moral character, and not addicted to the use of intoxicating liquors. No officer or employee of said city shall be eligible for appointment to, or service on, said election board. No one shall be eligible for appointment to, or service on, said election board who has been an officer or employee of said city within ninety days next preceding the election for which he may be appointed, or who has any interest in the result of said election other than as a taxpayer and citizen of said city.

The members of said election board shall qualify as such by taking and subscribing an oath that they will support the constitution of the United States, the constitution of the state of West Virginia and that they will faithfully and impartially perform their duties as members of said board, as prescribed by law.

In the event of a vacancy occurring on the election board, such vacancy shall be filled by the same authority as originally made the appointment.

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

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

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

Except as otherwise expressly provided in this act, or as may be inconsistent with any provision of this act, the said election board shall be charged with all the duties and responsibilities which under the general election law of the state devolve upon the clerks of the county court and circuit court, upon the board of ballot commissioners, upon the board of canvassers and upon the county court; and they shall be sub-
ject to all the pains and penalties for breaches of law and
omissions of duty which are provided by general law in chap-
ters three and five of the code of West Virginia on the part
of the several officers, who, under the general election law,
perform in state and county elections, the duties hereby de-
volved upon the election board.
Any member of such election board, who shall violate any
provision of this act, for the violation of which no penalty
is otherwise provided herein, or under chapters three or five
of the code of West Virginia, shall be guilty of a misdemeanor
and upon conviction thereof shall be punished by a fine of not
more than one hundred dollars, or by imprisonment in the
county jail for not more than three months, or, in the discre-
tion of the court, by both fine and imprisonment.
(j) Candidates to be voted for at any general municipal
election in the City of Parkersburg, at which a mayor and
four councilmen are to be elected under the provisions of this
act, shall be named at a primary election, and no other names
shall be printed upon the ballot provided for use at such pri-
mary election, except those authorized to be placed thereon
in the manner herein prescribed.
The primary election for nomination of candidates for munici-
pal offices shall be held on the second Tuesday preceding the
first Monday in April. Any person desiring to become
a candidate for mayor or councilman shall, at least ten days
prior to said primary election, file with the city clerk a state-
ment of said candidacy in substantially the following form:
STATE OF WEST VIRGINIA, WOOD COUNTY:
I, ........................................, being first duly sworn
say that I reside at--------------------- street, in the City of
Parkersburg, county of Wood, state of West Virginia; that
I am a qualified voter therein; that I am a candidate for nomi-
ation to the office of (mayor or councilman) to be voted upon
at the primary election to be held on the Tuesday after the
first Monday in April, 19.., and I hereby request that my
name be printed upon the official primary ballot for nomina-
tion by such primary election for such office.
(Signed)........................................
Subscribed and sworn to before me by......................
on this........ day of........................., 19...
(Signed)........................................
Notary Public.
and shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to the qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

*Petition Accompanying Nomination Statements*

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

|-----------------------------|-------------------------------------------------|

(k) Immediately upon the expiration of the time for filing the statements and petitions of candidates with the city clerk, the said clerk shall file all such statements and petitions with the election board and the said election board shall cause to be published in two daily newspapers published in, and of general circulation in, the said city, the names of the persons who are to be voted for at the primary election, arranged for each office in alphabetical order, and as they are to appear upon the primary ballots; and the said election board shall cause the ballots to be used at said primary election to be printed and authenticated with the *fac-simile* signature of each member of said board. Upon said ballots, the names of the candidates for mayor shall be placed in alphabetical order immediately after the words, Vote for one, and at the left of each name there shall be printed a square, within which the voter may by mark indicate his choice. Following these names, shall be printed the names of the candidates for council in alphabetical order, and under the words, Vote for four, and at the left of each name shall be printed a similar square. The ballots shall be printed upon,
plain, substantial white paper, and shall be printed as herein-
after prescribed, and shall be in substantially the following
form:

Official Primary Ballot

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

For Mayor
(Vote for one)
(Names of Candidates)
For Councilmen
(Vote for four)
(Names of candidates)

Official Ballot—Attest:

Election Board.

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

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

(m) At such primary election the two candidates receiving
the highest number of votes for mayor shall be the candidates
and the only candidates, whose names shall be placed upon the
ballot for mayor at the next succeeding general municipal
and the eight candidates receiving the highest number of votes for councilmen at such primary election, or all such candidates if fewer than eight, shall be the candidates, and the only candidates, whose names shall be placed upon the ballot for councilmen at such municipal election. In the event of the death or resignation of a nominee before election, the candidate receiving the next highest number of votes at the primary shall be placed on the ticket in his stead.

The ballots for general and special elections hereunder shall be in the same general form as hereinabove provided for primary elections, so far as applicable, and shall be printed under the same supervision and in same number and shall be handled in the same way and under the same regulations as hereinabove provided for such primary election; provided, that the form of ballots for special elections under the provisions of section twenty-one, twenty-two and twenty-three of this act shall conform to the provisions of those sections.

The establishment and boundaries of election precincts in said city shall be determined by the city council by ordinance; the establishment of voting places in such precincts shall be made by said election board; the announcing of such voting places, the preparation and distribution of ballots, the ascertaining and declaring the results of all elections shall conform to and comply with the general election laws of the state so far as the same may be applicable and not herein otherwise provided, and all officers provided for in this section shall perform the same duties and be subject to the same penalties for omissions of duty or for violation of law, as are provided by said general election laws for officers performing the corresponding duties at state and county elections, unless herein otherwise expressly provided.

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

Before entering upon the discharge of their duties, each of said election officers shall take and subscribe the same oath
required by law for the corresponding election officers appointed under the general election law of the state.

No person shall be eligible to appointment as a commissioner of election or poll clerk, or shall act as such, at any election hereunder who has anything of value bet or wagered on the result of such election.

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

Such election officers shall receive for their services as compensation, to be paid by the city, such sum as may from time to time be fixed by ordinance, not greater than the sum provided by law for the compensation of similar officers at state and county elections; provided, that in the absence of any such provision by ordinance, they shall so receive the same compensation as may be provided by state law for compensation of such similar officers.

The election officers for the several precincts shall be selected and appointed as follows:

FOR A PRIMARY ELECTION: The election board shall meet in the council chamber in the city building at ten o'clock A.M. on the Wednesday preceding a primary election to be held hereunder and each member of the board shall nominate one qualified person as commissioner of election for each voting precinct in the city, and the board shall thereupon appoint the persons so nominated, together with two clerks and two challengers for each precinct; provided, that any group or groups of qualified voters in any precinct may by petition or petitions, each signed by not fewer than twenty-five per centum of the qualified voters in such precinct, nominate to the election board qualified persons for election officers for such precinct, and if any such petition is filed with the chairman or secretary of said board, at or before the time fixed for such meeting above provided for, then all the election officers for any such precinct shall be selected from the nominations so made; all
273 the signatures to any such petition need not be upon the same
274 paper and such petitions shall be signed and verified as pro-
275 vided in paragraph (j) hereof; no person shall sign two such
276 petitions, and if any voter shall sign two such petitions, then
277 his name shall be stricken from both and not counted on either
278 in determining the number of signers. *Provided, further, that
279 if there be two nominating petitions filed for any precinct, the
279-a board shall select two commissioners, one clerk and one chal-
279-b lenger from the petition having the larger number of signers,
279-c and one commissioner, one clerk and one challenger from
279-d the petition having the smaller number of signers, and if
279-e there be three such petitions filed for any precinct, the board
279-f shall select one commissioner from each, and one clerk and
279-g one challenger from each of those having a larger number
279-h of signers than the third petition has; and, *provided, fur-
279-i ther, that to fill any position not covered by such nomina-
279-j tions, the board shall appoint a qualified person as above
279-k provided.

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

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

299 For a special election for the removal of an elective officer
300 or officers, as provided by section twenty-one of this act, if
there are but two candidates for mayor to be voted for, the officers of election shall be selected and appointed as and in the manner herein provided for general elections; if at such special election there are more than two candidates for mayor to be voted for, or if there are no candidates for mayor but only candidates for council to be voted for, then, in the one case the candidates for mayor and in the other case the candidates for council, may each nominate in writing qualified persons for one commissioner, one clerk and one challenger for each and any voting precinct and from the nominations so made, the election board shall appoint three commissioners, two clerks and two challengers for each precinct; provided, that said board shall select and appoint, as above provided, election officers to fill any places not covered by the nominations so made by the candidates.

Each precinct election officer appointed hereunder shall be notified in writing, by said election board, of such appointment, by notice addressed to such appointee at his place of residence, and deposited in the postoffice at Parkersburg, postage prepaid, on the day of such appointment, save when herein otherwise expressly provided.

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

In case any precinct election officer so appointed shall before 3 o’clock p.m. on the day preceding an election hereunder, notify the election board of his inability or unwillingness to serve, or in case of a vacancy otherwise arising before that time, as from death or removal, the election board shall thereupon proceed to fill the resulting vacancy from nominations previously made, or then submitted, by the same person or group upon whose nomination the nominee unable or unwilling to serve was originally appointed, and in the absence of any such nomination, the vacancy shall then be filled by the said board, and in either event the said board shall immediately cause written notice of the appointment to be delivered to the appointee in person.

The commissioners of election for each precinct shall designate in writing one of their number to receive from the election board the ballots, ballot boxes and poll books for their precinct. The person so designated shall, on the day preceding any election, attend at the council chamber in the city
hall for that purpose between the hours of ten o'clock A. M. and four o'clock, P. M., at the meeting of the board provided for in paragraph (l) hereof, and shall receive the said ballots and supplies and receipt to the board therefor.

If any such commissioner has not appeared by four P. M. on said day, the election board shall designate a special messenger, and shall cause said ballots and supplies to be by said special messenger delivered to one of the election commissioners for such precinct. Such messenger shall be allowed and paid by the city the sum of two dollars for his services in acting as such messenger.

(s) If any precinct election officer shall fail to appear at the hour appointed for the opening of the polls, the commissioners of election, or the remaining commissioners, may appoint a qualified person to serve in his stead, but if the qualified voters of the precinct present at the polls, being at least ten in number, shall nominate a qualified person such nominee shall be appointed. If none of the commissioners of election shall appear at any precinct at the hour appointed for the opening of the polls, the qualified voters of the precinct present, being at least ten in number, shall elect by *viva voce* vote three commissioners to act in their stead.

(t) The conduct of any election hereunder, and the counting of votes and ascertaining the result by the precinct election officers herein provided for, shall, unless otherwise herein expressly provided, be governed (so far as the same may be applicable) by the general election laws of the state as contained in chapters three and five and elsewhere in the code of West Virginia.

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

(u) On the second day following any election hereunder, the election board shall meet in the council chamber in the
city building at ten o'clock A.M., and shall proceed publicly to canvass the returns received from all the voting places in said city. The procedure, including the opening of ballot packages, the counting of ballots, the re-sealing thereof, the recount of votes in any precinct upon demand of any candidate or candidates, canvassing the returns of said election, declaration of result and making of certificates thereof shall follow the form of procedure laid down in section sixty-eight of chapter three of the code of West Virginia for the county court sitting as a board of canvassers, so far as the same may be applicable and not inconsistent with any of the provisions hereof.

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

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

Said election board shall cause the certificate showing the result of said election to be published at least once in two daily newspapers, published and of general circulation in said city, beginning in the earliest issue practicable after the completion of the canvass and of any recounts in connection therewith.

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

The other set of poll books and tally sheets shall be preserved in the custody and under the control of said election
board, whose duty it shall be to safely and securely keep the
same for the same period as hereinabove prescribed, and so
that no person other than the members of said election board
shall have access thereto. At the expiration of the prescribed
time, said books and ballots shall be destroyed by fire.

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

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

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

(x) Any person who is qualified to vote for members of
the state legislature in Wood county, and who has been a
resident of the City of Parkersburg for sixty days next
preceding the election at which he offers to vote, shall be
qualified to vote in any election held under this act in the
precinct in which such person is on the day of the election a 
bona fide resident; provided, that any person who will be 
qualified to vote at any election shall also be qualified to vote 
at the preceding primary election to name candidates to be 
voted for at such election. Until the City of Parkersburg 
shall have adopted the provisions of the general registration 
law of the state, as authorized by statute, no person shall be 
denied the right to vote because such person's name does 
not appear on the list or register of voters which the city 
council shall have authority to cause to be made, and which 
may be provided for by ordinance, but any person whose 
name does not so appear, as well as any person whose name 
does so appear but whose right to vote is challenged by any 
voter or election officer, shall be required by the commis-
sioners of election to make an affidavit showing that such 
person possesses all the necessary qualifications for a voter 
at such election, and in general, giving the information so 
far as applicable to municipal elections, provided to be given 
to registrars under the general election law, as contained in 
section ninety-eight-a of chapter three of the code of West 
Virginia. This affidavit may be made before one of the 
commissioners of election or before any person authorized 
to administer oaths, and shall contain the names of two 
qualified voters of such precinct who shall be known to said 
election commissioners to be reliable persons and who shall 
state under oath that such person who desires to vote and 
who has made the affidavit herein required is known to them, 
and that the statements therein made they believe to be true, 
which affidavit shall be signed by said two persons and sworn 
to before one of the commissioners of election, or some other 
person authorized to administer oaths. Upon such affidavit 
being made, as provided, if a majority of said commissioners 
of election believe the party applying to vote is a qualified 
voter in that precinct, the said person shall be permitted to 
vote and his name shall be added by the commissioners to 
the list of voters of such precinct furnished to them by the 
election board, as provided by paragraph (l) hereof, if his 
name is not already upon such a list. But if a majority of 
said commissioners do not believe that such person is a qual-
fied voter in such precinct, his vote shall be rejected. All affi-
davits taken pursuant to this section shall be returned with
the precinct returns, and shall by the election board, be
sealed and delivered to the clerk of the circuit court of Wood
county, to be dealt with as provided by section eighty-three
of chapter three of the code of West Virginia.

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

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

Within ten days from the date of filing such petition, the
city clerk shall examine the same, together with the voter's
list or register, and from information derived from said regis-
ter and from other sources shall ascertain whether or not said
petition is signed by the requisite number of qualified electors,
and if necessary, the council shall allow him extra help
for that purpose, and he shall attach to said petition his
certificate showing the result of such examination. In the
case of an elector who has signed such petition and whose
name does not appear on the said voters list or register.
the qualification of such elector shall, if not otherwise
satisfactorily shown, be conclusively established by an affidavit
such as is provided for in paragraph (x) of section five
hereof, in the case of a voter offering to vote whose name
38 is not on such register. If, by the clerk’s certificate, the
39 petition is shown to be insufficient, the clerk shall at once
40 notify the party filing the same, and the petition may be
41 amended within ten days from the date of said certificate.
42 The clerk shall within ten days after such amendment,
43 make like examination of the amended petition and if
44 his certificate shall show the same to be insufficient, it shall be
45 returned to the person filing the same; without prejudice, how-
46 ever, to the filing of a new petition to the same effect.
47 If the clerk shall find the petition to be signed by a suffi-
48 cient number of qualified electors, he shall submit the same to
49 the city council without delay. If the petition shall be found
50 by it to be sufficient, the council shall order, and fix a day for
51 holding such election not less than forty days nor more than
52 fifty days from the date of the clerk’s said certificate. And
53 council shall thereupon select a member of the election board
54 to conduct such election, as provided in section five of this act,
55 and shall at once notify the president of the county court, and
56 the judge of the circuit court of Wood county of the calling of
57 said special election and ask for the appointment by the county
58 court and the circuit court, respectively, of members of the
59 election board, as provided by said section five. The question
60 of the removal of more than one elected officer may be deter-
61 mined at such election.
62 The city council shall cause a notice of such election showing
63 the name or names of the officer or officers sought to be removed
64 to be published once a week for four weeks before the day fixed
65 for such election, in two daily newspapers published, and of
66 general circulation, in the said City of Parkersburg.
67 The election board shall make all arrangements for holding
68 such election, and the same shall be conducted, and the result
69 thereof declared in all respects as provided for other city elec-
70 tions, except as may be otherwise herein provided.
71 Any officer sought to be removed may be a candidate to
72 succeed himself, and unless he requests otherwise in writing.
73 the election board shall place his name on the official ballot
74 without nomination. Other nominations hereunder shall be
75 made without the intervention of a primary election by filing
76 at least ten days prior to the date fixed for such special election.
77 a statement of candidacy accompanied by a petition signed by
78 electors entitled to vote at said special election equal in number
79 to at least ten per centum of the entire vote for all candidates
80 for the office of mayor at the last preceding general municipal
81 election, which said statement of candidacy and petition shall
82 be substantially in the form set out in section five of this act,
83 so far as the same is applicable, substituting the word, special,
84 for the word, primary, in said statement or petition, and stat-
85 ing therein that such person is a candidate for election instead
86 of nomination. On the tenth day prior to the day fixed for said
87 special election the city clerk shall file with the election board
88 all such statements and petitions which shall have been filed
89 with him.
90 The ballot for said special election shall be substantially in
91 the following form:

Official Ballot

93 Special election for the balance of the unexpired term (or
94 terms) of .................................... as ..................... (and
95 of .................................... as .....................)
96 For Mayor
97 (Vote for one)
98 (Names of candidates)
99 For Councilmen
100 (Vote for ......)
101 (Names of candidates)
102 Official Ballot—Attest:

103
104
105
106

Election Board.

107 In any such special removal election the candidate receiving
108 the highest number of votes for any office shall be declared
109 elected. If the incumbent receives the highest number of
110 votes, he shall continue in office; if some person other than
111 the incumbent receives the highest number of votes, the incum-
112 bent shall thereupon be deemed removed from office upon the
113 qualification of his successor. In case a candidate other than
114 the incumbent, who receives the highest number of votes shall
115 fail to qualify within ten days after receiving notification of
116 his election, the office shall be deemed vacant and the vacancy
117 shall be filled as otherwise provided by law.
118 The successor of any officer so removed shall hold office
119 during the unexpired term of his predecessor.
The purpose of this section is to give the electors of the city the right to cut short the official term of any elected city officer whose conduct in office is for any cause unsatisfactory to the electors, or who is not, in their judgment, fit to hold the office from which it is sought to remove him. The method of removal herein provided shall be cumulative and additional to and supplemental to any other method provided by law.

Sec. 23. No ordinance or franchise passed by the council save when otherwise required by the general laws of the state or by the provisions of this act, except an ordinance for the immediate preservation of the public peace, health or safety, which shall contain a statement of its urgency, shall go into effect before ten days from the time of its final passage, and not then unless within two days after passage, Sundays and holidays excepted, the same shall be published in full in some newspaper published in and of general circulation in said city. And if during said ten days a petition signed by qualified electors of said city, equal in number to at least twenty per centum of the entire vote cast for all candidates for mayor at the last preceding general election at which a mayor was elected, protesting against the passage of such ordinance, or franchise, be presented to the council, the said ordinance or franchise shall thereupon be suspended from going into operation, and it shall be the duty of the council to reconsider such ordinance, or franchise, and if the same is not entirely repealed, the council shall submit the ordinance, or franchise, as is provided by sub-section (b) of section twenty-two of this act, to the vote of the electors of the city, either at the next general election or at a special election to be called for that purpose, and such ordinance, or franchise shall not go into effect or become operative unless a majority of the qualified electors, voting for or against the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said section twenty-two, except as to the percentage of signers, and be examined and certified to by the clerk in all respects as therein provided.

CHAPTER 3

(Senate Bill No. 66—By Mr. Wilkin)

AN ACT to incorporate the City of Hollidays Cove, in Hancock and Brooke counties, fixing its corporate limits and prescribing and
defining the powers, rights and duties of said City of Hollidays Cove, and of the officers thereof, the same being an Emergency Measure.

[Passed January 26, 1925; in effect from passage. Approved by the Governor.]
Sec. 98. Subdivision of lots; survey.
99. Motor vehicles; license.
100. Eminent domain.
101. Assessments for removing snow, etc.
102. 104, 105, 106. Taxes; annual levy; estimate of requirements; laying levy; limitation of levy; capitation tax; collection of taxes; liability for tax; lien for taxes.
107. Authority over roads.
108. Municipal buildings and public utilities; sale of bonds.

Sec. 110. Succeeding to duties of officers.
111. License taxes; application, issuance and revocation.
113. Sale or lease of public utility; manner.
114. Grant of franchises.
115. Powers as to ordinances.
116. Existing ordinances and officers to continue.
117. To comply with general law.
118. Present officers to continue.
119. When act effective; ratification by voters; election.
120. Repealing inconsistent acts.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the counties of Hancock and Brooke as lie within the boundaries prescribed by section two of this act shall be and remain, and they are hereby made, a body politic and corporate, by the name and style of the "City of Hollidays Cove," 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 law; and may have and use a common seal, and alter and renew the same at pleasure; and generally shall have the rights, franchises, capacities and powers conferred herein, and by the laws of this state upon municipal corporations not inconsistent with the provisions of this act.

Boundaries

Sec. 2. The corporate limits of the city of Hollidays Cove shall be as follows, to-wit:

Beginning at the north west corner of lot ninety-one (91) of the Park Place plan of lots; thence north six degrees thirty-seven minutes east one thousand nine hundred and eighty and six-tenths feet to a point, thence south eighty-three degrees twenty-three minutes east one hundred and fifty-two and four-tenths feet to a point; thence south eighty-one degrees fifty-nine minutes east seven hundred and fifty-four and seventy-one-hundredths feet to the point where the east-
erly boundary line of the alley between Orchard and Elm streets intersects line of lands of Iris Hooker; thence along said easterly boundary line of said alley north ten degrees fifty-one minutes east four hundred and sixty and thirty-two one-hundredths feet to the center of Lee avenue; thence across Lee avenue and along the easterly boundary line of aforesaid alley north two degrees thirty minutes east five hundred and fifteen feet to a point in Ferguson avenue; thence along the southerly edge of Ferguson avenue south eighty-three degrees thirty-five minutes east one thousand four hundred and fifty-five feet to a point east of the right of way of the Chester branch line of the P. C. C. & St. L. R. R. company; thence south six degrees twenty-five minutes west three hundred and sixty-five and four-tenths feet to a point; thence south eighty-three degrees thirty-five minutes east four hundred and fifty and four-tenths feet to a point in the public road, thence along the public road south twelve degrees two minutes east two hundred and two feet to a point; thence south sixty degrees two minutes east three hundred and sixty-five and four-tenths feet to a point; thence south eighty-four degrees fourteen minutes west two hundred and sixty-nine and two-tenths feet to a point on the bank of Harmon's creek; thence along Harmon's creek by the following lines: north sixty-nine degrees fifteen minutes, west three hundred and fifty feet, north seventy-eight degrees three minutes west eight hundred and fifty-five feet, south seventy-six degrees ten minutes west five hundred and eighty-eight feet to a point west of the Chester branch railroad bridge; thence through the property of the Granite Improvement company, south five degrees ten minutes west one hundred and ninety-eight and three-tenths feet to a point; thence twenty-one degrees thirty-seven minutes west four hundred and sixty-three and four-tenths feet to a point on the Hancock-Brooke county line; thence along said line south eighty-six degrees fifty-two minutes west nine hundred and sixty-eight and five-tenths feet to a point; thence south fifteen degrees thirty-three minutes west eight
50 hundred and sixteen and seven-tenths feet to a point; thence
51 north sixty-nine degrees nineteen minutes west two hundred
52 and twenty-three and five-tenths feet to a point on the east-
53 erly edge of road leading from Steubenville, Ohio, to Weir-
54 ton, West Virginia; thence along the easterly edge of said
55 road south thirteen degrees thirty-five minutes west four
56 hundred and forty-three and eight-tenths feet to a point;
57 thence crossing the road and running along the southerly
58 boundary line of the Park Place plan of lots, north sixty-five
59 degrees fifteen minutes west one thousand two hundred and
60 twelve and eight-tenths feet to the southwest corner of Park
61 Place; thence along the westerly boundary line of Park Place
62 north twenty-seven degrees forty-five minutes east five hun-
63 dred and five and six-tenths feet to the place of beginning.

General Laws to Continue in Force

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

Composition of Officials.

Sec. 4. The municipal authorities of the City of Hollidays
2 Cove shall consist of a mayor, and five councilmen, who shall,
3 for the assessment year preceding their respective elections
4 as hereinafter provided, have been assessed with and paid
5 taxes in the City of Hollidays Cove upon a valuation of at
6 least five hundred ($500.00) dollars worth of real estate or
7 personal property therein and any person elected to any one
8 of such offices who has not been assessed with and paid taxes
9 on such amount of property shall not qualify or enter into
the performance of the duties thereof, but such office shall thereby become vacant and shall be filled by a qualified person, as provided herein for other vacancies. In addition to the municipal authorities mentioned in this section above, the city may have a police judge, manager, city clerk, city auditor, city physician, health commissioner, building inspector, city attorney, city engineer, city collector and treasurer, lockup keeper, humane officer or officers, and such number of policemen and firemen as council by ordinance or resolution may direct.

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

Powers of Council.

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

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

12. (2) To establish, maintain and regulate free public libraries and reading rooms and to purchase books, papers, maps, manuscripts, and other proper things therefor, to receive donations and bequests of money or property for the same, in trust or otherwise, and to pay the necessary expenses for establishing, maintaining and regulating the same out of the funds for general purposes; provided, such expenditure shall not exceed one hundred dollars per annum unless by a unanimous vote of all the members of the council.
21 (3) To protect divine worship within the limits of said city, and to fix fines and punishment for disturbance of any assemblage of people, then and there, met for the worship of God, to prohibit any interference with or disturbance of divine worship or an assemblage of people met together for the worship of God by any person or persons loitering about the premises or places where such worship is being had or such assemblage is met, or from loitering in the public streets or public places adjacent thereto in such manner as to interrupt such worship.

31 (4) To acquire either by purchase, condemnation or other modes provided by general law, ground within said city for such streets and alleys as the council may deem proper; to locate, lay off, vacate, close, alter, grade, straighten, widen, or narrow, pave or repave, construct and keep in good repair, the roads, streets, alleys, pavements, sidewalks, cross walks, drains, viaducts and gutters therein, and such bridges as may be owned or built by the said city, for the use of the public or of any of the citizens thereof, and to improve and light the same and to keep the same clean and free from obstruction of every kind; provided, the municipality shall not be liable for or responsible in damages for injuries to persons or property caused by or from any defect or obstruction in or on any street or alley within said city that has been or may be taken over by the state road commission, under and by virtue of the laws of this state; nor shall said municipality be liable in damages for injuries to persons or property caused by or from a defect or obstruction in or on the plat of ground between the gutter or curb of any street and the paved or plank sidewalks extending there along or between any such sidewalks and the property lying next adjacent thereto, unless the municipality had actual notice of such defect or obstruction prior to the time of the injury complained of; and, provided, further, that where said city shall be required to respond in damages by reason of injury to persons or property occasioned by the failure of any abutting owner to so provide or keep in repair any sidewalk along such property, after being notified by the council to do so, that such property owner shall be liable to the city for any sum of money, costs and counsel fees which it has been required to pay by reason thereof.
(5) To regulate the width of sidewalks and the streets and the width and the care of the public grounds or grass plots abutting thereon, and to order the sidewalks, footways, crossways, drains and gutters to be curbed, paved, or repaved and kept in good order, free and clean, and to provide for the removal of snow and ice therefrom, and for sprinkling the same by the owners or occupants of the real property next adjacent thereto, and to provide and enforce punishments for obstructing, injuring or preventing the free and proper use thereof, and to provide and enforce fines and penalties for throwing therein or thereon any paper, glass, rubbish, decaying substances or other things that would make said streets, sidewalks, grass plots, crosswalks, drains, or gutters unsightly and unhealthy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) To require the merchants and other persons selling
goods, foods or materials that must be weighed, to keep
correct scales, to seize and destroy such as are found
to be incorrect and not corrected after due and proper not-
ice to the owner or person using the same, without damage or
expense to the municipality for the value thereof.

(24) To prevent injury or annoyance to the public or indi-
viduals from anything dangerous, offensive or unwhole-
some.

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

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

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

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

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

(30) To regulate or prohibit within the municipality
or within one mile of its corporate limits, the erection or
maintenance of any slaughter house, soap factory, glue fac-
tory, lamp black factory, tannery, or other house, shop or
factory of like kind or character.
(31) To establish within said municipality public drinking fountains and water troughs; and to regulate the time and place and manner of bathing in pools, streams and public waters within the police jurisdiction of said municipal corporation.

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

(33) To arrest, convict and punish any person for committing adultery or fornication, or for any lewd or lascivious cohabitation within said city, and for keeping an assignation house, house of ill fame, or for leasing or letting to any person any house or other building to be kept or used as such, or for knowingly permitting any house, under the control or owned by any person, to be used as an assignation house or house of ill fame, within said municipality.

(34) To arrest, convict and punish any person for importing, printing, publishing, selling, giving away, exhibiting, or distributing any book, picture or device, or other thing containing any obscene picture or language, or making any indecent representation.

(35) To restrain, convict and punish vagrants, mendicants, beggars, tramps, common prostitutes, and their associates, and drunken or disorderly persons within the municipality, and to provide for their arrest and manner of punishment.

(36) To prevent and prohibit the use of indecent or profane language within the corporate limits, and to provide and fix punishment therefor.

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

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

(39) To provide against danger or damages by fire, and to that end, to require, when the council may think nec-
(40) To prohibit and prevent intoxication or drunkenness, and the drinking of intoxicants in any public place, store, street, or alley, and to fix fines and penalties therefor.

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

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

(43) To protect the public schools in said city, and to prohibit and prevent any disturbance thereof in and about the buildings or upon the grounds, and to prevent injury, destruction, or defacement of any school property or building.

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

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

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

(47) To provide for the poor of the municipality, and to that end, the municipality may contract with the county court of Hancock county, for the keeping of such poor per-
306 son, or any number of them, at the county poor house, at a
307 price and on such terms as may be agreed upon between the
308 county court and the proper municipal authorities.
309 (48) To authorize the taking up and providing for the
310 maintenance and safe keeping, and educating of (for such
311 period as may be deemed expedient) all children within said
312 city who are destitute of proper parental and other care.
313 (49) To arrest, convict and punish any person for cruel-
314 ty, unnecessarily or needlessly beating, torturing, mutil-
315 ating, killing, or overloading, or overdriving, or wilfully
316 depriving of necessary sustenance, any horse or other domestic
317 animal.
318 (50) To regulate the hitching of horses within the
319 corporate limits, and the driving of cows and cattle through,
320 upon and along the streets and alleys of said city.
321 (51) To prohibit, prevent and punish for the pol-
322 lution of any stream of water running into or through the
323 said municipality; and to prohibit and prevent the throwing
324 into any such stream of any trash, dirt, filth, offal, decayed
325 substances or matters, or anything that would make said water
326 unhealthy or unfit for domestic use.
327 (52) To prohibit, prevent and punish for any desecra-
328 tion of the Sabbath day; prohibit the playing of any game
329 exhibiting any show, theatre, picture show, and the keeping
330 open of business places, except hotels, eating houses, boarding
331 houses, restaurants, and drug stores and other places of neces-
332 sity or charity.
333 (53) To restrain, prevent and punish fraudulent prac-
334 tices of any kind or character within the municipality.
335 (54) To arrest, convict and punish any person for gam-b-
336 ling or keeping any gaming table, commonly called "Faro
337 Bank," or table and chips used in playing such game; crap,
338 crap table, chips or dice used in playing such game; or rou-
339 lette or the wheel, chips or other equipment used in playing
340 such game; or keno table or table of like kind or device used in
341 playing the same; or table of like kind under any denomina-
342 tion, whether the game or games be played with cards, dice or
343 otherwise on which anything is bet or wagered, whether the
344 same be played in any public or private room or residence;
345 and may convict and punish any person who shall be a part-
346 ner or concerned in interest in the keeping of any such gamb-
347 ling devices heretofore enumerated, or in any game played,
such as prohibited hereby, or in keeping or maintaining any
349 gambling house or place of gambling for money or anything
350 of value; and shall have the right to destroy such gambling
351 paraphernalia as may be found on any such premises; and
352 any officer armed with a warrant for the arrest of any person
353 engaged in such unlawful game or for the search
354 of any room in which gambling is suspected, or for the seiz-
355 ure of any gambling paraphernalia, shall have the right
356 to break into any building, other than a private dwelling
357 house, without notice or demand, and into a private dwelling
358 or room, after demand and refusal to open same, provided,
359 always however, that no search or seizure shall be made ex-
360 cept in the manner provided by general law.
361 (55) To restrain all felons and persons guilty of offenses
362 against this state or the United States, and deliver them
363 over to the authorities or court having jurisdiction of the
364 offense whereof such persons is accused.
365 (56) To apprehend and punish any person who, with-
366 out a state license therefor, is guilty of carrying about his
367 person, within the municipality, any revolver or other pistol,
368 dirk, bowie knife, sling shot, razor, billy, metallic or other
369 false knuckle, or any other dangerous or deadly weapons of
370 like kind and character, as provided by chapter fifty-one of
371 the acts of the legislature of one thousand nine hundred and
372 nine, or any amendment thereof, and the punishment therefor,
373 whether for the first or other offenses, shall be that pre-
374 scribed by said chapter for any person guilty under the mis-
375 demeanor clause provided therein; provided, that the mayor
376 acting as ex-officio justice of the peace, may, after en-
377 forcing this ordinance, hold such offender to answer to an
378 indictment in the circuit court of Hancock county, for such
379 offense, under the state law.
380 (57 To regulate the erection, construction, alter-
381 ation and repair of dwelling houses, buildings and other
382 structures, within the municipality, to issue permits therefor,
383 and to compel the numbering of such houses and buildings by
384 the owners and occupiers thereof; and to prescribe by ordi-
385 nance the distance which dwelling houses, and other structures
386 in resident districts shall be set back from the sidewalk.
387 (58) To regulate the hanging of doors, the construction
388 of stairways and elevators, and require fire escapes in the-
389 atres, churches, school buildings, factories and other places
390 deemed necessary by the council.
391 (59) To establish fire limits and to regulate the con-
392 struction of buildings, and designate materials to be used
393 in the construction of buildings within such limits.
394 (60) To regulate the building of fire walls, fire places,
395 chimneys, boilers, smoke stacks, stove pipes, and the burning
396 of waste paper, trash or other waste matter, in the corporate
397 limits.
398 (61) To require any building that, in the opinion of
399 the council is dangerous, to be repaired, altered or removed
400 by the owners thereof, or put in a safe condition, such as
401 the council may approve, at the expense of such owner or
402 occupier, and to provide punishments for failure to comply
403 with any order of the council concerning same.
404 (62) To regulate the height, construction and inspec-
405 tion of all new buildings hereafter erected, the alteration
406 and repair of any buildings now or hereafter erected, to re-
407 quire permits to be obtained of the council therefor, and the
408 submission of plans and specifications to the council for its
409 approval; to regulate the limits within which it shall be law-
410 ful to erect any steps, porticos, bay windows, awnings, signs,
411 columns, piers, or other projection or structural ornaments
412 of any kind for the houses or buildings on any street or alley.
413 (63) To provide for the prevention and extinguishing of
414 fires, and for this purpose, the council may equip and
415 govern fire companies, prescribe the powers and duties of such
416 companies and departments, and of the several officers thereof,
417 or may authorize volunteer fire companies, under such rules
418 and regulations as the council may prescribe, and impose on
419 those who fail to obey any lawful command of the officer in
420 charge of any such company, or volunteer company, any penal-
421 ty which the council is authorized to impose for violation of an
422 ordinance, and to give authority to any such fire officer to
423 direct the pulling down or destruction of any building, fence,
424 wall or other thing, if such officer deem it necessary to
425 prevent the spreading of any fire which is being extinguished
426 under the direction of such officer, and without any liability
427 on the municipality for damages therefor.
428 (64) To protect the persons and property within the cor-
429 porate limits and preserve the peace and good order therein,
and for this purpose, to appoint, when necessary, a police
force and such other officers as may be deemed neces-
sary; and to provide a lockup, jail or other suitable place
to confine persons sentenced to imprisonment for violation
of the ordinances of said city; provided, however, that the
city of Hancock or Brooke county may be used for that pur-
pose, if authorized by the county court of said county.

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

To prescribe the powers, define the duties of
the officers appointed under the corporate authority, fix
their terms of service and compensation, if not otherwise
prescribed by this chapter, and to require and take from
them bonds, when deemed necessary, payable to the State of
West Virginia, or the City of Hollidays Cove, with the sur-
eties, and in such penalties as may be prescribed, condi-
tioned for the faithful discharge of their respective duties;
provided, that the compensation of any officer, elected or
appointed, shall not be increased nor diminished during the
time for which he is elected or appointed, unless due not-

ice of such intention is first served on the officer inter-
ested.

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

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

To acquire, erect or authorize or prohibit the erec-
tion of gas works, electric light works or water works within
the city limits; to prevent injury to such works or the pollu-
tion of any gas or water used or intended to be used by the
public or by individuals; and to do all things necessary to
adequately supply said city and the inhabitants thereof with
pure, healthful and wholesome water; and to require any
company furnishing gas or electricity for sale or distribution
in said city, to furnish an adequate supply thereof; to require
gas fixtures, electric light wires, telephone wires and all ap-
paratuses used in connection with any of these, to be kept in
repair and suitable for use, and free from danger, so far
as practicable; to use, generate, distribute, sell and control
electricity and gas for heat, light and power, and to furnish
light for the streets, highways, buildings, stores and other
places in and about said city.

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

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

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

(73) The council shall have the right to provide a sewerage system for said city, and may require the owner of any property abutting upon any street or alley in which a sewer has been laid or placed, to connect a sewer leading from his or her property or lot into any public sewer which is located in such street or alley adjoining the same, and if the owner or occupier of said lot or property fails or refuses to do so, after having been given reasonable notice, the council may enter upon such lot and construct such sewers, and may levy the actual cost thereof against the lot upon which the same is built and collect such costs from the owner of such lot in the same manner as city or state taxes are collected; in addition thereto, the council may punish by fine, or fine and imprisonment, any person who permits any drainage from his residence or lot to enter upon any street or upon any property after a sewer has been placed in the street or alley adjacent to his property to which he should connect, after notice has been given to him by the council to make such connection. The council may provide by ordinance for the inspection of all sewer connections by some person appointed by council and provide for the assessment of the cost of such inspection upon the property owner, which cost may be collected the same as taxes, or as otherwise provided by council.

(74) The council shall have the right to impose fines and penalties for any interference with or destruction of the sewer system or any part thereof in said city, or for the destruction of or damage to any street, alley or sidewalk in said city, or any improper use thereof; it shall have the right to regulate or prevent the use of the sidewalk for bi-
552 cycles, push carts, sleds, tricycles, roller skates and other
553 things of like character and to fix fines and penalties for
554 violation of the ordinances respecting same.
555  (75) To grant by ordinance or resolution permits for
556 the temporary use of such parts of its streets, roads, alleys
557 and public places as the council may deem proper and right
558 to be used in construction, alteration or repair of buildings
559 located thereon, or for such other purposes as the council
560 may deem proper and right, and under such regulations and
561 for such time as the council may prescribe.
562  (76) The council may buy, lease and operate either with-
563 in or without the municipality, stone quarries, crushers and
564 land for said purposes or for the purpose of furnishing a
565 supply of stone or other material suitable for macadamizing
566 or paving the streets, sidewalks and alleys, and improving
567 public property.
568  (77) The council shall have the right, when, in its opin-
569 ion, it is necessary or proper to do so, to pave any street or
570 alley of the said city, and to prescribe the materials to be
571 used in such paving and to charge one-third of the total
572 costs of repairing and paving the said street, to the adjacent
573 property owners on each side of the said street or alley, and
574 to pay one-third thereof out of such funds as the council may
575 provide, but such paving shall be done and such assessments
576 and charges made against the property owner as provided by
577 general law of the state of West Virginia, or by this act.
578  (78) To operate by ordinance such committees or boards,
579 and delegate such authority thereto as may be deemed neces-
580 sary or advisable by the council; and to employ such legal
581 counsel on behalf of the city, from time to time, as the city
582 may deem necessary to protect the interests of the city.
583  (79) To provide for the annual assessment of the tax-
584 able property in said city, including dogs kept in said city,
585 and to provide a revenue for the city for municipal purposes
586 and appropriate such revenue to its expenses; provided, noth-
587 ing herein contained shall require the council to keep in
588 repair and maintain any bridge or bridges within said corpora-
589 tion, now or hereafter owned by the counties of Hancock and
590 Brooke, but the officers of said corporation in the preservation
591 of law and order shall have jurisdiction over any such bridges
592 within such corporation; and, provided, further, that the police
593 regulations as may be ordained by said city, and the right
594 and power to enforce the same shall extend one mile into the
595 state of West Virginia beyond the corporate limits of said city.
596 (80) The council may, within any prescribed area,
597 prohibit the erection on any street or in any square, of any
598 building, or of any addition to any building more than ten feet
599 high, unless the outer walls thereof be made of brick and mor-
600 tar or other fire-proof material. And may require the removal
601 of any building or addition which shall be hereafter erected
602 contrary to this prohibition, at the expense of the owner or
603 owners thereof.
604 (81) The council shall keep all roads, streets and alleys
605 within its limits passable and in good repair, and may pro-
606 vide the expenses therefor by a direct taxation, as provided
607 under this charter, or in any other manner authorized by
608 law; and the residents of said city who are taxed therein for
609 the purpose of maintaining such streets and alleys shall be
610 exempt from the payment of a county road tax.
611 (82) In the enforcement of the ordinances, orders, rules,
612 regulations and by-laws of the said city, no fine shall
613 be imposed exceeding five hundred dollars, and no person
614 shall be imprisoned or compelled to labor on the streets of
615 said city, as aforesaid, exceeding six months; provided, that
616 any violation of the prohibition or liquor laws of this state
617 shall be punishable by the fines and penalties prescribed by
618 general law, unless different fines and penalties are expressly
619 prescribed by the ordinances of said city. And in all cases
620 where a fine is imposed for an amount exceeding ten dollars,
621 or a person be imprisoned or compelled to labor as aforesaid,
622 an appeal may be taken from such decision upon the same terms
623 and conditions that appeals are taken from the judgment of a
624 justice of this state; and in no case shall a fine of less than
625 ten dollars be imposed where the ordinance prescribes a fine,
626 if the defendant requests that such fine be made at least ten
627 dollars for the purpose of appeal.
628 (83) The council shall have the right to enforce the
629 attendance of its members at all regular meetings and at all
630 special meetings of which such members have notice, and
631 may cause the arrest and punishment, by fine or fine and im-
632 prisonment, of any such member who refuses to attend and
633 take part in its proceedings.
It shall be the express duty of the council to present charges against any of its members, or any officer of the city, who fails to perform, or who does not promptly and diligently perform any duty prescribed by this act, or by any ordinance or resolution of the council, and upon hearing thereof before the council, after notice to such officer, he shall be removed from office by the council, if the charges be found correct.

To provide for the payment of all appointive officers and employees.

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

Qualifications of Voters

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

First Election

Sec. 7. For the purposes of the first election to be held under the provisions of this act for the election of officers on the first Thursday of January, one thousand nine hundred and twenty-six, the council of said city then holding office shall exercise all the functions relating to said first election and to the primary election preceding the same, which are vested by the provisions of this act in the council of said city for the conducting of city elections generally; and the clerk of said council shall discharge in and concerning said first election the functions herein assigned to the city clerk at elections thereafter.
Time of Holding Elections. Terms of Officers

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

Nominations of Officers

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

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

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

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

Signed____________________________
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HOLLiDAYS COVE CHARTER

32 Subscribed and sworn to (or affirmed) before me by

33 -----------------------------------------------------

34 -----------------------------------------------------day of-----------------------------, 19---

35 Signed----------------------------------------------

36 Notary Public.

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

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

56 The ballots shall be printed upon plain, substantial, white
57 paper and shall be headed substantially as follows:
58 “Candidates for nomination for mayor and councilmen of
59 the City of Hollidays Cove, at the primary election,” but the
60 said ballots shall have no party designation or mark whatsoever.
61 The ballots, after the heading above named shall be in substan-
62 tially the following form.
63 “(Place a cross in the square preceding the name of the
64 parties you favor as candidates for the respective offices.)
65
66 For Mayor
67
68 Names of Candidates
69
70 (vote for two)
71
72 For Councilmen
73
74 First Ward
75
76 Names of Candidates
77
78 (vote for two)
79
80 Second Ward
Names of Candidates (vote for two)

Names of Candidates (vote for two)

Names of Candidates (vote for two)

Names of Candidates (vote for two)

Names of Candidates (vote for two)

Official Ballot, attest.

Signatures ________________________________________ City Clerk.

Judges of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast for each candidate, and make return thereof to the city clerk before nine o'clock A.M. of the following day. On the day following said primary election the council shall canvass said returns so received from all the polling precincts, and shall make and publish in some newspaper of said city at least once the returns thereof. Said canvass shall be publicly made.

The two candidates receiving the highest number of votes for mayor shall be the candidates and the only candidates whose names shall be placed upon the ballot for said offices at the next succeeding general election, and at the first election to be held under this charter; the two candidates receiving the highest number of votes for councilman in each ward shall be the candidates and the only candidates at said first election, and at all other general elections at which said officers shall be elected. In the event of the death or resignation of a nominee before the election the candidate receiving the next highest number of votes at the primary shall be placed on the ticket in his stead.

In case there is only one candidate for nomination, to the office of mayor or councilman from any ward his name shall be the only candidate from his ward to be placed upon the ballot at such primary election and at the general election in case he receives all of the votes cast for councilman for his particular precinct his name shall be the only name placed upon the ballot at the general election. Provided, that if the voters at such primary election shall write in the name of any
other qualified person, then the two highest for the office of mayor or councilman shall be placed upon the ballot at the general election in the manner hereinbefore provided.

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

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

Preparation for Elections

Sec. 10. The council shall on the first Monday in November, preceding an election, fix the place within said town where said election shall be held; shall appoint two commissioners and one clerk for each voting place at which said election is to be held and shall appoint one member of said council to act with the city clerk as ballot commissioner, which commission shall have the ballots prepared and ready to deliver to the election officers on the day before said election, and said election commissioners and clerk so appointed by council shall hold and conduct said election in such manner as is or may be prescribed by law; they shall open the polls at sunrise and close the same at sunset, shall tabulate the vote at each voting precinct and certify to council the result of the vote of the precincts, respectively, at which they are serving as such election officers, and shall return to the city clerk a copy of such certificate,
16 together with the ballots, tally sheets, and registration books, all of which shall be sealed in one envelope or other container. 
18 Said council shall meet on the first Monday following said general election and canvas the vote and shall ascertain and declare the result thereof, it shall keep a record of its proceedings at such meeting and shall take down, record and receive any evidence, motion or objection and any paper filed or offered by any candidate, which record shall be open to the public, and shall be kept in the custody of the city clerk.

Registration of Voters

Sec. 11. The council shall on the first Monday in November, one thousand nine hundred and twenty-five, and every two years thereafter, appoint such registration officers as it deems necessary to register all of the legal voters within the corporate limits of said city, and shall furnish to the election officers hereinbefore provided for a list of all the said voters entitled and qualified to vote at said city election, and said election officers shall not permit any person to vote at said election unless his name appears upon the registration book or list of qualified voters made by such registrars.
11 The council may, and in case of a special election shall, at a meeting to be held for that purpose prior to the date of said election, register any legal voter or voters whose names have been omitted by said registrars, and said council may give at least five days’ notice of said meeting, by publication in some newspaper of general circulation in said city, which notice shall state the time and place of said meetings, and its intention to correct the registration of voters of said city, however, it shall not be necessary to have a special registration of voters for any special election, but the preceding registration of voters for the regular municipal election, with such additions as are hereinbefore provided for, shall be the proper registration for such special election.

Beginning of Term of Officers

Sec. 12. The first officers elected under the provisions of this act shall enter upon their official duties on the first day of February, one thousand nine hundred twenty-six, and shall serve for a term of two (2) years and until their successors are elected and qualified, unless sooner disqualified, impeached or dismissed.
Whenever two or more persons receive the same number of votes for mayor or councilmen, such ties shall be decided by the council in existence at the time the election shall be held; provided, that the council in office at the time of the holding of such election shall remain in office for the purpose of passing upon and deciding such tie, and for such purpose only; and nothing herein contained shall be construed as to interfere with the duties, power and authority of the new or incoming council.

**Conduct of Elections**

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

**Qualifications of Councilmen and Mayor**

Sec. 14. The City of Hollidays Cove shall have a council which shall be known and styled as the "Council of the City of Hollidays Cove" and shall be composed of five (5) members, all of whom shall be nominated, voted for and elected in the manner herein provided. Only citizens entitled to vote, having been a resident of said city for three (3) years and having proper qualifications, herebefore provided shall be eligible to be elected to the office of councilman or mayor and each councilman or mayor so elected shall continue to be a resident of the city of Hollidays Cove, during his entire term of office.

**President Pro Tempore**

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

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

Removal of Officer, Cause

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

The mayor, or any other city official having the power of appointment, shall have the right to remove any of his appointees and appoint another qualified person in his place, but such removal shall be made by means of a writing served upon such official so removed; and all the rights and powers of such official shall cease and end from the time of such service; provided, that the person so removed shall have the right to appeal to council, which may overrule the action of the mayor, or other official.
Conduct of Council Meetings

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

Meetings Held, When

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

Special Meetings

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

Contested Elections

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

Oath of Officers

Sec. 22. All officers elected and appointed under this act shall before taking their seats or performing any of the duties of their respective offices to which they shall have been elected or appointed, take and subscribe an oath or affirmation that
they possess, respectively, the qualifications prescribed by this act to hold such office and are not subject to any of the dis-
qualifications prescribed herein; that they will support the
constitution of the United States and the constitution of this
state, and honestly discharge the duties of the offices to which
they are elected or appointed, respectively, to the best of their
skill and judgment.

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

Bonds of Officers and Employees

Sec. 23. The council may require bond from any officer or
employee in whatever sum they may fix. All bonds of officers
or employees shall, before their acceptance, be approved by the
council. The minutes of the meeting of council shall show all
matters touching the consideration or approval of all bonds,
and when said bonds are approved and accepted, they shall be
recorded by the city clerk in a well bound book kept by him at
his office for that purpose, which book shall be open to public
inspection; and the recordation of such bonds, as aforesaid, shall
be prima facie proof of their correctness, and they, as so re-
corded, as well as copies thereof duly attested by the city clerk
under the seal of the city, shall be admitted as evidence in all
courts of this state. The city clerk shall be the custodian of
all bonds, except that given by him, and as to it, the city
treasurer shall be custodian. All bonds, obligations or other
writings taken in pursuance of any provisions of this act, shall
be made payable to "The City of Hollidays Cove," and the
respective persons, and their heirs, executors, administrators
and assigns bound thereby shall be subject to the same pro-
cedings on said bonds, obligations and other writings for the
purpose of enforcing the conditions of the terms thereof, by
motion or otherwise, before any court of record held in and
for the county of Hancock, that collectors of county levies and
24 their sureties are or shall be subject to on their bonds for en-
25 forcing the payment of the county levies.

**Quorum of Council**

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

**Manner of Voting**

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

**No Officer to Hold Two Positions at Same Time**

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

**Failure to Make Appointments**

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

**Vacancies**

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

Corrupting Voting, Etc., Penalty

Sec. 29. Any members of council or any officer of, or connected with, the city government pursuant to any law of this state or ordinance of the city now or hereafter passed, who shall in his official capacity or under color of his office, knowingly or willfully, or corruptly vote for, assent to or report in favor of, or allow, or certify for allowance, any claim or demand against the city, which claim or demand shall be on account or under color of any contract or agreement not authorized by or in pursuance of the provisions of this act, or the ordinances of the city, or any claim or demand against the city and which claim or demand or any part thereof shall be for work not performed for and by authority of said city or for supplies or materials not actually furnished thereto pursuant to law or ordinances, and every such member or officer as aforesaid, who shall knowingly vote for, assent to, assist or otherwise permit, or aid in the disbursement or disposition of any money or property belonging to the city to any other than the specific use or purpose for which such money or property shall be or shall have been received or appropriated or collected, shall upon conviction thereof, be punished by imprisonment in the county jail for a period of not less than sixty (60) days nor more than one year, or by a fine of not less than sixty ($60.00) dollars, or more than two thousand ($2000.00) dollars, or by both, at the discretion of the court.

Attendance of Witnesses

Sec. 30. The council in the exercise of its powers and the performance of its duties, as prescribed by this act, and by the laws of the state, shall have the power to enforce the attendance of witnesses, the production of books and papers, and the power to administer oaths in the same manner and with like effect, and under the same penalties, as notaries public, justices of the peace and other officers of the state authorized to administer oaths under state laws; and said council shall have the same power to punish for contempt as is conferred on county courts by section thirteen, chapter thirty-nine of the code. All process necessary to enforce the powers conferred by this act on the
12 council shall be signed by the mayor, (or acting mayor,) and may be executed by any member of the police force.

Absence of Mayor

Sec. 31. Whenever for any reason the mayor shall be absent from the city, or unable to attend to the duties of his office temporarily, the president pro tem of the council shall perform them during such absence or inability; but, if such absence or inability shall exceed thirty (30) days, then such appointment or designation shall be submitted to the council, for confirmation or rejection. In the absence or inability of any other appointive city officials to perform the duties of his office, the person or body making the original appointment, or his successor in office, shall designate some one to fill such office temporarily; or, if such absence or inability extends over a period of sixty (60) days, he may appoint some one to fill such office permanently.

The Term of Office. Duties of Mayor

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

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

The mayor may appoint a police judge, treasurer, city solicitor, chief of police and all policemen, humane officer or officers, building inspector, collector, city auditor, engineer, health commissioner, lockup keeper, and a chief of the fire department; and these appointments shall require confirmation by the council.

The mayor shall have the full and complete power of the removal thereof, subject to appeal to council. The mayor may appoint a city manager, by and with the advice and consent of the council.

The mayor shall appoint or employ such person as the ordinances of the city may require or the council may authorize by proper resolution. All such officers shall be appointed for the term of two years and until their successors are appointed and qualified, unless they are removed in the way and manner in the act provided.
23 It shall be the duty of the mayor to attend all meetings of 24 the council and preside over that body.
25 It shall be the duty of the mayor to see that all of the laws 26 and ordinances of the city are enforced and he shall have a 27 general oversight of the peace, health and good order of the 28 city. He shall discharge the functions assigned by this act to 29 the police judge and city manager until these officers are ap- 30 pointed.
31 All fines of every kind collected by any officer or employee, 32 including the police judge, when acting as a justice shall be 33 paid to the city treasurer.

City Manager, Duties

Sec. 33. The city manager may be appointed in the way and 2 manner hereinbefore provided and shall receive such salary as 3 council may by ordinance prescribe; and he shall have the right 4 to employ such other help as council may from time to time 5 allow.
6 The manager, when appointed, shall devote his entire time 7 and attention to the duties of his office, unless otherwise pro- 8 vided by council, and shall have supervision and control of the 9 executive work and management of the heads of all departments 10 under his control as directed by the mayor. He shall make all 11 contracts for labor and supplies, and generally perform all of 12 the administrative work of the city, and such other duties as 13 council may require of him, and shall possess such other powers 14 and perform such other duties as council shall prescribe.
15 Council shall fix the salaries of all officers and employees not 16 otherwise herein provided for.

City Clerk, Duties

Sec. 34. The city clerk shall be ex-officio clerk of the city 2 council, he shall keep a complete record of all ordinances, reso- 3 lutions and acts of the city council. He shall enter in a separate 4 volume all ordinances of a general nature, a violation of which 5 shall subject any person to any penalty, and carefully index 6 the same. All ordinances providing for the issuing of bonds 7 the creation of a debt, the construction of any public improve- 8 ment, or of any local or temporary nature shall be entered in 9 a separate volume by the city clerk, and carefully indexed. 10 He shall keep complete books of account showing all financial 11 transactions of the city and of each department, all receipts,
12 expenditures made by the city, the sources of all income and
13 the purposes of all expenditures. He shall make out all vouch-
14 ers and pay-rolls of the city, and shall do and perform all other
15 duties which may be required of him by the council by any
16 ordinance or resolution.
17 He shall attend all meetings of the council and keep in
18 proper minute book a record of its proceedings, and sign the
19 record of each said proceeding.
20 He shall prepare and cause to be served all notices required
21 to be given to any person, firm or corporation, and after proper
22 service and return thereof of any notice, he shall file and pre-
23 serve the same.
24 He shall file in convenient form so as to be readily acces-
25 sible all correspondence carried on by the city or by any de-
26 partment thereof, and, as custodian of all the books, records,
27 and proceedings of the council, he shall make and certify copies
28 thereof whenever required and affix the corporate seal of the
29 city to any paper required to be sealed and to any certified
30 copy of any paper, order or proceeding which he may make.
31 The minutes of every meeting, after being corrected, shall be
32 signed by the mayor and city clerk and a copy of any record,
33 paper, entry, order, ordinance, resolution or proceeding made
34 by the council, or by the police court judge when properly cer-
35 tified under the seal of the city shall be admissible as evidence
36 in any court in the state in any proceeding in which the original
37 paper or record is present, would be admissible.

**Police Judge Ex-Officio Justice of Peace**

Sec. 35. The police judge shall be *ex-officio* a justice and a
2 conservator of the peace, with authority to issue process for all
3 offenses committed within the police jurisdiction of the City of
4 Hollidays Cove, of which a justice of the peace has jurisdiction
5 under the state statutes, and for all violations of any city
6 ordinances, and shall have charge of and preside over the police
7 court of such city; and may commit persons charged with felony
8 or misdemeanor to jail or take bond for their appearance be-
9 fore the grand jury of the circuit court of Hancock or Brooke
10 county; said police judge shall keep a record showing the style
11 of each case, which record shall be indexed and numbered.
12 Before trying any person charged with any violation of any
13 ordinance he shall issue his warrant, specifying the offense or
14 violation charged; he shall render judgment in any case as the
law of the state or the ordinance of the city applying thereto may require; he shall also have the power to issue executions for all fines, penalties and costs imposed by him and he may require immediate payment thereof, and in default of such payment, may commit the person in default to the jail of the county of Hancock or Brooke or some place of imprisonment within Brooke or Hancock county designated by the council as the city jail, if there be one, until the fine and penalty and costs shall be paid or satisfied, to be employed during the term of imprisonment, as hereafter provided, but the term of imprisonment in any such case shall not exceed sixty (60) days, and in all cases where a person is sentenced to imprisonment or to the payment of a fine of ten dollars ($10.00) or more, such person shall be allowed an appeal from such decision to the circuit court of said Hancock county upon the execution of an appeal bond, with surety deemed sufficient by the said police judge in a penalty double the amount of the fine and costs imposed by him, conditioned that the person proposing to appeal will appear before the circuit court of Hancock county on the first day of the next term thereof to answer for the offense wherewith he is charged and not depart thence without leave of the court and satisfy all costs and fines imposed against him; and in no case shall judgment for a fine of less than ten ($10.00) dollars be given by the police judge, if the defendant, his agent or attorney, object thereto. If such appeal is taken, the warrant of arrest, the transcript of the judgment, the appeal bond and other papers of the case shall be forthwith delivered by the said police judge to the clerk of the said circuit court, and the court shall proceed to try the case as upon indictment or presentment and render such judgment, including that of cost, as the law and the evidence may require. The expense of maintaining such persons committed to the jail of the county by such police judge shall be paid by the city. The police judge shall account for and pay over the amount of all the fines collected by him weekly to the treasurer of the city and shall make monthly reports thereof, and all other matters pertaining to his office to the council of said city.

City Collector and Treasurer
Sec. 36. The city collector and treasurer shall have custody of all public moneys of the city; shall keep and preserve such moneys as provided by ordinance or by any law applicable
4 thereto; and shall collect and receive, and shall disburse, upon
5 warrants issued by the proper authority, all public moneys.
6 He shall keep an accurate account of all moneys in his custody,
7 or collected, or paid out by him, showing the sources from which
8 the same were received and the purposes for which disbursed.
9 The council may prescribe by ordinance or resolution the man-
10 ner in which a warrant for the payment of money shall be
11 issued, executed and authenticated. He shall be subjected to
12 the supervision and control of the council in all things, and
13 perform all duties prescribed by the council.
14 The city collector shall keep a record of all taxes assessed
15 and levied and shall extend said levies and make out tax bills
16 and receipts to be delivered to the tax payers upon the payment
17 of taxes. He shall collect all assessments made against property
18 or property owners for local benefits and give receipts therefor.
19 He shall keep separate the accounts and funds of all levies
20 and assessments for specific purposes and shall disburse the
21 same only for the purposes for which the levies and assessments
22 were made.
23 He shall file, preserve and keep all receipts and vouchers for
24 money expended or paid out by him showing the purposes for
25 which the payment was made.
26 If the legislature shall enact a law, generally referred to as
27 the "County treasurer law", which shall provide for a county
28 treasurer who shall collect and discharge all taxes, including
29 taxes levied by municipal corporations, the office of city col-
30 lector and treasurer may be discontinued and abolished.
31 The office of treasurer and collector may be held by the same
32 person.

City Attorney, Duties

Sec. 37. The city attorney shall be a member of the bar of
2 Hancock county in good standing and shall perform and dis-
3 charge all duties and exercise all powers which shall be con-
4 ferred upon him by any ordinance or resolution of the city
5 council, and, in addition, he shall exercise the following powers:
6 (a) Be the legal adviser of and attorney and counsel for
7 the city and for all the administrative offices thereof, in re-
8 spect to their official duties.
9 (b) Prosecute and defend all suits for or against the city
10 and prepare all contracts, bonds or other writings in which
the city is concerned, and endorse on each his approval of the
form and correctness thereof.
(c) Be prosecuting attorney of the police court and prosee-
cute all cases brought before such court, and perform the same
duties so far as they are applicable thereto as are required of
the prosecuting attorney of the county.
(d) The city council and all administrative officers of the
city may require the opinion of the city attorney upon any
question of law involving their respective powers and duties
and he shall furnish the same in writing.
(e) Apply in the name of the city to a court of competent
jurisdiction for an order of injunction restraining the misappli-
cation of funds of the city or the abuse of its corporate powers,
or the execution or performance of any contract made on behalf
of the city in contravention of law, or which was procured by
fraud or corruption.
(f) When an obligation or contract made on behalf of the
city granting a right or easement, or creating a public duty,
is evaded or violated, the city attorney shall require the specific
performance of the duty by any administrative officer by applic-
cation for a writ of mandamus to a court of competent juris-
diction.
The city manager or city council whenever the exigencies of
the business of the city require such action shall have the right
to employ special counsel to assist the city attorney.

City Engineer

Sec. 38. The city engineer shall be a competent civil and
mechanical engineer and shall discharge all duties and exercise
all powers which shall be conferred upon him by any ordinance
or resolution of the city council, and in addition, he shall
exercise the following powers:
(a) Make surveys and fix grades when required by the city
council or city manager; prepare plats, plans, and specifications
of all improvements which may be undertaken when required;
and inspect all work done by any contractor for the city while
the work is being performed.
(b) Supervise the construction of all buildings, the erec-
tion of which is controlled or regulated by the city.
(c) Furnish to any resident any street or sewer grade when-
ever required on such terms as the council shall prescribe.
(d) Make complete maps of all streets, alleys, lanes, parks and public property owned by the city and keep the same on file in his office, and furnish a copy thereof to the city manager. He may make recommendations as to the kind of improvements required or suitable for any street, alley, lane, or locality in the city.

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

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

City Physician, Duties

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

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

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

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

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

(e) Provide for the sanitary inspection and supervision of the production, transportation, storage and sale of food and food stuffs, the regulation and inspection of weights and measures, and the collection and disposal of all waste and garbage.

(f) In time of epidemic or threatened epidemic, he shall enforce such quarantine and isolation rules and regulations as are appropriate for the emergency, and shall at all times have general supervision over all contagious or infectious diseases.
(g) Provide for study and research into cases of poverty, delinquency, crime and disease. He shall by lectures, public instructions and otherwise instruct and educate the people of the community in matters affecting the public welfare which relate to sanitation, cleanliness, and how to avoid, so far as possible, sickness and disease.

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

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

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

Chief of Police, Duties

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

Chief of Fire Department, Duties

Sec. 41. The chief of the fire department shall have general supervision and control of the property and appliances of the city to be used for the prevention and extinguishment of fires. He shall be under the direction, authority and subject to the orders of the mayor and city manager at all times in the administration of the fire department. He shall make such inspection as may be required of buildings and property throughout the city in relation to the matter of fire risks.

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

Health Commissioner, Duties

Sec. 42. The health commissioner shall be a physician of good standing in his profession. It shall be his duty to administer to all charity cases that he may, in his discretion, deem deserv-
4 ing. He shall, in conjunction with the city manager, have charge
5 of the general health and sanitation of the city, and it shall be
6 his duty to carefully investigate all complaints and make a
7 careful detailed report to the mayor or manager, at least once
8 every month. He shall be appointed in the way and manner
9 provided by this act, and shall receive such salary as council
10 may by ordinance prescribe. Nothing herein, however, shall
11 be construed as in any way affecting the police officers of the
12 city relative to their powers and duties in regard to city san-
13 titation contained and set forth elsewhere in this act. The offices
14 of city health commissioner and city physician may be held by
15 the same person and his appointment shall not be subject to
16 approval by the state public health council.

Building Inspector, Duties

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

Appointment of Committees

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

Officers, Conservators of Peace

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

Police Judge, Qualifications

Sec. 46. The police judge, when appointed, shall have at-
2 tained the age of thirty (30) years and shall have been a resi-
dent of this state for a period of five years and of the city of Hollidays Cove previous to the beginning of his term of service for a period of one year. After the appointment of the police judge and in his absence or inability to perform his duties, the city clerk shall act as police judge in his stead, and in the event that neither the police judge nor the city clerk can, for any cause perform such duties, then the mayor shall act as police judge.

**Right to Give Bond**

Sec. 47. In all cases of arrest by the police of the city, except in cases of felony, the person arrested shall have the absolute right to give a reasonable and proper bond for his appearance at police court for a trial of his case, and the police judge, city clerk, mayor, chief of police, and the desk sergeant or person in charge of the police headquarters shall have the power, and it shall be their duty, to accept such bond from such persons so arrested, and upon the giving of such bond he shall be released; and it shall be their further duty to permit such person arrested to communicate in any reasonable way with any person or persons with whom he may desire to have communication in reference to his giving bail in order to obtain his release, and each of the said officers and all policemen shall render reasonable aid in assisting such persons arrested to communicate with any person whom he may desire for the purpose of securing such bail.

**Appeal—Criminal Cause**

Sec. 48. In any case for the violation of an ordinance of the said city, in which there is a judgment by the mayor or other trial officer, of imprisonment, or for a fine of more than ten dollars (and in all cases the fine shall not be less than ten dollars when the accused requests it) an appeal shall lie at the instance of the person against whom such judgment is rendered to the circuit court of Hancock county. Such appeal shall not be granted by the mayor or other trial officer unless within ten days from the date of the judgment, such person shall enter into a recognizance, with security deemed sufficient to appear before the said court on the first day of the next term thereof, to answer for the offense against said city with which he stands charged, and not thence depart without leave of said court. The provisions of general law, (chapter one hundred and sixty-two of the code) relating to the recognizance
in criminal cases shall be applicable to the recognizance con-templated by this section; but any money recovered thereon or by virtue thereof shall inure to said city.

**Appeal—Duties of Mayor**

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

**Trial in Circuit Court**

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

**Appeals in Other Cases**

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

**Abating Nuisances**

Sec. 52. The mayor of said city shall have authority to abate and remove all nuisances in said city. He may compel the owners, agents, assignees, occupants or tenants of any lot, premises, property, building or structure, upon or in which any nuisance
may be, to abate and remove the same by orders therefor, and the council shall by ordinance provide a penalty for the violation of such orders. Council may by ordinance regulate the location, construction, repair, use, emptying and cleaning of all water closets, privies, cesspools, sinks, plumbing drains, yards, lots, areaways, pens, stables and other places, where offensive, unsightly, unwholesome, objectionable or dangerous substances or liquids are, or may accumulate, and provide suitable penalties for the violation of such regulations, which may be enforced against the owner, agents, assignees, occupants or tenants of any premises or structure where such violations may occur. It shall be the duty of all police officers to report to the mayor the facts as to the existence of any nuisance known to them.

If the owner, agent, tenant, assignee or occupant of any such premises, lot, property, building, or structure, as is mentioned herein, shall fail or refuse to abate or remove any such nuisance, as mentioned herein, or comply with the provisions of any such ordinance and regulations herein contained, the mayor may have said nuisance abated or the provisions of said ordinance or ordinances carried out, after reasonable notice to said owner, occupant, tenant, agent or assignee of his intention so to do, and collect the expenses thereof, with one per centum per month interest added from the date of said notice, from the said owner, occupant, tenant, agent or assignee by distress or sale, in the same manner in which taxes levied upon the real estate for the benefit of said city are herein authorized to be collected, and the expense shall remain a lien upon said lot, or part of lot, 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. In case of non-resident owners of real estate notice may be served upon any tenant, occupant, assignee, or rental agent, or by publication thereof once a week for not less than two consecutive weeks in a newspaper of general circulation in said city.

And in all cases where any tenant, occupant, or agent is required to abate and remove any nuisance under the provisions of this section or comply with the provisions of any such ordinance as is mentioned therein, the expense thereof may be deducted out of the accruing or accrued rent of said property.
or amount due said owner from said agent, and such tenant, occupant, or agent may recover the amount so paid from the owner, unless otherwise specifically agreed upon.

Any expense incurred by the mayor as herein provided in the manner aforesaid, may be collected in the manner herein provided notwithstanding the imposition of any other penalties upon any of the persons named herein, under any of the provisions of this act. The abatement or removal of any such nuisance by the city at the expense of said city as herein provided, shall be prima facie proof that the said notice to the owner, occupant, agent or assignee was given as herein prescribed.

Special Assessment. Bond Issue

Sec. 53. The City of Hollidays Cove is hereby authorized to issue its bonds for the purpose of providing for grading, paving, curbing, sewerage and otherwise improving the streets and alleys of said city, or for constructing any sanitary sewer in anticipation of special assessments to be made upon the property abutting upon the streets and alleys so improved, or property so sewer or drained and such bonds may be in such amount as shall be sufficient to pay the entire estimated cost and expense of said improvements, for which such special assessments are levied; said city is hereby authorized to sell said bonds; provided, that the price for which they are sold shall not be below par value of said bonds; said bonds shall be payable in and not to exceed ten (10) years from the date of the issue thereof and shall bear interest at and not to exceed six (6) per cent per annum, payable annually; and in the issuance and sale of said bonds, the said city shall be governed by all the restrictions and limitations of the constitution of this state and the restrictions and limitations of the statutes of this state with respect to the issuance and sale of other bonds so far as they are not in conflict with the provisions of this act; and the assessments, as paid and provided for in this charter shall be applied to the liquidation of the said bonds and the interest thereon; and if by reason of the penalties collected with the delinquent assessments there be any balance after the payment of said bonds and all accrued interest and costs, the said balance shall be turned in to the city treasurer to the credit of the interest and sinking fund of said city. Provided, however, that the said city shall not make such issue and sale without at the same time pro-
viding for the collection of a direct annual tax sufficient to pay annually the interest on such bonds and the principal thereof within and not exceeding ten years. All of the assessments, interest and penalties thereon, collected from the abutting property owners on account of grading, paving, sewer ing or otherwise improving the streets and alleys of any such city, under the provisions of this chapter, shall annually be applied to the annual tax required to pay the interest on such debt and such principal within and not exceeding ten years; and in the event that the assessments, interest and penalties so collected do not amount to a sum sufficient to pay annually the interest on such debt and the principal thereof within and not exceeding ten years, then the council of said city, shall collect so much of said levy as will pay annually the interest on such debt and the principal thereof within and not exceeding ten years.

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

Sec. 54. Whenever the council shall deem it expedient to cause any street or alley in said city, or portion thereof to be paved, curved or macadamized or otherwise improved in a permanent manner, upon the petition in writing of persons owning the greater amount of the frontage of the lots abutting on both sides of any street or alley, between any two cross streets or between a cross street and an alley, it shall order the work done in the following manner and upon the following terms: The contract for such paving or other improvements shall after due advertisement in which the council shall reserve the right to reject any and all bids, be let to the lowest responsible bidder. The contractor shall look only to the city, for the payment of the work, and in no sense to the abutting land owners. The total cost of curbing, grading and paving or otherwise improving any such street or alley, with the exception in the case of a street occupied by street car tracks or other railways of the distance between the rails and two additional feet outside of each rail, which portion shall be borne and paid entirely by the street car or other railway company operating such street or other railway (unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of
act shall be borne by the owners of land abutting upon
said street, alley or portion thereof, according to the follow-
ing plan, that is to say: Payment is to be made by all land
owners on either side of such portion of a street or block
so paved or improved, in such portion of the total cost, less
the portion, if any, chargeable to such street or other rail-
way company, as the frontage in feet of his land so abutting
bears to the total frontage of all land so abutting on such
street, alley or portion thereof so paved or improved as afore-
said. The cost of such paving or improvement chargeable to the
abutting owners is not to include any portion or amount paid
for paving of squares at intersection of streets which shall
in all cases be borne and paid by this city. When the paving
of any street, or alley, or portion thereof, shall have been
let to contract, it shall be the duty of the engineer of such
city to cause the several frontages abutting thereon to be
measured and to calculate the assessment upon each and every
land owner so abutting, adding to the contract price all other
charges, costs and expenses necessary to complete said improve-
ment and to certify the same to the council showing the proper
amount to be determined as provided in the foregoing plan. It
shall be the duty of the council to examine and compare such
assessment, amounts and names so certified to it, and thereupon
said council shall give notice by publication for one issue in
some newspaper of general circulation in said city, that an
assessment under this section is about to be laid against the
abutting property for paving or improvements done on said
streets or alleys, describing the location of such paving or im-
provements, and any owner or owners thereof shall have the
right to appear before said council within two weeks from such
publication thereof and move said council to correct any ap-
portionment or assessment excessive or improperly made as
charged, which corrections said council shall have the power
to make, and if found to be correct or when corrected by the
council, as aforesaid, it shall enter the same together with a de-
scription of the lots of land as to location, frontage, depth and
ownership, so far as the same may be ascertained, upon its rec-
ords and to enter in its records that such owners and lots be as-
sessed and chargeable with the amount so ascertained to be borne
by them, respectively, and when so approved, certified and en-
tered of record the same shall be and constitute an assessment
against said owners and lots for such respective amounts. And it shall be the duty of the council to immediately certify such assessments to the treasurer for collection as herein provided, and a copy of said order shall be certified by the recorder to the clerk of the county court of the county wherein said property is situated, who shall be required to record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. The amounts so assessed against said abutting land owners shall be paid in ten payments as follows: That is to say, one-tenth of said amount, together with interest on the whole assessment for one year, shall be paid unto the city treasurer of the city before the first day of May next after said assessments have been certified to the county clerk. And a like one-tenth, together with interest for one year upon the whole amount remaining unpaid on or before the first day of May in each succeeding year thereafter until all has been paid and each of said installments of one-tenth, beginning with the first shall bear interest on the amount of said installment at six per centum per annum from the date of the making of the assessment as herein provided until paid; provided, however that any abutting owner so liable for any portion of the cost of such paving shall have the right at any time after the same is certified as aforesaid to the treasurer for collection to anticipate the payment of any or all of said assessments and shall be allowed to pay the face of said assessment with interest at six per centum per annum only to the time of payment. To each of such installments of assessments remaining unpaid in the treasurer’s hands on the days herein specified for the payment thereof, a penalty of ten per centum shall be added and any assessments so remaining unpaid in the treasurer’s hands on such date, shall be taken up by the council, and thereupon such council shall place such assessments with the penalty added thereto, in the hands of the city treasurer or other officer of said city, whose duty it is to collect delinquent taxes and assessments, to be treated and considered, and payment thereof enforced in all respects as herein provided for the collection of taxes due the city, and they shall be a lien upon the property liable therefor the same as for taxes, which lien may be enforced in the same manner as provided for taxes. The liens hereinbefore provided for shall have priority over all other liens except those for taxes due
the state and shall be on a parity with taxes and assessments due the city. Whenever all such assessments for paving, sewer-age or curbing, macadamizing or other improvements shall be paid in full to the treasurer he shall deliver to the party paying the same a release of a lien therefor, which may be recorded in the office of the clerk of the county court as other releases of liens, and whenever any such assessments shall be shown to the satisfaction of the city auditor or other official performing the duties of auditor, to have been paid in full to any officer entitled to receive the same, such auditor or the mayor, in cases where the corporation has no auditor, may in like manner execute such release.

Special Assessment. Sewers. General Procedure

Sec. 55. Whenever the council shall order the construction of any public sewer in said city, the owners of the property abutting upon any street in which such sewer shall be constructed, shall be charged with and liable for sewerage assessment as follows: When a contract has been let for said sewer the engineer of such city shall report to the council, in writing, the total cost of such sewerage, including all costs charges and expenses necessary to complete same. and a description of the lots of land as to the location, front-age, depth and ownership liable for such sewer assessment, so far as the same may be ascertained together with the amount chargeable against each lot and owner, estimated on the basis of one dollar per foot for inside lots, and one dollar and twenty-five cents per foot for corner lots, frontage measures on said sewer being considered, except that such estimate as to corner lots fronting thereon and having a greater depth than one hundred and fifty feet shall be estimated at one dollar and fifty cents per foot frontage, and any lot having a depth of two hundred feet or more and fronting on two streets, one in front and another in the rear of said lot, shall be assessed on both of said streets, if a sewer is constructed on both streets, or if fronting on a street running back two hundred feet or more to an alley, shall be assessed on both the street and the alley if a sewer shall be constructed in both street and alley; where a corner lot has been assessed on one end it shall not be assessed on the side; and thereupon said council shall give like notice by publication as is required in case of street paving
assessments, and the same rights shall exist as to the persons
and property affected and the same duty as to corrections by
said council as are prescribed with reference to paving, which
report shall in like manner be examined by the council, and if
found to be correct or corrected as aforesaid, and such estimated
assessments to be a fair and equitable apportionment of the cost
of such sewer, it shall enter an order upon its record setting
forth such location, depth, ownership and said amount of such
sewer assessment, against each, respectively, calculated as afore-
said, and the entry of such order shall constitute and be an
assessment for such proportion and amount so fixed therein
against such respective owners and lots, and if after such adver-
tisement, notice and hearing said council shall find that such ap-
portionment at such rate is unjust, or inequitable, it shall as-
certain, fix and assess the cost thereof among and upon the abut-
ing owners respectively, justly and equitably, and in like man-
er assess and enter the amount so fixed respectively upon its
records, and the council shall, in either event thereupon certify
the same to the treasurer for collection, and certify a
copy of such order to the clerk of the county court of the
county wherein said abutting property is situate, who shall
record the same in the proper trust deed book, and index the
same in the name of each owner of any such lot so charged with
such assessment, and such assessment so made shall constitute
and be a lien upon said lots respectively, which shall have priori-
ty over all other liens except those for taxes due the state,
and shall be a parity with other taxes and assessments due
the city and shall be paid by the parties liable therefor to
the said treasurer at all times in the manner and with the at-
tendant penalties for failure to pay promptly at the time pre-
scribed in all respects as hereinbefore provided in the case
assessments for paving streets and alleys in a permanent man-
er, and the parties liable therefor shall in the same manner
and to the same extent have the right and be entitled to
anticipate any or all of such installments thereon as in such
case provided. The liens herein and hereinbefore provided for
street paving, macadamizing, sewerage assessments and assess-
ments for other improvements, shall constitute liens upon
the real estate upon which they are assessed, as against credi-
tors of the owners thereof, or purchasers for value, and
without actual notice of such liens only from and after the
69 time that the statement thereof certified as aforesaid, shall
70 be filed for record in the office of the clerk of the county
71 court of the county wherein said abutting property is situate.

Resolution for Paving or Sewerage; Publication

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

Sec. 57. A notice of the passage of the resolution required in the last preceding section, embodying a copy of said resolution shall be served upon the owner of each piece of property to be assessed, said service to be made in the manner provided in section one of chapter one hundred and twenty-one of the code; provided, that if any of the owners or persons be not residents of the county wherein said improvement is proposed, or if it appears by the return in any case, that the owner cannot be found, then a notice of the passage of said resolution shall be published in some newspaper of general circulation in the city in which said improvement is proposed to be made one week, and such notice, whether by service or publication, shall be completed at least three days before said improvement is begun or the assessment is levied, and the return of the officer serving such notice or a certified copy of said return, or where published, the certificate of the publisher of said newspaper, shall be prima facie evidence of the service of the notice as herein required. Provided, further, that if the owner be a railroad company or other corporation that notice shall be served upon some agent or attorney for said railroad company or corporation within Hancock or Brooke county; provided, there be such agent or attorney for said railroad company or corporation within such county, and such service shall be made two weeks before said improvement is begun or the assessment is levied. Notice upon infants may be served on their guardians and upon insane persons by service upon their committee.

Cost of Paving Street Intersections

Sec. 58. The city shall pay the cost of paving the intersections at all cross streets (but not including the places where private alleys or private crossings cross the sidewalk which shall be paid by the owner or owners of said private alley or crossing at the time the paving is laid on said crossing); provided, that whenever special assessments shall be hereafter levied under the provisions of this chapter, made for the improvement of any street or other public place (other than sidewalks) the property so assessed shall not again be assessed for more than half the cost and expense of repaving or repairing such street or other place unless the grade be changed; but this
exemption shall not apply to the paving of streets or other public places which were paved or improved before the passage of this act.

**Bonds For Payment of Such Improvements**

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

**Ordinance for Paving or Sewerage**

Sec. 60. At the expiration of the time for the giving and publication of the notices as provided for herein, the council shall determine whether it will proceed with the proposed improvement or not, and if it decides to proceed therewith, an ordinance for the purpose shall be passed; said ordinance shall set forth the streets and alleys upon which the abutting property is to be assessed for the improvement, shall contain a statement of the general nature of the improvement and the character of the materials which may be bid upon therefor; of the mode of payment therefor, a reference to the resolution theretofore passed for said improvement giving the date of its passage and a statement of the intention of the council to proceed therewith in accordance with said resolution and in accordance with the plans, specifications, estimates and profiles provided for said improvement. In setting forth the lots and lands abutting upon the improvement it shall be sufficient to describe them as the lots and land abounding and abutting upon said improvement between and including the termini of said improvement, or by the description by which they are described on the land books of the county in which said lots are situate; and this rule of description shall apply in all proceedings in which lots or lands are to be charged with a special assessment.

**Validity of Special Assessments for Street Improvements**

Sec. 61. In any case in which special assessments have been or shall hereafter be made upon the property for the construction of any improvements authorized by this chapter,
and several kinds of material have been named in the ordinance or ordinances providing for the same, and on which bids have been received for the construction of said improvements with any, either or all of said materials, said assessments shall be valid and binding assessments upon the property so assessed. In the case of the construction of sewers required under the provisions of this chapter, notice of the passage of said resolution as provided for herein shall be made in the manner provided for in case of paving.

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

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

**Improvements Through Public Property; Assessments**

Sec. 63. When the whole or any portion of the improvement authorized by this chapter passes through or by a public wharf, market space, park, cemetery, structure for the fire department, waterworks, school building, infirmary, market house, workhouse, hospital, house of refuge, bridge, gas works, public prison, court house, church, or other public structure or public grounds within said city and belonging to said city or to the county, state, or any church, association, or eleemosynary institution, the council may authorize the proper proportion of the estimated costs and expenses of the improvement to be certified to the clerk of the court of the county wherein said corporation is situate, and the same shall thereupon be recorded by said clerk in the proper trust deed book and shall thereupon become a lien against said property and collectible as other assessments are collected against individuals under this chapter and it shall be the duty of those persons having charge of the fiscal affairs of any such property or institution.
18 to make proper arrangements for meeting of such assessments
19 when due and payable.

**Improvements and Assessments to be Speedily Made and Collected**

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

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

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

**Notice of Approval or Disapproval of Bonds by Attorney General**

Sec. 66. Upon approving or disapproving any such bonds
2 the attorney general shall immediately notify the said city of
3 his action, either by mail or telegram or both, and shall as soon
4 as can be done, notify the people in the political division sub-
5 ject to taxation for the payment of said bond, of his approval
6 or disapproval by notice published once a week for two suc-
7 cessive weeks in two newspapers of opposite politics, if there
8 be any, published therein, or if no newspapers be published in
9 said political division, then in some newspaper which is of
10 general circulation therein.

*Effect of Approval of Bonds by Attorney General, Appeal*

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

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

What Included in Costs of Improvements

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

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

What Included in Assessment

Sec. 71. The work undertaken may include widening, grading, paving, re-paving, curbing, sewering and otherwise improving a street or streets, alley or alleys, and a part of the cost of sewer ing the street or streets, alley or alleys, may properly be assessable under this act upon property against which no assessment may be made for the other improvements upon such street or streets, alley or alleys, and in that event, the cost charged against any lot or parcel of land which may be properly charged with a part of the cost of the entire improvement including the sewer ing shall be included in a single assessment.

Void Assessment; Remedy

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

Collection of Assessments

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

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

Second—By returning delinquent to the auditor the real estate of the party or parties against whom the said assessment
is made in which case they shall be returned by the auditor to
the sheriff and the real estate sold by the sheriff the same as
provided by general law for the collection of state and county
taxes, or
Third—By a suit in chancery in the circuit court of Hancock
county, West Virginia, wherein the court may enter a decree
appointing a special commissioner to sell the real estate upon
which a lien is created by the provisions of this act by reason
of any improvements herein mentioned and the proceeds of
such sale shall be distributed as follows:
(First) To the payment of the costs and expenses of such
suit and sale.
(Second) To the payment of such assessment, penalty and
interest and the remainder, if any, shall be paid to the defend-
ant, owner or owners of such real estate.

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

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

Sidewalks
Sec. 76. The city council is hereby authorized and
empowered to cause to be put down and grade, fill or ex-
cavate for a suitable sidewalk and curb of brick, stone or
other material along and for the footways and sidewalks of the
public streets and alleys of said city, and to order and cause
6 the grading, laying or relaying or repair of sidewalks and
7 gutters, of such material and width as the council may deter-
8 mine; and to require the owners or occupiers of the lot or lots or
9 parts of lots facing upon such streets and alleys to keep such
10 sidewalks clean and in good repair. The owners or occupiers
11 of the lots or fractional parts of lots abutting upon such streets
12 and alleys shall not grade or lay any such sidewalk, curb or
13 gutter, unless specially requested to do so by resolution adopted
14 by the council, and then only of the kind and width prescribed
15 by the council; but the city may lay such sidewalks, curb or
16 gutter and grade, fill or excavate therefor, or may let said work
17 by contract and in either case the total cost of said work, in-
18 cluding grading and excavating or filling shall be charged
19 upon and assessed against the lots or fractional parts of lots
20 abutting upon the streets and alleys so improved, or specially
21 benefited by said work, in proportion to the number of feet
22 frontage thereon of each such lot or part of lot, and shall be
23 and remain a lien thereon from the date of the acceptance of
24 the work by the city, and said lien shall have priority over all
25 other liens except those for taxes due the state and the United
26 States and shall be on a parity with the taxes and assessments
27 due the city, and shall bear interest from the date of acceptance
28 of the work by the city, or from the completion thereof when
29 done by the city, and shall become due and payable when de-
30clared final by the council; and to each such assessment re-
31 maining unpaid thirty days after maturity there shall be
32 added and collected by the city a penalty of ten per centum
33 of the amount of such assessment in addition to the interest.
34 The amount so assessed against any lot, or fractional part of
35 lot, together with the interest and penalty aforesaid, shall also
36 be a lien against such lot or part of lot. Immediately upon
37 completion of the work, if done by the city, or upon accept-
38 ance of the work, if done by contract, the council shall cause
39 the city clerk to serve a notice upon the owners of each lot or
40 fractional part of lot over which such sidewalks are graded,
41 filled, excavated, curbed or laid, shall describe such lot or part
42 of lot so graded, excavated, filled, curbed, or laid with sidewalk,
43 together with the amount assessed against each owner; such
44 notice shall be served as provided for the service of notice of
45 street assessments in this act and shall cite all said owners to
46 appear before the council at a meeting to be held, within fifteen
47 days following the service or publication of such notice and
48 show cause, if any they can, why such assessments should not
49 become final. Protests against said assessments shall be heard
50 and determined and said assessments shall become final and be
51 recorded by the city clerk, certified for collection, and the col-
52 lection thereof, enforced against the property assessed and
53 against the owner thereof, the same as assessments for sewers
54 and paving, and a certificate of said assessments certified to
55 the clerk of the county court for recordation, and recorded in all
56 respects in the same manner and with the same legal effect as
57 provided in the case of assessments for street paving or other
58 local improvements in this act. And all of the assessments,
59 interest and penalties thereon so collected from the abutting lot
60 owners on account of the grading and curbing and laying of
61 said sidewalks shall be applied to the cost of making the im-
62 provement for which said assessments were laid, and to no other
63 purpose.

Additional Methods of Paving

Sec. 77. In case of the construction of any pavement, sewer,
2 sidewalk or other permanent improvement under the provisions
3 of this act, when an assessment shall be void or voidable by
4 reason of errors, irregularities or defects in the proceedings
5 under which improvements shall have been made, or in case
6 such assessment shall have been made against the wrong per-
7 son, it shall be the duty of the council, within two years after
8 any court shall have declared such assessment invalid, to enu-
9 sive notice to be given to any person against whom the cost of such
10 improvement might properly have been assessed under this
11 act, of its intention to lay such assessment against him, and
12 fixing a time and place at which he may appear and show cause,
13 if any, why such assessment should not be laid. Said notice
14 shall be served as provided in this act for the giving of notices
15 in assessment proceedings, or in any manner provided by law,
16 including by publication, if the person is a non-resident of the
17 city or cannot be found.
18 At the time and place fixed for a hearing under the notice
19 aforesaid, the council shall proceed to lay and levy an as-
20 sessment for the cost of such permanent improvement in such
21 manner as would have been lawful under proper proceedings
22 at the time said improvement was made, unless the person so
23 notified shall show good cause why the same should not be laid, 24 and no further notice of such assessment shall be necessary. 25 The assessment so laid shall be a lien upon the property liable 26 therefor, as of the date of the original void, or voidable, as- 27 sessment, and shall be recorded in the same manner as herein- 28 before provided.

**Bond Election**

Sec. 78. No bonds shall be issued under the provisions of 2 this act until and unless the question of issuing such bonds 3 shall have first been submitted to the vote of the people of the 4 city and shall have received three-fifths of all of the 5 votes cast at said election for or against the same. When the 6 council shall have made provision for paying for any work 7 of improvement authorized in this act out of funds derived 8 from the sale of bonds in anticipation of the collection of spe- 9 cial assessments against property specially benefited and shall 10 have made such assessments in the manner provided in this 11 act, it shall cause to be held a special election, at which shall 12 be submitted to the vote of the people the question of issuing 13 such bonds. The ordinance providing for the election need 14 not specify in detail the location of the improvements contem- 15 plated or the cost thereof, or the amount of the special assess- 16 ments made, and notwithstanding the provisions of sections 17 two, three and six of chapter forty-seven-a of the code of one 18 thousand nine hundred and sixteen, it shall be a sufficient 19 description of the purposes for which said election is to be 20 held if the ordinance directing the same shall recite that it is 21 to authorize the council to issue bonds for the purpose of 22 widening, grading, paving, re-paving, curbing, sewering, or 23 otherwise improving the streets and alleys of the city. 24 Provision may be made in the same ordinance authorizing 25 the issuing of bonds as in this section above provided, or the 26 issuing of bonds to provide funds for any other municipal 27 improvement. The provisions of chapter forty-seven-a of the 28 code, edition one thousand nine hundred and sixteen, concern- 29 ing bond elections, together with any amendments thereof shall, 30 so far as they are not in conflict with the provisions of this 31 section, apply to and control all bond elections called or held 32 under the provisions of this act.
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Issuance of Bonds

Sec. 79. The said City of Hollidays Cove is hereby authorized to issue their bonds and to sell the same, provided, however, that in so doing they shall not violate any provision of the constitution of the United States or any provision of this act with regard thereto; nor shall they make such issue and sale, without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and principal thereof within and not exceeding thirty-four (34) years. The said city shall be authorized to impose taxation on every inhabitant thereof to the extent of the value of his property therein. Such taxes shall be uniform with respect to persons and property within their jurisdiction and shall only be levied on such property, real and personal and mixed and on capital on which the state imposes a tax and on licenses; but no special tax shall ever be imposed except the special tax put on such subjects as the state imposes a license tax for the exercise of a privilege. The said city by its corporate authorities, in the exercise of its police force and fiscal affairs may impose a license tax for any special privilege for the exercise of which the state imposes a license tax and have the right to tax such privilege for the purpose of enforcing the same. And such police regulations as may be prescribed for said city. The jurisdiction of said city shall extend one mile beyond the corporate limits of said city as prescribed by this act. All such taxes on such property and capital may be assessed and collected by such council in such manner and shall be accounted for at such time or times as may be prescribed by the council. But no such tax on any such property or capital outside of corporate limits and within said mile shall be imposed by such council, and the power of decision outside of said limits and within said mile shall only extend to the imposition of a license tax on such subjects as the state imposes a license tax and the power of enforcing the payment thereof. The power of revoking of licenses as provided for in this act shall extend to licenses issued within said distance of one mile from the corporate limits thereof. No person, firm or corporation for which a license tax is required under the provisions of this act shall be permitted to continue in business after the revocation of such license as provided for herein.
Submission of Bond Issue to Voters

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

Publication of Bond Ordinance

Sec. 81. When the council of such city shall deem it expedient to issue such bonds, an ordinance, specifying the purpose and amount for which such bonds are to be issued, shall be adopted by them in regular meeting and it shall then be the duty of the mayor to issue a proclamation reciting said ordinance, and appointing a day at which an election shall be held by the qualified voters of such city to decide whether they will ratify or reject said ordinance. Such proclamation shall be published in some newspaper of general circulation in such city, at least once a week for two weeks previous to the day of the election.

Conduct of Bond Election

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

Ballots for Bond Election

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

Proclamation of Indebtedness in Bond Election

Sec. 84. The proclamation provided for in this act, shall specify the aggregate amount of indebtedness, issued and authorized, of such city, existing at the date of the proclamation.
Bond Terms

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

Debt Limitation

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

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

(b) By ascertaining the total of all bonds and obligations of the city of every character whatsoever, including the bonds issued in anticipation of the collection of special assessments representing the cost of paving or other permanent improvements of streets and alleys or the construction of sewers, which are to be paid out of the assessments made against the specially benefitted properties, or by the owners thereof, and deducting from the total sum so ascertained, the amount of all special assessments made against property specially benefitted for pay-
ing and discharging the said bonds, the amount of current
revenues of the city available for the payment of its obligations
and the amount in any sinking funds, in cash or invested as
provided by law, created and applicable for the payment of
any of the bonds or obligations included in such total.
(c) Or the existing indebtedness of the city may be ascer-
tained in any other manner provided by law.

Suits for Damages from Improvements

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

Damages, Right of Action Against City

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

Construction of Proceedings

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

Serving Notice

Sec. 90. When 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 pre-
scribe for executing summonses and subpoenas by state officers,
unless otherwise provided by this act.

Duties of City Clerk in Municipal Elections

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

Policemen

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

Members of Council, Compensation

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

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

County Assessor to Furnish List

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

Authority to Issue Process

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

Power to Buy Real Estate and Convey the Same

Sec. 97. The council shall have power to buy, sell or exchange any real estate found necessary or convenient in the opening, construction, straightening, widening, or otherwise altering of any street, alley, or public way within the city, and by resolution and proper deed to convey to any person, firm, or corporation any land used or herefore or heretofore used, or street or other public purpose, when, in the judgment of the council such land shall be no longer needed for such public use.

Lot Subdivisions

Sec. 98. Any owner of lots or grounds within the city who sub-divides or lays them out for sale, shall cause to be made
3 an accurate map or plat of such sub-division, describing with 4 certainty all grounds laid out, or granted for streets, alleys, 5 ways, commons, or other public uses. Lots sold or intended 6 for sale shall be numbered by progressive number, or described 7 by the squares in which situated, and the precise length and 8 width shall be given of each lot sold or intended for sale. Such 9 map or plat shall be subscribed by the owner and lien holders, 10 acknowledged before an officer authorized to take the acknowl- 11 edgment of deeds, approved by the city manager, and recorded 12 in the office of the clerk of the county court.

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

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

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

Motor Vehicles

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

Eminent Domain

Sec. 100. The City of Holidays Cove as herein credited or 2 continued shall have the right under the power of eminent
domain to condemn, acquire and appropriate any property and acquire the fee simple title or any lesser estate or easement therein for any public use, whether said property be located within or outside of the corporate limits of said city, including the right to acquire property for opening and widening streets, alleys and public places, and for the construction and maintenance of sewer lines, sewerage disposal plants, water lines and mains, pump stations, reservoirs or reservoir sites, dams for storing water, and the right to create storage reservoirs by flooding adjacent properties, and for every other purpose required in the construction, maintenance, and operation of water systems and plants for the purpose of supplying water to the public. The proceedings to acquire such lands, estates, or easements shall be the same as provided by general laws of the state of West Virginia for condemning and appropriating private property for public use.

Assessments for Removing Snow, Weeds, etc.

Sec. 101. The city council shall have power to provide by ordinance for assessing against the abutting property the cost of removing from sidewalks all accumulations of snow and ice and for assessing against the property the cost of removing from sidewalks all accumulations of snow and ice and for assessing against the property the cost of removing rubbish and cutting and removing of noxious weeds from any lot or grounds in the city.

Taxes

Sec. 102. The council shall ascertain the total expense of the city to be provided for by levy for the fiscal year in which said levy is made, and it shall make a detailed itemized estimate of the sum of money necessary to pay interest accruing on the bonded indebtedness of said city, the amount required for the several sinking funds for the reduction of the principal thereof, the amounts necessary for the support of the various departments of the city and for the improvements of its streets, alleys, avenues and public grounds, real and personal property, contingent expenses and other expenses, together with an itemized statement of the estimated receipts other than that to be derived by the annual levy; and after receiving such estimates, and before making the levy, it shall apportion the rate thereof, including the estimated receipts, from licenses and all
15 other sources among the several funds so ascertained and 16 provided for, which apportionment shall be spread upon the 17 records of this city, and in making said estimate, providing for 18 the revenue for the fiscal years, etc., it shall be the duty of 19 the council to strictly observe all the provisions of chapter 20 nine of the acts of legislature, one thousand nine hundred and 21 eight, entitled "An act to regulate the rate and manner of 22 laying levies for taxation in counties, magisterial and school 23 and independent school districts, and municipal corporations, 24 and to provide penalties for the illegal expenditure of public 25 moneys, incurring of illegal obligations and the laying of 26 illegal levies by any tax levying body, and for the distribution 27 of a portion of the school fund," and all amendments thereto, 28 except where last named act shall be inconsistent with this 29 act as to limit of taxation.

Taxes, Continued

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

**Treasurer to Collect Tax**

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

**Liability For Tax**

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

**Lien for Taxes; Collection**

Sec. 106. There shall be a lien upon all real estate within
2 said city for the city taxes assessed thereon, including such
3 penalties added thereto for non-payment thereof as are pre-
4 scribed by this act, from the first day of January of the year in
5 which said taxes are assessed. Said liens may be enforced by
6 appropriate suit in any court of record in Hancock or Brooke
7 county; provided, such suit be instituted within five years
8 from the time the said liens attached as herein provided, and
9 suit may either be instituted by and in the name of the City
10 of Hollidays Cove as plaintiff, or said city may intervene by
11 petition in any suit pending to sell or enforce liens against any
12 real estate which is subject to such lien for said taxes. The
13 liens herein created shall have priority over all other liens,
14 except those for taxes due this state.
15 Said liens for city taxes and attendant penalties may also be 
16 enforced by certifying the same to the clerk of the county 
17 court of Hancock or Brooke county according to the county 
18 location of the property returned delinquent for non-payment 
19 of taxes, for certification to the state auditor, and the same 
20 may be certified down by said auditor, and sold for taxes, 
21 interest, penalties and commissions thereon, in the same man- 
22 ner, at the same time, and by the same officer as real estate 
23 is sold for taxes, interest, damages, cost and commissions due 
24 the state thereon, which officer shall account therefor, on settle- 
25 ment with the city and pay over the same to the treasurer of 
26 the city.

County Court Not to Have Authority Over Roads

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

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

Sec. 108. The City of Hollidays Cove is hereby authorized 
2 to issue and sell bonds of said city for the purpose of buying 
3 and building electric plants, water lines, water works, gas 
4 lines and fields and other public utilities or any part thereof, 
5 and for buying and building municipal buildings, jails, and 
6 fire stations; and for the purpose of buying fire fighting equip- 
7 ment and supplies, and for any other purpose and such bonds 
8 shall be sold for not less than par, and be payable within 
9 a period not to exceed thirty-four years, and shall bear inter- 
10 est, not to exceed six per centum per annum; and in the issu- 
11 ance and sale of said bonds the city shall be governed by 
12 all the restrictions of the constitution of this state and the 
13 statutes of this state, with respect to the issuance and sale 
14 of bonds, provided, that said city shall not, by the sale or
issue of bonds, for the purposes above mentioned, cause the aggregate of its indebtedness, of every kind whatsoever, to exceed five per centum of the value of taxable property therein, but may for the above purpose issue bonds to the maximum limit of said five per cent; nor shall said city make such issue and sale of bonds without, at the same time, providing for the collection of a direct annual tax sufficient to pay annually the interest on the same, and to create a sinking fund to pay the principal within the time for which said bonds shall be issued.

Removal of Elective Officers

Sec. 109. Any elective officer may be removed at any time by the circuit court of Hancock county, West Virginia, for any ground or cause for which a member of the county court of the county or other county officer may be removed. The proceeding for the removal of an elective officer shall conform in all respects with the proceeding to remove a county officer. On the hearing of any such proceeding no person called as a witness shall be excused from answering any question or giving any testimony because the answer or testimony might incriminate or tend to incriminate him, or render him liable to prosecution for an offense. But no witness called to testify in any such proceeding shall thereafter be prosecuted in any court in the state for any act concerning which he is required to testify or disclose by his testimony. Any person who shall be removed from office under the provisions of this section shall not thereafter hold any office or employment in the City of Hollidays Cove.

Succeeding to Duties of Officers

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

License Tax

Sec. 111. The City of Hollidays Cove shall have the right to require a license to do business from any person, firm or
3 corporation conducting a business in the City of Hollidays Cove for which business the state requires a license.

4 The council shall prescribe by ordinance the time and manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of a tax thereon to the city clerk before the delivery thereof to the person applying therefor, which tax shall include the same fees for the issuing of such licenses as are charged for similar services by state and county officers, which fees shall be paid into the city treasury.

5 The council may revoke any such license for a breach of any of the conditions, or for other good cause shown, but the person holding such license, must first have reasonable notice of the time and place of hearing and adjudicating the matter, as well as the cause alleged; and shall be entitled to be heard in person by counsel, in opposition to such revocation. The term for which licenses provided for in this charter shall be granted, shall be governed by the general law providing for state licenses.

Establishment of Jails

Sec. 112. The City of Hollidays Cove shall have the right to establish jails and places for the detention of prisoners of said city at any place within Hancock or Brooke county, West Virginia, and all prisoners arrested and imprisoned when awaiting trial or after conviction shall be imprisoned in the jail so designated by the council of said city as the city jail, or such prisoners may be imprisoned in the county jail of Hancock county, West Virginia, and the jailor of Hancock county, West Virginia, is hereby required to receive and safely keep any prisoners of said town who shall be sentenced to the county jail under the provisions hereof. Provided, however, that the said city shall reimburse the county for all expenses sustained in keeping such prisoners.

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

Sec. 113. In any case where the city shall own a water-works system, electric light plant or other public utility or any part thereof, and the council thereof shall deem it for the best interest of such city that such utility or any part thereof be sold, leased or rented, it shall be lawful for the council, by ordinance legally passed, to submit to the legal voters of such
city the question of making such sale, lease or renting. In such case the council shall in the ordinance submitting such question to vote set forth in full the terms of such proposed sale, lease or renting, the name of the proposed purchaser or lessee, the date of such election, and said ordinance shall be published at least once a week for two successive weeks prior to the date of such election in at least one newspaper of general circulation in such city. Said election shall be held in all respects in compliance with the provisions of the general laws of the state of West Virginia, so far as the same are applicable, and not inconsistent herewith. If a majority of the votes cast at such election upon said question be in favor of the proposed sale, lease or renting of such utility, the council, upon the ascertainment of the result of said election, shall have full power and authority to proceed to execute such sale, lease or renting in accordance with the terms and conditions prescribed in the ordinance aforesaid, and shall have power to do any and all things necessary or incident thereto; provided, however, that if at any time after such election and before the execution of the authority under the ordinance, any person, firm or corporation should present to the council an offer to buy such public utility, plant or part thereof, at a greater price than the sale price which shall have been so voted and authorized, or to lease the same upon terms which the council, in its discretion, shall consider more advantageous to the municipality than the terms of the lease which shall have been authorized by vote as aforesaid, the council shall have the power to accept such subsequent offer, and to make such sale or such lease to the person making the offer, without re-submitting the question to a vote. But if a sale shall have been authorized by a vote as aforesaid, and such subsequent proposition be for a lease, or if a lease shall have been so authorized, and the subsequent proposition shall be for a sale, the council shall have no power to accept the same without submitting the question thereof to a vote of the people as first above provided. And before any such second or subsequent proposition shall be submitted to vote, after a sale or lease shall have been authorized at an election held hereunder, the person making such proposition shall execute bond with security to be approved by the council, in a penalty of not less than twenty-five per cent of such
proposed bid, conditioned to carry such proposition into execution if the same shall be approved at the election to be called thereon. In any case where such public utility as is mentioned in this section shall be sold, leased or rented by the council as hereabove provided, no part of the moneys derived from such sale, lease or renting shall be applied to the payment of current expenses of the municipality; but the proceeds of such sale or lease shall be applied in payment and discharge of any bonded indebtedness created in respect to such public utility; and in case there be no such bonded indebtedness, the council, in its discretion, shall have power to expend all such moneys when received, in the purchase or construction of fire fighting equipment and buildings, a town hall, and the necessary land upon which to locate the same, or in the construction of paved streets, sidewalks, sewers and other like permanent improvements, and for no other purposes. Or in the case there be a surplus after the payment of such bonded indebtedness. such surplus may be used as aforesaid.

Grant of Franchises

Sec. 114. No franchise shall hereafter be granted by the council of said City of Hollidays Cove where the application for such franchise has not been filed at least thirty days prior to the time when it is to be acted upon, by such council, with the clerk of such council, and notice of such application, stating the object of such franchise, shall have been given by publication for thirty days in some newspaper of general circulation in said city. Nor shall such franchise be granted within thirty days after the application has been filed, nor until an opportunity has been given any citizen or corporation interested in the granting or refusing of said franchise to be heard, nor shall any franchise hereafter be granted by the council of said city for a longer term than fifty years; provided, however, that nothing in this act shall prevent the renewal of any such franchise for a term not exceeding fifty years, when the same shall have expired. No franchise hereafter granted for any longer term than fifty years shall be of any force or validity.

Powers as to Ordinances, Regulations and Fines

Sec. 115. To carry into effect the powers enumerated herein, and all others conferred upon such city or its council, by this
3 chapter or by any future act of the legislature of this state, 4 the council shall have power to make and pass all needful orders, 5 by-laws, ordinances, resolutions, rules and regulations, not con- 6 trary to the constitution and laws of this state; and to pre- 6 scribe, impose and enact reasonable fines, penalties and im- 7 prisons in the city jail or the place of imprisonment of 8 said city, if there be one, for a term not exceeding thirty days, 9 for each violation thereof. Such fines, penalties and imprison- 10 ments shall be recovered, and enforced under the judgment of 11 the mayor or police judge of such city or the person lawfully 12 exercising his functions.

Existing Ordinances

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

General Laws not Inconsistent Herewith not Repealed

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

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

When Act Effective

Sec. 119. This act shall not become effective unless the same is adopted by a majority of voters in said city as hereinafter provided for within six months after the passage of this act. Upon the passage of this act it shall be the duty of the council of the town of Hollidays Cove as the same exists at that time to set a time for an election. The question of the adoption of this charter shall be referred to the legal voters of the town of Hollidays Cove as herein constituted and thereupon the mayor of said city shall issue a proclamation setting the date of such election and the object of such election and further stating that a copy of said charter is on file in the office of the city clerk and open to the inspection of all persons interested, but it shall not be necessary for said proclamation to have therein contained a copy of this act. Such proclamation shall be published in some newspaper of general circulation in said city at least once a week for two successive weeks before the election. It shall be the duty of the council of said city to appoint the election commissioners and clerks to conduct said election, to provide ballots, poll books and other things for the proper conduct of said election; and said election shall be conducted at such place as shall be provided by the mayor in his proclamation and according to the rules and regulations for elections now in force in said City of Hollidays Cove.

The ballots used in said election shall be printed in substantially the following form:

"Election by the voters of the City of Hollidays Cove in the counties of Hancock and Brooke and State of West Virginia, on the_________day of_____________________, 1925, on the question of adopting or rejecting the city charter as enacted by
the Legislature of West Virginia at the regular session of one
thousand nine hundred and twenty-five thereof.
For the adoption of said charter ( )
Against the adoption of said charter ( )
On the day after the said election it shall be the duty of said
council of said city to canvass the returns of said election and
ascertain and declare the result thereof. If a majority of the
votes so cast at said election are for the adoption of this charter
certificate thereof shall be published and entered in the minute
book of said council and publication thereof made in the next
succeeding issue of such newspaper in which the said proclama-
tion of the mayor calling said election was published.

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

CHAPTER 4

( Senate Bill No. 96—By Mr. Marsh)

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

[Passed January 27, 1925; in effect from passage. Approved by the Governor.]
Sec.
1. To vote, issue and sell bonds; use of funds; supply; and fire protection; to
2. Additional use of funds for water

Be it enacted by the Legislature of West Virginia:

Section 1. That the municipal corporation of Cairo in the
2 county of Ritchie, be and is hereby authorized, in the manner
provided by law, to vote, issue and sell its bonds to an amount,
including existing indebtedness, not to exceed five per centum
on the value of the taxable property therein, to be ascertained
by the last assessment for state and county taxes. The pro-
ceeds from the sale of said bonds are hereby authorized to be
used for the grading, draining, curbing and paving of the
streets and alleys of the said town, or of such streets and
alleys as may be deemed necessary and expedient, by the
common council of said town to be graded, drained, curbed
and paved.

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

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

This act shall not be deemed or construed as restrictive of
the powers of said municipality and its common council and
officers under general law, but supplemental thereto.
suance of bonds of said city for the construction, maintenance and improvement of an adequate sewer system; providing for the apportionment of the cost thereof; providing for the issuance of sewer assessment certificates by the said city and the collection thereof; and to repeal any inconsistent act or acts.

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

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

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

38-b. Payment of bonds for sewers;

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

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

38-d. Lien on property.

38-e. Repealing inconsistent acts.

Be it enacted by the legislature of West Virginia:

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

Boundaries

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

2 Beginning at a point on the Kanawha river where a stake is called for, being a corner of the lands formerly owned by C. C. Miller, who is now deceased, and the lands of the Kanawha and Michigan railway company; thence with the division lines between the said Miller lands and the railway company's lands north twenty-nine degrees forty-five minutes, east one thousand feet, to a stake; thence in a westerly direction in a straight line to a point on the south side of Fifth street near where the same is intersected by what is known as the Tippet
11 alley; thence north following said alley, in the middle thereof, 12 to the corner of the Tippet property on the south side of 13 Sixth street; thence crossing Sixth street to the southeast 14 corner of the Perry Rogers’ lot; thence in a northerly direction 15 following the easterly line of the Perry Rogers’ lot sixty feet 16 to a stake; thence in an easterly direction crossing Crooked 17 creek to a stake near the Kanawha and Michigan right of 18 way; thence in a southerly direction four hundred and fifty feet 19 to a point on the northwest corner of the Charles Bennet 20 property, same being on the northerly side of the Clarksburg 21 road; thence with the northerly side of the Clarksburg road, 22 as now located, to the intersection of the said Clarksburg road 23 and the southerly side of the Kanawha and Michigan right of 24 way; thence in an easterly direction and following the line 25 of the Kanawha and Michigan right of way to a stake in the 26 C. C. Miller line; thence with said line and crossing the Kan- 27 awha and Michigan right of way north twenty-nine degrees 28 forty-five minutes east four hundred and fifty feet in said 29 Miller line to a stake; thence in a north-westerly direction 30 about seven thousand and one hundred feet in a straight line 31 to a point eight hundred feet northerly of the Kanawha and 32 Michigan main line track at point of hill, north-westerly of 33 Union depot; thence in a northerly direction in a straight line 34 to a point on the west side of what is known as river road 35 and about sixty feet west of what is known as Mud bridge; 36 thence with the westerly side of the river road and Jackson 37 avenue to Jefferson avenue; thence in a northerly direction 38 with the westerly side of Jefferson avenue to the north side 39 of Twenty-second street; then in an easterly direction with 40 the north side of Twenty-second street to east side of Jackson 41 avenue, where the same is intersected by Jerico road; thence 42 following the Jerico road in an easterly direction to the east 43 side of Washington avenue; thence leaving said Jerico road 44 north eight degrees east thirty-two poles to a post set in the 45 ground on the fifteenth day of July, one thousand nine hundred 46 and four; thence south eighty-two degrees east twenty-five poles 47 to stake on the top of creek bank; thence along the top of 48 creek bank north twenty-seven degrees fifteen minutes east 49 four poles sixteen links; thence north nine degrees east five 50 poles sixteen links; north twelve degrees west two poles three 51 links; north thirteen degrees fifteen minutes east twenty poles
to a stake; thence north thirty-five degrees east ten poles ten
links to a stake in bend of the fence; thence north fourteen
degrees thirty minutes east thirty-eight poles ten links to a stake
in outline of thirty-six acre tract known as lot number one in
Point Pleasant Development company's survey; thence with line
of said lot number one, north eighty-two degrees west nine poles,
fifteen links to a stake; thence north forty-one degrees west
eleven poles eight links to a stake at the northeast corner of
Fair Ground; thence along the north line of said Fair Ground
north eighty-two degrees west nine poles to a stake; thence
north six degrees east sixty-one poles eleven links to a stake;
thence south thirty degrees east seven and one-half poles to
a fence post in southeast corner of cemetery lot; thence along
the south line of cemetery lot north seventy-five degrees forty-
five minutes west forty-eight poles to the east line of Jackson
avenue as laid out by the Point Pleasant Development com-
pany; thence along the east line of Jackson avenue north nine
degrees east thirty-four poles twelve links to a stake in the
outline of the Point Pleasant Development company's land and
with said outline and line of land of Mrs. Ham Parr north
seventy-six degrees west one hundred and seventy-one poles
to a stake in the south bank of Old Town creek; thence along
the south bank of said Old Town creek with its meanders and
binding thereon, south thirty-five degrees west sixteen poles
four links; north forty-seven degrees fifteen minutes west six
poles; north twenty-eight degrees, forty-five minutes west eight
poles; north seventy-five degrees west three and one-half poles;
south three degrees thirty minutes east three poles four links;
south twenty-eight degrees east six poles twenty links; south
twenty degrees east five poles; south twelve degrees west six
poles and nine links; south eight degrees west seven poles
seven links; north eighty-one degrees thirty minutes west four
poles and twenty-two links; south forty-four degrees forty-five
minutes west thirteen poles and twenty-three links to the top
of the Ohio river bank; thence north seventy-three degrees
thirty minutes west to the Ohio and West Virginia state line;
thence with said state line down the Ohio river to a point
opposite the center of the Kanawha river; thence crossing the
Ohio river and in a line with the center of the Kanawha river
and continuing said course up the center of the Kanawha river
five hundred and three poles to a point opposite the begin-
Provided, however, that before this section defining the boundaries of said city shall take effect, it shall be submitted to the voters of said city at the regular city election to be held in the year one thousand nine hundred and twenty-five.

The tickets for said election herein provided for shall have written or printed thereon "For changing the boundaries of the City of Point Pleasant" and "Against changing the boundaries of the City of Point Pleasant." The result of the election and vote upon the said question shall be ascertained and certified the same as the result of the vote upon the various candidates whose names are submitted at the said election, conforming to the general law governing elections as far as applicable, and if the majority of the votes cast upon said question shall be in favor of changing the boundaries of the City of Point Pleasant, as provided to be made in this section, then the boundaries of the said City of Point Pleasant shall be and become as delineated in this section. If, however, the majority of the votes cast upon said question shall be against changing the boundaries of said city, or if the vote be even, then the boundary limits of said City of Point Pleasant shall be and remain as they were before this act went into effect.

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

Sec. 38-a. The City of Point Pleasant shall have the authority to vote upon, issue and sell bonds for municipal purposes, as contemplated and provided for by chapter fourteen of the acts of the West Virginia legislature for the year one thousand nine hundred and twenty-three.
Sec. 38-b. Whenever any such bond issue has been voted upon and carried for the purposes of constructing, maintaining or improving a sewer system or systems in the City of Point Pleasant, the council of said city shall have power and authority to provide for the payment of said bonds in the manner hereinafter provided for.

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

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

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

(d) The council of the said City of Point Pleasant shall likewise have authority and be empowered from current funds properly at their disposal from time to time to extend aid to any sewer system, either main or trunk line sewers or
42 lateral sewers, and the cost of said improvements shall like-
43 wise be apportioned and charged to the property as herein-
44 before set forth.

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

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

27 Said assessments and charges for the construction of the said
28 sewers herein provided for, shall be divided into five install-
29 ments, each for one-fifth of the amount thereof, as near as
30 practicable, making four of the said five installments in terms
31 of dollars only and when practicable in multiples of ten, the
32 cents and odd amounts to be covered by the first installment.
33 The first installment shall become due and payable in thirty
34 days from the date of the report of completion, as provided for
35 in this section, the second installment in one year, the third
36 installment in two years, the fourth installment in three years
and the fifth installment in four years from the date of the
said report. All of said certificates shall bear interest from
the date of issuance at the rate of six per cent per annum,
interest payable annually and said certificates shall be sold or
negotiated at not less than par, plus accrued interest, and
without discount to the contractors who may engage in such
work, or any other person; provided, however, the City of Point
Pleasant, in negotiating and selling such certificates, shall not
be held as guarantor or in any way liable for payment thereof
except upon direct action of the city council as expressed by
resolution of record.

It is further provided that the owner of any lot so assessed
may, at any time, anticipate and pay such assessment or cer-
tificates by paying in addition to the principal sum the in-
terest on all unpaid certificates to the date of the next annual
interest maturity date. Provided, further, that if such assess-
ment shall not exceed fifty dollars, then the interest amount
shall be covered by only one principal installment and inter-
est coupon, payable in thirty days from the date of said report;
if over fifty dollars and not more than one hundred dollars,
then such amount shall be covered by two principal install-
ment and interest coupons, payable in thirty days and one year
respectively from the date of said report of completion; if over
one hundred dollars and not more than one hundred and fifty
dollars, then such amount shall be covered by only three prin-
cipal installments and interest coupons, payable in thirty
days, one year and two years respectively from said report of
completion; if over one hundred and fifty dollars and not more
than two hundred dollars, said assessment shall be covered by
only four principal installment and interest coupons, payable
in thirty days, one, two and three years respectively from said
report of completion; if more than two hundred dollars then
said assessment shall be covered by five installments as hereien
set forth.

Sec. 38-d. All assessments for sewer purposes against the
particular property as herein provided for shall constitute and
be a lien upon said real estate, which shall have priority over all
other liens, subsequently placed thereon, except liens for state,
county and municipal taxes assessed against the said property
subsequent to the date of the said report of completion.
Sec. 38-o. All parts of the said chapter nineteen of the acts 2 of the legislature of West Virginia of one thousand nine hun- 3 dred and fifteen in conflict or inconsistent with the provisions 4 of this act are hereby expressly repealed.

CHAPTER 6

(Senate Bill No. 33—By Mr. Hugus)

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

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

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

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

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

CHAPTER 7

(Senate Bill No. 271—By Mr. Hugus)

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

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

Be it enacted by the Legislature of West Virginia:

That sections five, six, twelve, fifty and ninety-eight of that part entitled "Greater Wheeling Charter," of chapter twenty-one of the acts of the Legislature of West Virginia of one thousand nine hundred and fifteen (Municipal Charters), approved by the majority of the voters of the City of Wheeling at an election held on the fourth Thursday of May, one thousand nine hundred and fifteen, as amended and re-enacted by chapter one hundred and seven-
teen of the acts of the legislature of West Virginia (Municipal Charters) and as amended and re-enacted by chapter thirty-one of the acts of the legislature of West Virginia one thousand nine hundred and twenty-one, as amended and re-enacted by an act of the legislature of one thousand nine hundred and twenty-three, as amended and re-enacted by an act of the legislature one thousand nine hundred and twenty-five, initial session, be amended and re-enacted so as to read as follows:

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

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

Sec. 6. Said city shall have a city council of not less than eleven members. All councilmen shall take office on the first day of July following their election and shall serve for a term of four years and until their successors are elected and have qualified, unless sooner removed from office as hereinafter provided. They shall be residents of the city and qualified voters therein. No one elected a member of such city council shall be eligible to hold office as such member, who shall be interested, directly or indirectly, in the profits or emoluments of any contract, job, work or service for the city, or in any sale to it of any property, real or personal, or be, directly or indirectly, a holder
or owner of any bond or stock of any public utility corporation enjoying a franchise, privilege or easement in or from such city; or be an officer, agent, trustee, servant or employee of such a corporation. If any such person shall serve or attempt to continue to serve as a member of such city council who is not eligible for such membership, he shall be guilty of a felony and upon conviction thereof, be confined in the penitentiary of this state not less than one nor more than five years. The member of council nominated and elected from the city at large shall be

chairman or presiding officer of council, who shall be known officially as mayor of the city, and recognized as such for ceremonial purposes, and for the purpose of being served with civil processes against the city, and for the performance of all duties imposed upon him by this charter.

Provided, however, that the above change in the term of councilmen and the election thereof every four years on and after the election held on the fourth Thursday in May, one thousand nine hundred and twenty-five, as hereinabove in sections five and six provided, shall not become effective until and unless the proposition to change the term of said city councilmen from two to four years shall first be submitted to a vote of the qualified voters of the City of Wheeling and a majority of the votes cast be in favor of such change. The proposition to change the term of councilmen from two to four years shall be submitted to a vote of the people of the City of Wheeling at the election to be held on the fourth Thursday in May, one thousand nine hundred and twenty-five. The city council shall make arrangements for the submission of said proposition to a vote of the people of Wheeling at such election and shall prepare ballots and submit said proposition at said election. The ballot to be submitted shall be in substantially the following form:

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

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

If the proposition receives a majority vote in favor of the change, the councilmen elected at such election shall hold office for four years, and the term of office for councilmen thereafter elected shall be four years instead of two years as heretofore and the charter of the City of Wheeling amended to read as hereinabove in sections five and six set out.
Sec. 12. The council shall appoint the following named officers of the city, to-wit: A city manager, who shall be the administrative head of the municipal government and who shall be responsible for the efficient administration of all departments; a clerk, who shall be known as city clerk, who shall keep all records of the meetings of the city council, and perform such other duties as may be required by this charter or the council; a city solicitor, who shall perform such duties as are prescribed in this charter or as the city council by ordinance shall prescribe; a judge of police court, a chief of police, and such commissioners of municipal loans and bond issues as may be required by law of the state or city ordinances and a city health officer. All appointees of council shall hold office at the pleasure of the council and receive such compensation therefor as council may determine, excepting that the city health officer shall serve for a term of four years.

Council may, by contract with the board of commissioners of Ohio county, provide that the same person may be appointed to the office of city health officer and act as such city health officer and also be appointed or selected by the board of commissioners of Ohio county as county health officer during the same period of time and perform similar duties for the City of Wheeling and the county of Ohio, and council may contract with said board of commissioners of Ohio county whereby said board and said City of Wheeling shall agree upon the amount of compensation to be paid said joint health officer and the part of the compensation of any such health officer so appointed to fill both offices, to be paid by each the City of Wheeling and the board of commissioners; and council may likewise contract with said board for a division of the expenses of any joint city and county health office if the same person shall be selected to fill the office of both city health officer and county health officer and a joint health office maintained.

Council shall have authority to contract, by ordinance, with the sheriff of Ohio county for the collection of city taxes at a commission not to exceed two per cent of the aggregate collected, and in the event of such contract being made the said sheriff shall have the same powers and authority in making such collections of city taxes as he is by law vested with in making collections of state and county taxes, and he may act
by deputy in collecting city taxes, his deputies having and exercising all powers of their principal in so doing.

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

For the management of that plot of ground heretofore known as Wheeling Park, and donated to the City of Wheeling on the eighteenth day of December, one thousand nine hundred and twenty-four, for use as a municipal park, and for the management of such other parks as may hereafter be acquired by the City of Wheeling there shall be, and there is hereby created a commission to be known as "Wheeling Park Commission," and the same is hereby made a body corporate, and by that name the commission may sue and be sued; plead and be impleaded; and contract and be contracted with. The said commission shall consist of five citizens of the City of Wheeling, who shall be appointed in the manner hereinafter set out, and who shall serve without compensation and shall hold no remunerative political office, either state, county, municipal; and no member of the commission shall be eligible to appointment to any remunerative office or position under the jurisdiction of the commission. Before the first day of March, one thousand nine hundred and twenty-five, the board of directors of the Wheeling chamber of
commerce shall appoint three members of the said commission
and the city council shall appoint two members of the same com-
mission. The said commissioners appointed by the board of
directors of the Wheeling chamber of commerce shall hold office
from March first, one thousand nine hundred and twenty-five.
for one, two, and four years, respectively, as designated by said
board of directors, and the two members of the commission ap-
pointed by the city council shall hold office from March first,
one thousand nine hundred and twenty-five, for three and five
years respectively, as designated by the city council. Their re-
spective successors, however, shall be appointed for the term of
five years each excepting that any person appointed to fill a
vacancy occurring, before the expiration of a term, shall serve
only for the unexpired term; any commissioner shall be eligible
for reappointment; provided, further, however, that any vacancy
created either by the expiration of a term, or otherwise, shall be
filled by appointing body, either the board of directors of
Wheeling chamber of commerce, or the city council, as the case
may be, which may be appointed the commissioner whose place
on the commission is being filled. Upon the appointment of said
commission, the members thereof shall elect from among their
number a chairman and a secretary-treasurer who shall hold
office for one year and be eligible for re-election. Annually there-
after the commission shall organize by the election of a secretary-
treasurer and such other officers from its own number as it may
deem advisable. Members of the commission may be removed
from office in the same manner as provided for the removal of
county officers under section seven, of chapter seven of Barnes’
code, one thousand nine hundred and twenty-three. The com-
mission shall have all and sole power necessary, convenient and
advisable for the proper care, equipment and management of the
said Wheeling Park and other parks hereafter acquired by the
City of Wheeling, either by gift or purchase, and shall make
such rules and regulations as it shall deem expedient for the
care and management thereof.
In order to provide for the purchase of equipment for use in
Wheeling Park and for the maintenance and upkeep of said
Wheeling Park, the city council of Wheeling shall levy annually
four cents, or lesser amount, if requested by the commission, on
each one hundred dollars of the assessed valuation of the prop-
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79 erty within the limits of the city, according to the last assess-
80 ment thereof for state and county purposes, one cent of this tax
81 shall be construed to be a part of the tax heretofore in this sec-
82 tion permitted to be levied and three cents of this tax shall be in
83 addition to the five cents heretofore permitted to be levied. The
84 proceeds of this four cent levy shall be for the exclusive use of
85 said Wheeling Park and any other parks hereafter acquired as
86 aforesaid by the City of Wheeling, and shall be disbursed only
87 upon the order of the commission evidenced by warrants drawn
88 on the city treasurer, and signed by the chairman and the sec-
89 retary-treasurer of the commission.

Sec. 98. The city council shall elect a civil service commis-
2 sion for the purpose of examining applicants for positions and
3 promotions in the police, fire and water departments. The
4 civil service commission shall consist of three citizens not all
5 of whom shall be of one political party. At the first election
6 of members of the civil service commission, after the passage
7 of this act, one member shall be elected for a term of six years,
8 one member for a term of four years, and one member for a
9 term of two years. Thereafter the term of office of each mem-
10 ber shall be six years. Any vacancies occurring in the com-
11 mission shall be filled by the council. For the purpose of con-
12 ducting tests in the departments specified, the civil service
13 commission shall conduct practical examinations annually or
14 oftener, fixing grades and classifications as they may determine,
15 and a list of those successfully passing the examinations pre-
16 scribed shall be furnished the city manager, such list to be
17 known as the eligible list and selections must be made from
18 among the three applicants rated highest for the appointments
19 necessary to be made. Said list and all examination papers
20 shall be kept on file in the office of the city clerk and available
21 to the public at all times; provided, any appointees in the
22 departments under civil service shall be subjected to examina-
23 tions from time to time in the interest of efficiency and that
24 the passing of the required examinations prior to entering the
25 city’s employ shall not constitute a life tenure in office. No
26 member of the civil service commission during his encumbency
27 shall be the holder of any state, county or municipal office.
28 Provided, however, that the above change in section ninety-
29 eight, whereby the water department is placed under the civil
30 service commission and included in the provisions of section
31 ninety-eight shall not become effective until and unless the 
32 proposition to amend section ninety-eight shall first be sub-
33 mitted to a vote of the qualified voters of the City of Wheeling, 
34 and a majority of the votes cast be in favor of such change. 
35 City council shall submit said proposition to a vote of the people 
36 of Wheeling at the election to be held on the fourth Thursday in 
37 May, one thousand nine hundred and twenty-five. The ballot 
38 to be submitted shall be in substantially the following form:
39 ☐ For placing the water department under the civil 
40 service commission. 
41 ☐ Against placing the water department under the 
42 civil service commission. 
43 If the proposition receives a majority vote in favor of the 
44 change, the water department shall thereafter be included in 
45 section ninety-eight of the charter of the City of Wheeling, and 
46 the charter amended to read as hereinbefore in section ninety-
47 eight set out.

CHAPTER 8
(Senate Bill No. 283—By Mr. Sudderth)

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

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

Sec. 1. Creating corporate city; general provisions. 
2. Corporate boundaries. 
3. City wards; number and boundaries. 
4. General and special law to apply except where inconsistent here-
with; former ordinances effective unless in conflict with this 
act; all rights and property continued and preserved. 
5. Councilmen from each ward; elected by the voters; term of office; 
qualifications. 
6. Mass convention to nominate candidates; proclamation for; pub-

Sec. 7. Members of council to elect mayor; powers and duties; council 
to employ and discharge persons; appoint city manager; fill 
vacancy; removal of city manager; council change number of 
wards; fix salary of city manager; approve compensation of 
officers and employees; appoint police judge, and fix salary; re-
move police judge for cause.
Sec. 8. City manager's office: powers and duties of city manager; bond.

9. Police Judge, powers and duties of.

10. City manager to designate bank deposits; make deposits.

11. Officers and city employees not to receive special consideration that is not extended to the general public; fines and penalties for violation.

12. Audit city accounts; post and file results of audits.

13. Council to levy and collect taxes; grant or refuse licenses; maintain parks; general police powers.

14. Street paving; provisions for cost; liens against property; enforcement of; notice; hearings; findings of council conclusive; liens void, when; county clerk to record abstracts; fees.

15. Additional tax for paying and sewers.

16. Legal construction of this act.

17. Repeal conflicting or inconsistent acts.

18. Special election to ratify this charter; form of ballot.

Be it enacted by the Legislature of West Virginia:

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

Sec. 2. The corporate limits of the City of Grafton shall hereafter be as follows: Beginning at the southeast corner of Roger's mill; thence in a southerly direction to the eastern...
4 pier of the boom; thence crossing the Valley river to a point
5 on the west bank thereof, following said river in a southerly
6 direction to a point on said river bank to a large sycamore
7 tree located on the south end of the Joyce land near the bend
8 of the county road; thence in a northwesterly direction to a
9 large walnut tree on the Thayer land and directly west of
10 the Richman residence; thence in a straight line to the county
11 road at the southwestern corner of Cobb’s lot; thence with the
12 county road to Amon Martin’s line, corner of Beaumont addi-
13 tion to the corner of Judkin’s land; thence in a straight line
14 southwesterly to three service bushes, corner to McWilliams;
15 thence in a straight line to the south side of the Webster road
16 where the branch railroad built to the box factory crossed
17 said road; thence with the said south side of said Webster road
18 to the western line of the Atlantic Refining company’s tank
19 property; thence in a line to a chestnut on the ridge in Will-
20 hide’s field; thence in a straight line to the Tygart’s Valley river
21 near three linns, corner to St. Clair and Yates; thence with the
22 straight line to a chestnut on the ridge in Willhide’s field;
23 thence in a straight line to the Tygart’s Valley river near
24 three linns, corner to St. Clair and Yates; thence with the
25 last mentioned line extended to a point on the opposite side of
26 said Tygart’s Valley river; thence with the meanderings of
27 said river following low water on the eastern side thereof, to a
28 willow on the river edge, corner of the former corporation of
29 Fetterman, below the old Huffman mill dam; thence following
30 the northerly boundaries of the former corporation of Fetter-
31 man five courses in an easterly direction to the northeast
32 corner of the said old corporation at Fetterman; thence with
33 another line of said old corporation in a southerly direction to
34 a point and angle in the eastern boundary of said old corpor-
35 ation; thence with a straight line to the northeastern corner
36 of J. H. Carroll’s property; thence with the eastern line of
37 his property to the northern boundary of the Northwestern
38 turnpike and following the same in a westerly direction to the
39 eastern abutment of the concrete bridge at Wither’s garage;
40 thence crossing the Northwestern turnpike to the western
41 boundary thereof; thence along the western and southern
42 boundary of said Northwestern turnpike and with the mean-
43 derings thereof to the intersection with the Grafton road near
44 the dwelling of the late John W. Blue; thence to the eastern
boundary line of said Grafton road; thence with the eastern
boundary line of said Grafton road to the point of intersec-
tion of the western line of the Anna V. L. Drennan lot now
owned by Mary E. Sommerville with the eastern line of said
Grafton road; thence in a southerly direction to the railroad
bridge at the cut-off; thence with the northern bank of Three
Fork creek to the beginning.

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

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

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

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

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

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

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

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

Sec. 5. For said city two councilmen from each ward shall
be elected by the qualified voters of said ward as hereinafter
3 provided. The first regular election under this act shall be
4 held on the first Tuesday in March, one thousand nine hundred
5 and twenty-six, and said regular elections shall be held on the
6 same day in every third year thereafter.
7 The terms of office of said councilmen shall be three years
8 and until their successors are elected and qualified, and shall
9 begin on the first day of April after the election.
10 Said councilmen shall be citizens, residents, freeholders and
11 qualified voters of the respective wards from which they are
12 elected, and shall receive a salary of one dollar per year and
13 no other compensation.

Sec. 6. On the third Saturday preceding each triennial
2 election, there shall be held in each ward at a place and hour
3 to be designated by the council and proclaimed by the mayor,
4 a mass convention of all qualified voters of said ward. The
5 proclamation of said conventions shall be published in each
6 daily and weekly newspaper of general circulation published
7 in said city at least one week prior to said conventions. Said
8 convention shall by majority vote nominate not less than four
9 candidates for councilmen of said ward. The council shall
10 designate the places and hours for each of said conventions and
11 shall designate a temporary chairman to organize the same
12 and shall be the judge of all contests in respect to the nominees
13 of said conventions. In the absence of said designated chair-
14 man or his refusal to act the mass convention shall select its
15 own chairman. The chairman and secretary of said conven-
16 tions shall forthwith certify to the city clerk the nominees
17 thereof.
18 The clerk at the first election hereunder, and the city man-
19 ager at all subsequent elections, shall immediately prepare
20 ballots for the said triennial election and shall place thereon
21 the names of the said candidates for councilmen in each ward,
22 on separate ballots for each ward, placing the names of said
23 candidates in alphabetical order. Said ballots shall be printed
24 on plain, substantial white paper and shall be in form as near
25 as may be possible to the ballots used in general and primary
26 elections as provided by general law, and said election shall
27 be held, and the result thereof canvassed and declared in all
28 respects not in conflict herewith in conformity to said general
29 laws applicable to municipal elections.
Sec. 7. The city council shall at its first meeting after this charter goes into effect, elect by a majority vote one of its members as mayor who shall preside at all meetings of the council and who shall be the executive officer of the City of Grafton for the purpose of executing all contracts and other writings entered into on behalf of the city and on whom writs may be served in suits and other proceedings against the City of Grafton. The mayor shall by his signature authenticate all ordinances and resolutions passed by the council and all minutes of its meetings.

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

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

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

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

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

Sec. 8. The city manager shall occupy an office for the transaction of the public business in the building occupied by the city government, which office shall be kept open for the transaction of the public business on all days except Sundays and legal holidays. He shall devote all of his time to the dis-
charge of his official duties. In addition to all other powers
which may be conferred upon the city manager by the city
council or by the laws of the state of West Virginia, he shall
exercise the following powers:

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

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

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

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

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

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

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

Before entering upon the discharge of his duties the said
city manager shall enter into a bond in such sum as the council
shall designate, payable to the City of Grafton and conditioned
for the accounting for all moneys paid into the city treasury
and for the faithful discharge of his duties, which bond shall
be executed by some surety company authorized to do business
by the laws of this state and the premium thereon shall be paid
out of the city treasury.
Sec. 9. The police court judge shall perform and discharge all duties and exercise all powers which shall be conferred upon him by ordinance or resolution of city council, and in addition he shall exercise the following powers:

(a) Enforce all ordinances and resolutions which shall subject any person or corporation to any penalty.

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

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

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

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

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

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

Sec. 10. The city manager shall from time to time designate such bank or banks of said city as he shall deem proper and expedient as the depository or depositories of the funds of said city; provided, however, that no money shall be deposited with said bank or banks so designated until such bank or banks shall have given a bond with security to be approved
7 by the said city manager and in a sum to be fixed by him
8 and conditioned that said bank or banks shall account for and
9 pay over all money received by it or them for the account of
10 said city. The city manager shall forthwith deposit or cause to
11 be deposited in said bank or banks all moneys that may come
12 into the treasury of said city and the money so deposited shall
13 be disbursed only upon orders drawn by the manager and coun-
14 tersigned by the mayor. Whenever practicable the said money
15 shall be so deposited upon interest at such rate as the said
16 manager shall be able to secure.

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

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

Sec. 13. The council shall have the right and power to levy
2 and collect taxes and to grant and refuse licenses; to lay off,
3 open, close, vacate or maintain public grounds, parks and pub-
4 lic places, in or near the city, and to guard and police the
5 same; to prohibit or regulate within the municipality or within
6 two miles of its corporate limits or within two miles of any
7 cemetery, public park or place, the erection or maintenance of
8 any slaughter house, poultry house or pen, pig pen, barn,
9-10 stable, or other building or thing that is unsanitary or that
would be a menace to persons or property or the public health or safety, or which would injure private property or annoy citizens of said city; to cause to be filled up, raised or drained, by or at the expense of the owner, any town lot or tract of land covered or subject to be covered by stagnant water; to prevent the desecration of the Sabbath day; to regulate the running and speed of engines and cars within said city; to regulate the sale of all foods and drink products, milk and fresh meats, fish and vegetables, and provide for the inspection thereof; to establish, regulate and maintain baths, bathing houses, drinking fountains, public toilet stations, and free public band concerts, and to regulate the time and place of bathing pools and streams and public waters, within the police jurisdiction of the city; to prevent gambling and the keeping of gambling places; to regulate the running of electric cars and automobiles over and across any streets and alleys, and to regulate and prohibit the use of hand organs and all other musical instruments of an annoying character; to regulate and prohibit the distribution of hand bills, circulars, and other advertisements on the streets, roads, alleys, public places and parks, and in private yards, buildings and other structures; to acquire, maintain, control or dispose of a hospital and a public library, and any property for eleemosynary purposes, or any interest therein; to regulate the width of sidewalks and the street and the width and the care of the public grounds or grass plots abutting thereon, and to order the sidewalks, footways, crossways, drains and gutters to be curbed, paved or re-paved and kept in good order, free and clean, and to provide for the removal of snow and ice therefrom and for sprinkling the same by the owners or occupants of the real property next adjacent thereto, and to provide and enforce punishment for obstructing, injuring or preventing the free and proper use thereof, and to provide and enforce fines and penalties for throwing therein or thereon any paper, glass, rubbish, decaying substances or other things that would make said streets, sidewalks, grass plots, cross-walks, drains or gutters unsightly or unhealthy; to require the owner or occupant of any property in the city to keep his premises clean and free
52 from all matters that would endanger the health of the city, 
53 and to require the removal of any waste paper or waste mate-
54 rial of any kind or character upon the private property of any 
55 citizen or property owner that would cause the spread of fire or 
56 when the council deems the same should be removed; and to 
57 require the removal or straightening of any fence, wire, pal-
58 ings or other material enclosing any lot, when in the opinion 
59 of the council the same is dangerous or obstructs or encroaches 
60 upon the streets, alleys or sidewalks; and in all such cases, if 
61 the owner or occupant of said properties fail to do any of the 
62 things in this section enumerated when required by the coun-
63 cil, after notice by the council, the council may take such action 
64 as may be necessary to perform such acts and the expenses 
65 thereof shall be charged to the property owner and collected 
66 as taxes are collected; to regulate or prohibit the use of walls 
67 or walks for signs; to regulate or prevent the distribution or 
68 posting of any sign, bill or other paper that in the opinion 
69 of the council or manager is indecent or immoral; to require 
70 the removal or abatement of any building, business, bill boards, 
71 sign, sign board, or other thing which in the opinion of the 
72 council is a nuisance; to restrain, convict and punish vagrants, 
73 mendicants, beggars, tramps, common prostitutes, and their 
74 associates, and drunken and disorderly persons within the 
75 municipality, and to provide for their arrest and manner of 
76 punishment; to prevent and prohibit any tumult, riot, quar-
77 rel, angry contention or abuse of any person, assault, and 
78 assault and battery, and to fix punishment therefor; to require 
79 any building that, in the opinion of the council, is dangerous, 
80 to be repaired, altered or removed by the owners thereof, or 
81 put in safe condition, such as the council may approve, at the 
82 expense of the owner or occupant, and to provide punishment 
83 for failure to comply with any order of the council concerning 
84 the same; to regulate the height, construction and inspection 
85 of all buildings hereafter erected, the alteration and repair of 
86 any buildings now or hereafter erected, to require permits to be 
87 obtained of the manager therefor, and the submission of plans 
88 and specifications to the manager for his approval; to regulate 
89 the limits within which it shall be lawful to erect or maintain 
90 any steps, porticos, bay windows, awnings, signs, columns, 
91 piers, or other projection or structural ornaments of any kind 
92 for the houses or buildings on any street, or alley; and shall
also have all further rights and powers conferred upon city councils by general law as contained in said chapter forty-seven of the code and otherwise.

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

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

Immediately upon the completion and acceptance of any paving constructed by virtue of this section, the council shall direct the manager to cause to be published a notice, which shall make and describe the location of the street or alley upon which said paving shall have been constructed; giving the names of the owners of each lot abutting or abounding upon such street or alley, if known, and if the name or names of the owners of any lot or fractional part of a lot are unknown, such lot shall be described with reasonable certainty in order
that the same may be identified. The number of feet that each
lot or fractional part of a lot abuts shall be stated, also the
amount assessed against each lot or fractional part of a lot.
Said notice shall cite all owners of lots or fractional parts of
lots, abutting upon the streets or alleys aforesaid to appear
before the council of said city at a regular meeting thereof,
within thirty days from the first publication thereof, and show
cause, if any they can, why the assessment aforesaid should not
become final, which notice shall be published once a week for
two successive weeks in one or more newspapers of general
circulation, published in said city. The council shall, upon
the request of any one or more of the owners of said lot or
fractional parts of lot appoint a day to hear the grievances
of said owner or owners and may alter or amend any assess-
ment made against any one or more of said owner or owners
for good cause to be shown. The manager shall give notice
to all persons claiming to be injured by said assessment, of the
time and place of holding said meeting, which meeting shall
be held within ten days after the expiration of thirty days
mentioned in said notice. The council may adjourn the hear-
ing from time to time. In case any owner or owners of abut-
ing property fail to complain of any grievance or injury they
may have suffered by reason of the assessment aforesaid, and
shall fail to appear for the purpose of having the same cor-
rected, the assessment as laid shall be final. The findings of
said council shall be conclusive. The rights conferred by this
section are cumulative and shall not be exhausted as to any
particular street or alley by reason of having been once exer-
ised.

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

And it is hereby made the duty of said county clerk to record
said abstracts; for the recordation of each of which said clerk
shall receive a fee of twenty-five cents to be paid by the city.
Sec. 15. In addition to all other taxes provided by law the council shall have authority to levy and collect an annual tax, for the purpose hereinafter specified, on the personal property and real estate in said city, subject to taxation by said city, not to exceed in any one year ten cents of every six hundred dollars of the assessed value thereof and the money so collected shall be used for the purpose of paying its proportion of the cost of paving or re-paving streets and alleys and for constructing sewers in said city, in accordance with the provisions of section fourteen of this act; and such money shall in no case be used to pay for repairs of streets or alleys or sewers or for any other purpose than for paving or for sewers.

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

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

Sec. 18. The question of the ratification or rejection of this act shall be submitted to the voters of the present City of Grafton at the special election called for that purpose within six months of its passage and the commissioners of said city shall call said election within said six months and said election shall be held at all precincts in said city upon notice published once a week for two weeks in a newspaper published in said city and by notice posted in each of said precincts for ten days preceding said election, and if a majority of the votes cast at said election be for ratification of this act, this act so ratified shall be in force and effect from the time stated therein. Said election shall be conducted, officers appointed, returns canvassed and results declared as any city election in said city is now authorized by law. Provided, this referendum vote shall not apply to any changes in the boundary lines of the City of Grafton as provided in this act.
The ballot to be voted at said election shall be printed upon plain white paper and in the following form:

"CITY OF GRAFTON

"CHARTER ELECTION

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

" For adoption of the charter.

" Against adoption of the charter."

CHAPTER 9

(Senate Bill No. 400—By Mr. Woods)

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

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

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

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

Sec. 21. The common council shall cause to be annually made up and entered upon its journal, an account and estimate...
3 of all sums which ought to be paid within one year, and it shall
4 order a levy of so much as in its opinion may be necessary to
5 pay the same, not exceeding one dollar capitation tax and
6 fifty cents on every one hundred dollars valuation of prop-
6-a
erty, real and personal, within said city, in any one year for the
7 current expenses for the said city, unless authorized by two-
8 thirds of the voters of said city, voting at an election to be
9 held for that purpose, and in no case shall said levy for cur-
10 rent expenses exceed one dollar on every one hundred dollars.
11 In addition to such levy for current expenses of said city, the
12 common council shall in each year order a levy of as much on
13 every one hundred dollars valuation of property, real and per-
14 sonal, within said city, as shall be necessary for the purpose of
15 paying the interest on all bonds of said city then outstanding,
16 whether heretofore issued or hereafter issued, and to provide a
17 sinking fund for the retirement of such bonds, as such bonds
18 shall become due and payable.
19 All outstanding bonds of said city heretofore issued are
20 hereby in all respects validated and confirmed.

Sec. 27. The mayor shall be the chief executive officer of
2 said city, and shall see that the orders, by-laws, ordinances
3 and resolutions of the council thereof, are faithfully executed;
4 he shall be ex-officio a justice and a conservator of the peace
5 within the city, and shall, within the same, have, possess and
6 may exercise all the powers and perform all the duties, whether
7 in civil or criminal proceedings, vested by law in a justice of
8 the peace; any summons, warrants, or other process issued by
9 him may be executed at any place within the county; he shall
10 have control of the police of the city and may appoint special
11 police officers whenever he deems necessary; and it shall be his
12 duty, especially, to see that the peace and good order of the
13 city are preserved, and that persons and property therein are
14 protected, and to this end, he may arrest and detain, or cause
15 the arrest and detention of all riotous and disorderly persons
16 before taking other proceedings in the case; he shall, from time
17 to time, recommend to the council such measures as he may
18 deem needful for the welfare of the city; he shall have power to
19 issue execution for all fines, penalties and costs imposed by
20 him, or he may require the immediate payment thereof, and in
21 default of such payment he may commit the party in default
to the jail of said city or to the jail of McDowell county until the fine or penalty and costs shall be paid, to be employed during the term of his imprisonment as hereinafter provided; but the term of imprisonment in such cases shall not exceed thirty days. He shall receive a compensation for his services, to be fixed by the council, which shall not exceed twelve hundred dollars per annum, and in addition thereto such fees as properly accrue to him in proceedings for the enforcement of ordinances, but all such fees shall be collected, when practicable, and accounted for to the city, and warrants drawn covering such costs when collected, payable to the mayor. The mayor shall have no jurisdiction in civil cases on causes of action arising out of the corporate limits of the city. He shall have the same power to issue attachments in civil suit as a justice of his county has, though the cause of action arose out of said city. But in such case he shall have no power to try the same, but said attachment shall be returnable to and be heard before some justice of the county. From all judgments by the mayor, or in criminal cases, for the violation of ordinances, where the prisoner is sentenced to imprisonment or the payment of a fine of ten dollars or more, appeals shall be allowed as in criminal cases before justices, and all laws applying to such appeals from justices, shall apply to appeals from the mayor; and if the appellant on the trial of such appeal be found guilty of the violation of the ordinance in question whether upon the verdict of a jury or otherwise, the court shall ascertain by its judgment the fine or imprisonment to be paid, or suffered by the defendant, having regard to the punishment prescribed by such ordinance, and shall include in any such judgment the costs incurred by the city, as well in the proceedings before the mayor as those in the court.

CHAPTER 10

(Senate Bill No. 404—By Mr. Kee)

AN ACT to amend and re-enact section six of chapter two of the acts of one thousand nine hundred and twenty-one relating to the charter of the City of Bluefield.
Be it enacted by the Legislature of West Virginia:

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

Elections

Section 6. The next election for a board of directors under this charter shall be held on the first Tuesday in July, one thousand nine hundred and twenty-five, and succeeding elections shall be held every four years thereafter on the first Tuesday in July, unless the first Tuesday falls on the Fourth of July, when it shall be held on the day following. Such elections for a board of directors shall be held as provided by chapter three of the code of West Virginia, insofar as the same is applicable. And in the holding of such elections the election officers shall be selected by the board of directors as herein set forth. For the purpose of this act there shall be chosen at the primary election for the nomination of candidates for members of the board of directors to be held on the second Tuesday of June preceding the general municipal election, as hereinafter provided, a city executive committee for each political party, consisting of one committeeman and one committeewoman from each ward of the city. All members of the executive committee so selected for each ward shall reside within the ward from which they are chosen. The term of office of all committeemen and committeewomen so elected shall begin immediately after such primary election, and shall continue for four years thereafter and until their successors are elected and qualified. Vacancies in the city executive committee shall be filled by the executive committee of the city, and shall be for the unexpired term. As soon as possible after the election of the new executive committees as herein provided, they shall convene in said city on the call of the chairman of corresponding and outgoing executive committees, and...
29 shall proceed to select a chairman, a treasurer and a secretary;
30 each of which officers shall for their respective committees per-
31 form the duties that usually appertain to such offices, except
32 that a call for the convening of such committees after the pri-
33 mary election held on the second Tuesday of June, one thou-
34 sand nine hundred and twenty-five, may be called by any two
35 members of any such committees so elected for their respective
36 committee. Any person who is eligible to hold any office may
37 file with the city clerk not later than ten days before the pri-
38 mary election a certificate declaring himself or herself, a can-
39 didate for election to the office of committeeman or committe-
40 woman, within his, or her, respective ward, which certificate
41 shall be in the form or effect as follows:
42 I, ........................................, hereby certify that I am
43 a candidate for the election to the office of committeeman (or
44 committeewoman) to represent ............... party from
45 ......... ward of the City of Bluefield, West Virginia, and
46 desire my name printed on the official ballot of said party in
47 said ward, to be voted in the primary election, to be held on
48 the ............... day of June, 19........; that I am a legally
49 qualified voter of the ............... party of ..........
50 ward, in said city, and that my residence is No ........... of
51 street ............... in the City of Bluefield in Mercer
52 county in said state; that I am eligible to hold the said office;
53 that I am a member of and affiliated with said political party;
54 that I am a candidate for said office in good faith.
55 ........................................
56 Signature of Candidate.
57 Subscribed and sworn to and acknowledged before me this
58 ............. day of ............... , 19........
59 ........................................
60 Signature of officer taking acknowledgment.
61 Such announcement shall be signed and acknowledged by
62 the candidate before some officer qualified to administer oaths,
63 who shall certify the same.
64 Immediately upon the expiration of the time of filing the
65 announcement as candidate as aforesaid, the city clerk shall
66 cause to be published in all of the daily newspapers of the
67 city at once, in proper form, the names of the persons as
they are to appear upon the primary ballot. The candidates for the executive committees of each respective political party shall have their names printed on separate ballots for each political party, and on different colored paper as selected by the city clerk, and such ballots for such executive committees shall be printed upon plain substantial paper, and shall contain the names of the candidates in alphabetical order in their respective wards. The ballots shall be substantially in the following form or to the following effect, to-wit:

**OFFICIAL PRIMARY BALLOT**

Candidates for election for members of executive committees of the .............. party of the City of Bluefield, at the primary election.

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

For members of executive committees of the .............. party.

(Vote for one committeeman and one committeewoman.)

Designation of wards by numbers and names of candidates in their proper order in their respective wards, properly arranged with square to the left of the name of each candidate.

Official ballot, attest:

Facsimile of the signature .................. City Clerk.

Said ballot shall be printed, delivered at the polling places and voted and counted, and the returns thereof made, posted, canvassed and published in the same manner as the returns for the nomination of members of the board of directors at such primary election, except that the committeeman and committeewoman of each ward for each political party respectively receiving the highest number of votes in such ward shall be declared elected as the committeewoman and committeeman from such respective wards, and in the registration of voters to vote for such committeeman or committeewoman so elected at such primary election the said voters shall be registered with reference to party affiliation in the same manner as voters are required to be registered for primary elections under chapter three of the code, and the board of directors shall perform the duties required by the county court, and the city clerk shall perform the same duties as the clerk of the county court with reference to county elections so far as
Provided, that for all primary and regular elections said board of directors shall appoint the registrars and commissioners named and designated by the executive committees of any political party through their respective chairmen; and provided, further, that the executive committee of their respective political parties who were constituted as such committees at the time this charter went into effect shall name and designate the registrars and commissioners for the primary election to be held on the second Tuesday of June, one thousand nine hundred and twenty-five, and the board of directors shall appoint such registrars and commissioners so named and designated. All poll clerks shall be designated and appointed from the different respective political parties in accordance with, and pursuant to the provisions of chapter three of the code of West Virginia so far as applicable.

The committeeman and committeewoman in each respective ward for their respective party, receiving the highest number of votes respectively, shall each be declared elected as committeeman and committeewoman from such ward, and if in such ward any two or more committeemen, or any two or more committeewomen, receive the same number of votes, then the city clerk shall determine by lot the committeeman or committeewoman elected in their respective wards as aforesaid, and so declare their election.

The words “political party” shall be as defined in chapter three of the code of West Virginia.

The voters for each respective ward shall elect the committeeman and committeewoman for the respective political parties from each ward.

All other elections or votes on any question by the qualified voters of said city, shall be held or taken at such places under the superintendency of such persons, and subject to such regulations as are consistent with the laws of the state, and ordained by the board of directors. The board of directors shall, by ordinance, provide for such regulations for the registration of voters as may be rendered necessary by state law and by this charter.

All acts and parts of acts, coming within the purview of this act, or inconsistent herewith, are hereby repealed.
AN ACT to amend and re-enact the acts of the Legislature of West Virginia passed February twenty-seventh, one thousand eight hundred and eighty-seven, in reference to the city charter of the City of Wellsburg by adding sections forty-two, forty-three and forty-four thereto.

[Passed April 21, 1925; in effect from passage. Approved by the Governor.]

Sec. 42. Additional paving, repairing or other permanent street improvement; assessment certificates; liens against property; bids for work; cost of improvements; manner of payment; when due and payable; authority of the council.

Sec. 43. Wrong assessments; corrections; enforcement of liens; notice in assessment proceedings; time and place of hearing.

Sec. 44. Construction of additional sidewalks; notices; contracts; certificate for amount of assessment to be a lien; time for contracting work; total cost borne by abutting property owners; repeal conflicting acts.

Be it enacted by the Legislature of West Virginia:

That the acts of the Legislature of West Virginia passed February twenty-seventh, one thousand eight hundred and eighty-seven, in reference to the city charter of the City of Wellsburg be amended and re-enacted by adding sections forty-two, forty-three and forty-four thereto.

Section 42. In addition to the method provided for paving 2 streets by chapter eight of the acts of the legislature, one thousand nine hundred and eight, extra session, which act has been 4 adopted by the City of Wellsburg as a part of its charter and 5 also by section thirty of the charter upon petition in writing 6 of persons owning the greater amount of the frontage of lots 7 abutting upon both sides of any street, or between any two 8 cross streets or between a cross street and an alley, the council 9 shall order any block, street, avenue or alley or portion thereof 10 to be graded and paved, repaved, or otherwise permanently 11 improved, and the council may order the mayor or city clerk 12 to issue to the contractor doing the paving, or other permanent 13 improvement a certificate for each installment of the amount 14 of the assessment to be paid by the owner of any lot or frac- 15 tional part thereof fronting on such street, avenue or alley, 16 and the amount specified in said assessment certificate shall be 17 a lien as aforesaid in the hands of the holder thereof upon the 18 lot or part of a lot fronting on such street, avenue or alley and 19 such certificate shall draw interest from the date of said assess- 20 ment and the payment may be enforced in the name of the
holder of said certificate by proper suit in equity in any court having jurisdiction to enforce such lien, the council shall fix the amount of such assessment, advertise for bids and do all other things in connection therewith as provided for paving or permanently improving any street or alley or any portion thereof in chapter eight of the acts of the legislature of West Virginia of one thousand nine hundred and eight, except that such assessment laid under this section shall include the whole cost of such improvement, including the cost of grading and paving squares at intersections of streets and of curbing, the costs of which intersections shall be apportioned against the several properties fronting upon the street or portion thereof so improved; and such certificates shall be issued in the same number of installments and payable at the same time as other paving or permanent improvements are provided to be paid for, and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner that assessments are liens under chapter eight of the acts of the legislature of West Virginia of one thousand nine hundred and eight, and nothing contained in this act, or in the charter of the City of Wellsburg shall be construed as imposing a time limit upon the enforcement by appropriate suit of any lien for public improvements, heretofore or hereafter created. Such certificates as may be issued pursuant to this section shall contain a provision to the effect that in the event of default in the payment of any one of said certificates, when due, and said default continued for a period of sixty days, then all unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided. Provided, that no street, avenue or alley be paved or otherwise permanently improved pursuant to this section except and unless two-thirds of all the members elected to the council shall concur in the passage of the ordinance provided therefor, and the vote thereon shall be taken by ayes and noes, and duly entered upon the record.

Correction of Assessments.

Sec. 43. In the case of the construction of any pavement, sewer, sidewalk or other permanent improvement under the provisions of this charter where an assessment has heretofore been
11. Wellsburg Charter

4 laid or may hereafter be laid for the cost thereof, which said
5 assessment is or shall be void or voidable by reason of errors,
6 irregularities or defects in the proceedings under which said
7 improvement was made, or in case such assessment shall have
8 been made against the wrong person or shall have been omitted
9 to be made in a case where the same was proper, it shall be the
10 duty of the council within two years after the completion of
11 such permanent improvement or after any court shall have de-
12 clared such assessment invalid, to cause notice to be given to
13 any person against whom the cost of said improvement might
14 properly be or have been assessed under said charter of its in-
15 tention to lay such assessment against him and fixing a time
16 and place at which he may appear and show cause against the
17 same. Said notice shall be served as provided in the said charter
18 for the giving of notices in assessment proceedings, or in any
19 other manner provided by law, including by publication where
20 the person is a non-resident of the city or can not be found.
21 At the time and place fixed for hearing under the notice afore-
22 said, or at any time thereafter, the council shall proceed to lay
23 and levy an assessment for the cost of such permanent improve-
24 ment in such manner as would have been lawful under proceed-
25 ings at the time said improvement was made, unless the person
26 so notified shall show good cause against the same, and no
27 further notice of such assessment shall be necessary. The assess-
28 ment so laid shall be a lien upon the property liable therefor
29 and may be recorded and enforced in the same manner as pro-
30 vided for other liens for permanent improvements. This section
31 shall apply to assessments made and certificates issued under
32 section of this charter as well as to other assessments and liens
33 for public improvements.

Construction of Sidewalks on Certificates to Contractors and Spe-
cial Assessments Against Property Owners; Construction
by Lot Owners.

Sec. 44. In addition to the method of securing the laying
2 of sidewalks set out in section thirty of this chapter, the
3 council of said city may cause any sidewalk to be constructed,
4 laid, relaid or otherwise permanently improved in the City
5 of Wellsburg in the following manner and upon the follow-
6 ing terms: Notice shall first be given the abutting property
owners by publication in one newspaper by giving location, 
estimated frontage and depth, but no error in said publica-
tion shall in any way affect the validity of the certificate herein-
after provided for, or any of them. The contract for same 
shall, after due advertisement in which council shall reserve 
the right to reject any and all bids, be let to he lowest re-
sponsible bidder and upon completion and acceptance of the 
work council shall order the mayor and city clerk to issue 
to the contractor doing the work a certificate for the amount 
of the assessment to be paid by the owner of any lot or frac-
tional part thereof fronting on such sidewalk, and the amount 
specified in said assessment certificate shall be a lien in the 
hands of the holder thereof upon the lot or part of a lot 
fronting on such sidewalk and such certificate shall draw in-
terest from the date of said assessment, and the payment may 
be enforced in the name of the holder of such certificate by 
a proper suit in equity in any court having proper jurisdic-
tion to enforce such liens and council shall fix the amount of 
such assessment and do all things in connection therewith nec-
essary as is provided for paving or improving streets and 
alleys and such certificates shall be issued one for each abut-
ting lot or portion thereof payable six months from the date 
of the completion and acceptance of the work and shall be 
liens in the hands of the holder thereof upon the particular 
lot against which they are assessed in the same way and manner 
that assessments for street paving liens under the other pro-
visions of the aforesaid act created and amended the char-
ter of the City of Wellsburg; provided, however, that coun-
cil shall not receive any bids or let any sidewalk contract be-
tween the first day of October and the first day of March of 
any years. Nothing in this section shall be so construed as to 
prevent any abutting lot owners from having his own side-
walk put in if done before the advertising hereinbefore men-
tioned and provided same is done according to the lines, grades 
and specifications of the city engineer, for which no charge 
shall be made. The total cost of constructing, laying, relay-
ing or otherwise permanently improving any sidewalk or walks 
shall be borne by the owners of the land abutting upon said 
sidewalk or sidewalks according to the following plan, that 
is to say, payment is to be made according to the proportion
47 of square feet in front of any lot or portion thereof bears to 48 the whole letting.

All acts or parts of acts inconsistent herewith are hereby repealed.

CHAPTER 12

(House Bill No. 1—By Mr. Mathews)

AN ACT to amend and re-enact sections four, five, seven, nine, ten, eleven, fifteen, twenty-five, twenty-nine, thirty, thirty-five, forty-one, forty-four, forty-five, forty-six, fifty-two, fifty-three, fifty-seven, sixty, sixty-two, sixty-nine, seventy-five, seventy-eight, eighty-five and eighty-eight of chapter one of the acts of the legislature of one thousand nine hundred and fifteen, bound in a volume of municipal charters of such acts and known as the "Charter of the City of Charleston," as amended and re-enacted by chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, by chapter five of the acts of the extraordinary session of the legislature of one thousand nine hundred and twenty, and by chapter four of the acts of the legislature of one thousand nine hundred and twenty-one, the acts of both of said years one thousand nine hundred and nineteen and one thousand nine hundred and twenty-one referred to being bound in the volumes of municipal charters of said acts; to amend and re-enact section ninety-four of chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, bound in the municipal charters of said acts; and to re-enact section seven-a of chapter four of the acts of one thousand nine hundred and twenty-one, bound in a volume of municipal charters of such acts; and to add to said chapter one of the acts of one thousand nine hundred and fifteen as so amended, sections nine-a, sixty-two-a, eighty-eight-b and eighty-eight-c, all relating to and becoming a part of the charter of the City of Charleston."

[Passed April 22, 1925: In effect from passage. Became a law without the approval of the governor.]
Be it enacted by the Legislature of West Virginia:

That sections four, five, seven, nine, ten, eleven, fifteen, twenty-five, twenty-nine, thirty, thirty-five, forty-one, forty-four, forty-five, forty-six, fifty-two, fifty-three, fifty-seven, sixty-two, sixty-nine, seventy-five, seventy-eight, eighty-five and eighty-eight of chapter one of the acts of the legislature of one thousand nine hundred and fifteen, bound in a volume of municipal charters of such acts and known as the "Charter of the City of Charleston," as amended and re-enacted by chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, by chapter five of the acts of the extraordinary session of the legislature of one thousand nine hundred and twenty and by chapter four of the acts of the Legislature of one thousand nine hundred and twenty-one, the acts of both of said years one thousand nine hundred and nineteen and one thousand nine hundred and twenty-one referred to being bound in the volume of municipal charters of said acts; that section ninety-four of chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, bound in the municipal charters of said acts; that section seven-a of chapter four of the acts of one thousand nine hundred and twenty-one, bound in a volume of municipal charters of such acts, be amended and re-enacted; and that sections nine-a, sixty-two-a, eighty-eight-b and eighty-eight-c be enacted and added to the charter of the City of Charleston, so as to read as follows:

Sec. 4. The municipal authorities of the City of Charleston shall consist of a mayor, city treasurer, municipal judge and twenty councilmen, who shall be elected by the qualified voters of such city, and such officers shall for the assessment year preceding their respective elections as hereinafter provided, have been assessed with and paid taxes in the City of Charleston upon a valuation of at least one hundred dollars worth of real estate or personal property therein, and any person elected to any one of such offices who has not been assessed
with and paid taxes on such amount of property shall not qualify or enter upon the performance of the duties thereof, but such office shall thereby become vacant and shall be filled by a qualified person as provided herein for other vacancies.

Sec. 5. In addition to the municipal authorities mentioned in section four of this act, the city shall have a manager, city clerk, municipal court clerk, city auditor, collector, chief of police, city solicitor, assistant city solicitor, chief of fire department, engineer, health commissioner, building inspector, lockup keeper, humane officer or officers and such number of policemen as council by ordinance may direct. All the officers named in this and the preceding sections shall be paid proper salaries which shall be fixed by the council, except as herein otherwise provided, and such salaries shall be within the limits provided for by this act.

Sec. 7. The 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, re-grade, curb, widen, narrow, repair, pave and re-pave streets, alleys, roads, squares, plots, 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 free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said city, and the traffic thereover; to change the name of any street, avenue or road within said city, and regulate and cause the numbering and re-numbering of houses on any street, avenue or road therein; to 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, re-curbing, paving, re-paving 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 enter into a contract with the county of Kanawha, or any internal improvement company for the joint ownership of any bridge.
by the city and such county or company, upon such terms as
may be prescribed in the contract, but any such bridge shall
be a public highway and the interest of the company, county
and city shall be only such proportionate part thereof as it
may pay for or that may be named in the contract; to prohibit
and punish the abuse of animals; to restrain and punish va-
grants, mendicants, beggars, tramps, prostitutes, drunken or
disorderly persons within the city, and to provide for their ar-
rest and manner of punishment; to prohibit and punish by fine
the bringing into the city by steamboats, railroads or other car-
rriers, persons known to be paupers, dangerous or objection-
able characters or afflicted with contagious diseases; to control
and suppress disorderly houses of prostitution or ill-fame,
houses of assignation and gaming houses or any part thereof,
to punish those engaged in gaming and to suppress all gaming
or gambling houses, and all places where gambling or betting is
in any way carried on or permitted, and to punish all persons in
any way connected therewith; to prohibit within the city or
within two miles thereof, slaughter houses, soap or glue factories
and houses and places of like kind, and any other thing or busi-
ness 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, en-
closures, buildings and structures, cars, boats and vehicles of
every description, and to ascertain their condition for health,
cleanliness or safety; to regulate the building and maintenance
of party walls, partition fences or lines, fire walls, fire places,
chimneys, boilers, smoke stacks and stove pipes; to provide
for and regulate the safe construction, inspection and repairs
of all public and private buildings, bridges, basements, cul-
verts, sewers, or other buildings or structures of any descrip-
tion; to take down and remove, or make safe and secure, any
and all buildings, walls, structures or super-structures at the
expense of the owners thereof, that are or may become dan-
gerous, or to require the owners or their agents to take down
and remove them or put them in a safe and sound condition at
their own expense; to regulate, restrain or prohibit the erec-
tion of wooden or other buildings within the city; to regulate
the height, construction and inspection of all new buildings
hereafter erected, and the alteration and repair of any build-
ings already erected or hereafter erected in said city, and to
68 require permits to be obtained for such buildings and structures, and plans and specifications thereof to be first submitted to the building inspector; to regulate the limit within which it shall be lawful to erect any steps, porticos, bay windows, bow windows, show windows, awnings, signs, columns, piers or other projection or structural ornaments of any kind for the houses or buildings fronting on any street of said city; to establish fire limits and to provide the kind of buildings and structures that may be erected therein, and to enforce all needful rules and regulations to guard against fire and danger therefrom; to require, regulate and control the construction of fire escapes for any building or other structures in said city, to control the opening and construction of ditches, drains, sewers, cess-pools, and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to prevent obstruction therein, and to fill, close or abolish the same and to determine at whose expense the same shall be done; and to build and maintain fire station houses, crematories, jails, lockups, and other buildings, police stations and police courts, and to regulate the management thereof; to acquire, establish, lay off, appropriate, regulate, maintain and control public grounds, squares and parks, hospitals, market houses, city buildings, libraries and other educational or charitable institutions, either within or without the city limits, and when the council determines that any real estate rights therein, or materials in or out of the city is necessary to be acquired by said city for any such city purpose, or for any public purpose, or is necessary in the exercise of its powers herein granted, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof, whether said property be in or out of said city, in the same manner, to the same extent, and upon the same conditions as such power is conferred upon public service corporations by chapter forty-two of the code of West Virginia of the edition of one thousand nine hundred and six, and is now or may be hereafter amended; to purchase, lease or contract for and take care of all public buildings and structures and real estate deemed proper for the use of such city; and for the protection of the public to cause the removal of unsafe walls, structures or buildings, and the filling of excavations; to acquire or assist
in acquiring land to be donated, dedicated or conveyed to, or otherwise vested in, the state of West Virginia as a site for a state capitol or other public buildings, and to donate, dedicate and convey the same to said state or otherwise procure the title to the same to be vested in said state; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances and to that end and thereabout to summon witnesses and hear testimony; to regulate or prohibit the keeping of gunpowder and other combustible or dangerous articles, and to regulate the transportation of same through the streets, alleys and public places; to regulate, restrain or prohibit the use of firecrackers or other explosives or fireworks, and all noises or performances which may be dangerous, indecent or annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead, in or out of the city, and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees, shrubbery, grass, flowers and other ornamentation, and the protection of the same; to provide for the poor of the city; to make suitable and proper regulations in regard to the use of the streets, public places, sidewalks and alleys by street cars, foot passengers, animals, vehicles, motors, automobiles, traction engines, railroad engines and cars, and to regulate the running and operation of the same so as to prevent obstruction thereon, encroachment thereto, injury, inconvenience or annoyance to the public; and to regulate fares and operation of motor vehicles used in the public transportation of passengers or property; to purchase or otherwise secure life, health or accident policies on the group or other convenient plan upon the members of the city police force and fire department, and as an element of compensation of such members may appropriate the moneys necessary to defray the cost thereof. Whenever in its opinion the safety of the public so requires, the council may authorize or require by ordinance any railroad company operating railroad tracks upon or across any public street or streets of the city, to construct and maintain overhead or undergrade crossings wherever the tracks of said company are laid upon or across the public streets of such city; to apportion the cost of
the construction and maintenance of such crossings between any such railroad company and city; to prohibit prize fighting and cock and dog fighting; to license, tax, regulate or prohibit theaters, moving pictures, circuses and exhibition of showmen and shows of any kind, and the exhibition of natural or artificial curiosities, carnivals, menageries and musical exhibitions and performances, and other things or business on which the state does or may exact a license tax; to organize and maintain fire companies and departments, and to provide necessary apparatus and implements for the same and to regulate all matters pertaining to the prevention and extinguishing of fires; to make proper regulations for guarding against danger and damage from fires, water or other elements; to regulate and control the kind and manner of plumbing and electric wiring, air-ships, ballons, wireless stations, radio stations and other appliances for the protection of the health and safety of said city; to levy taxes on persons, property and licenses; to license and tax dogs and other animals and regulate, restrain and prohibit them and all other animals and fowls running at large; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business of its own regulation and government; to promote the general welfare of the city, and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city and to regulate the transportation thereof and other things, through the streets, alleys and public places; to have the right to grant, refuse or revoke any and all licenses for the carrying on of any business within said city on which the state exacts a license tax; to establish and regulate markets and to prescribe the time for holding the same, and what shall be sold in such market, and to let stalls or apartments and regulate the same; to acquire and hold property for market purposes; to regulate the placing of signs, billboards, posters and advertising on or over the streets, alleys, sidewalks and public grounds of said city; to preserve and protect the peace, order and safety and health of the city and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium and poisonous or dangerous drugs; to appoint and fix the place of holding city elections; to erect, own, lease, authorize or pro-
hibit the erection of gas works, electric light works or water works, ferry boats, in or near the city, and to operate the same, and to sell the product or services thereon and to do any and all things necessary and incidental to the conduct of such business; to build, hold, purchase, own and operate toll bridges; to enter into an agreement with the county of Kanawha, whereby the council and the county court of Kanawha county shall have the power and authority to provide for a full time health officer in charge of all the general health and sanitation activities and of the enforcement of all laws and regulations relating to public health, in the city of Charleston, the county of Kanawha, and to provide for necessary assistants, nurses, clerks and other employees, and the expenses of the administration thereof, and to provide for a proper division of all such expenses between the city and county, and make all needful rules and regulations to fully carry into effect the said joint undertaking between the city of Charleston and the county of Kanawha; to provide for the purity of water, milk, meats and provisions offered for sale in said city, and to that end provide for a system of inspecting the same and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruit, vegetables, or the sale of milk, containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city, where the milk and meat therefrom are offered for sale within said city, and to prohibit the sale of any article deemed unwholesome, and to condemn the same or destroy or abate it as a nuisance; to provide for the regulation of public processions so as to prevent interference with public traffic, and to promote the good order of the city; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives. decency, morality, cleanliness and good order of the city and its inhabitants, and to protect places of divine worship in and about the premises where held, and to punish violations of all ordinances, if the offense under and against the same shall also constitute offenses under the laws of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of payment of fines, penalties or costs under this act,
who are otherwise unable to discharge the same, by putting
them to work for the benefit of the city upon the streets or
other places in or out of the city provided by said city, and
to use such means to prevent their escape while at work as
the council may deem expedient; and the council may fix a
reasonable rate per day as wages to be allowed such persons
until the fine and costs against him are thereby discharged; to
compel the attendance at public meetings of the members of
the council; to have and exercise such additional rights, privi-
leges and powers as are granted to municipalities by chapter
forty-seven of the code of West Virginia as amended.

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

And the council shall have the right to establish, construct
and maintain public markets, landing, ferries, wharves,
parking places and docks on any ground which does or
shall belong to said city, or which it shall acquire, by purchase
or otherwise, and to sell, release, repair, alter or remove any
public markets, landings, ferries, wharves, dikes, buildings
or docks which have been or shall be so constructed, and
to levy and collect reasonable duty on vessels and
other craft coming to or using said landings, ferries, wharves,
dikes, docks, parking places and buildings, and to pre-
sure and protect the peace and good order at the same, and
to regulate the manner in which they shall be used; and to
have the sole right, under state laws and in the same manner
as now control county courts, to establish, construct, maintain,
regulate and control all such wharves, docks, ferries and land-
ings within the corporate limits of said city.

To carry into effect these enumerated powers and all other
powers conferred upon said city expressly or by implication in
this and other acts of the legislature, the council of said city
shall have the power in the manner herein prescribed, to
adopt and enforce all needful orders, rules and ordinances not
contrary to the laws and constitution of this state; and to
prescribe, impose and enforce reasonable fines and penalties,
including imprisonment in the city lock-up, jail or station-
house, and to work prisoners found guilty, as the council may
 prescribe, and market the products of such labor, and with
Sec. 7-a. The council of the City of Charleston shall have full discretion in the matter of granting, refusing and revoking licenses for keeping hotels, eating houses and restaurants, garages, taxi-cab stands, bowling alleys, pool and billiard tables and like tables, and for selling soft drinks, as in the case of other licenses, and shall supervise, regulate and control all places licensed for said purposes, and the municipal judge shall have jurisdiction when such city license and regulation is sought to be evaded and may prevent such evasion, provided, that no such license, regulation or control shall apply to any fraternal, beneficiary society permitted under the state laws.

The council shall make no provision for the licensing of automobiles or other motor vehicles, except that in the case of motor vehicles used in the transportation of passengers or property for hire the council may require from the owner or operator of any such vehicle a bond, with sureties, and in such penalty, and with such conditions as it may deem proper.

The council shall have power to enact and enforce proper ordinances for the purpose of carrying into effect the powers hereby granted.

If any person fails or refuses to secure a license or to pay any license tax due the city, or fails to obtain a permit to do anything for which a permit is required by ordinance, in addition to all other penalties and remedies provided by the ordinances of the city, the circuit court of Kanawha county and the court of common pleas of Kanawha county, or the respective judge thereof, in vacation, upon application in the name of the city or of any officer of the city, shall grant an injunction, inhibiting such person from continuing the business until the full amount of the license tax and penalty prescribed by the ordinance and due the city is paid, or until the person has obtained the license or permit as required by any ordinance.

Sec. 9. The voting precincts in the several wards for all city elections shall be the same as to boundaries as those fixed by the county court for all state and county elections so long as no precinct as so fixed by the county court embraces territory of more than one ward in said city. So long as the voting precincts in the several wards shall be the same.
as those so fixed by the county court; then the registration of voters made under the general law concerning registration of voters, shall be the registration of voters, used for all city regular elections, with such corrections as are herein provided for, and it shall not be necessary to have a special registration of voters for any special election, but the registration of voters for the last preceding city regular election, with such corrections as are herein provided for, shall be the proper registration for such special election. The council shall elect two persons, one being a member of each of the two leading political parties in said city, having all the qualifications of commissioners of election under chapter three of the code of West Virginia as city registrars. The executive committee of each of such political parties may present to the council a writing signed by the chairman of the committee of each party requesting the appointment of a qualified voter of his political party as registrar with his city address, and in case such writing is presented the council shall appoint the person so named as such registrar. They shall take the same oath as other officers of the city take and shall be paid such compensation as the council may fix by ordinance.

They shall sit in the office of the city clerk on five separate days being the last four Saturdays and the last Monday preceding any regular election in said city and for three separate days, being the last two Saturdays and the last Monday preceding any special election, for the purpose of registering voters who shall not have been already registered in the various precincts, and for issuing transfers to any voter who has moved from one precinct to another, and for striking off the name of any voter from the registration books when it shall be shown by the affidavits of two persons that he is no longer a voter in said city, and they shall strike off from such registration books the names of any person known by or proved to them to be dead. It shall be the duty of the city clerk to make or have made copies of the registration books on file in the office of the clerk of the county court of Kanawha county at least sixty days before any regular city election, and such copies, with such additions and changes as may be made by the city registrars, shall be used for all special elections that may be held between said regular elections as well as the regular elections. Notice of the time and place of sittings of said city registrars shall
be given by the publication thereof by the city clerk in two
newspapers of opposite politics printed and circulated in said
city, once a week for six successive weeks before any general
election, if there is a sufficient space of time for such purpose,
and if not, then for such time as there may be before any
special or general election. Before the registrars shall register
the name of any person as a qualified voter they must be satis-
fied of his qualifications and shall have the right and power to
require of such persons all the things that may be required of
him by the registrars under the state law, and such registrars
shall, as to the qualifications of persons to vote be governed by
the state laws on such subject in existence at the time of such
registration.

The county clerk of Kanawha county shall carefully pre-
serve in his office the registration books of each general election
for all the precincts of the City of Charleston and shall de-
Deliver one copy of each thereof to the city clerk of the city of
Charleston for the use of the registrars of said city in the per-
formance of their duties as such.

Sec. 9-a. In the event that the county court of Kanawha
county changes the boundary lines of any voting precincts in
the City of Charleston, where any of said voting precincts as
changed include any of the territory of two or more of the
wards heretofore fixed by law, then the council shall hold a regu-
lar or special session on the first Monday in March of each
year in which a city regular election is to be held, and shall
appoint for each voting precinct as so changed as
fixed by this act two competent persons or regis-
trars, one each from the two political parties which
at the last preceding regular election cast the high-
est number of votes in the City of Charleston, but the
12 executive committee of such political parties may present to the
13 council a writing signed by the chairman of the committee of
14 each party requesting the appointment of a qualified voter of
15 his political party as registrar with his city address for each
16 precinct in the city and the council shall appoint the person
17 named in such writing as such registrar.

No person shall be eligible to appointment as registrar, or in
any way act as such, who has been convicted of a felony, or
19-a who holds any elective or appointive office or posi-
tion in said city or is an employee under the laws
of the state of West Virginia or of the United States or
who is not a qualified voter in the precinct for which
he is appointed or who can not read and write the English
language. If such registrar shall fail or refuse to serve, the
vacancy shall be filled either by the council, or the mayor of the
city in vacation, in the manner hereinbefore provided for the
appointment of registrars, and the city clerk shall notify all
such persons of their appointment as registrars. Said registrars
shall before entering upon the discharge of their duties take an
oath to support the constitution of the United States, the con-
stitution of West Virginia, and to perform the duties of their
office to the best of their ability and that they are legal mem-
bers of the party for which they are respectively appointed.
The said oath shall be filed in the office of the city clerk.

The city clerk shall cause to be prepared suitable books and
blanks for the registration of the voters and such books shall
be so arranged as required by law for the registration of voters
for general elections held in the state of West Virginia and all
the provisions, duties and obligations of chapter three of the
code of West Virginia shall apply to the registration of voters
hereunder, except as herein otherwise set out, and the city
council shall perform the duties required in said chapter of the
county court, and the city clerk shall perform the duties
required of the county clerk.

In all cases where a new registration of voters is required
the said registrars shall meet on the Thursday following the
said first Monday in March and proceed to register the names
of all qualified voters in their respective precincts in the man-
er required herein and in all other respects in the manner
provided by said chapter three of the code.

Said registrars shall complete said registration on or before
the fourth Monday in March of every such election year, and,
for the purpose of amending, correcting and completing said
registration, shall sit together at some convenient place within
the voting precinct for two days commencing the first Monday
in April following from nine o’clock A. M. to one o’clock
P. M. and from two o’clock P. M. to nine o’clock P. M.
and shall give notice of the time and place of their sitting
for such registration and correction by posting written or
printed notices of the time and place of such sitting for five
days prior thereto at not less than three of the most conspicu-
ous places in said voting precinct, one of which shall be at the
place of voting in said precinct. At the time of said sitting the
books of registration shall be open for public inspection, and
the said registrars, in the manner hereinbefore provided shall
register all qualified voters who have not theretofore been so
registered by them and complete and finish their registration
of the voters within their said precinct and make out two alpha-
betical lists of registered voters within said precinct entitled
to vote at the ensuing election as registered by them and shall
sign and return the same to the city clerk on or before the
second Monday in April. The registration books shall be sent
to the polling places along with the ballots, and no person who
is not duly registered thereon shall be allowed to vote at said
election.

The commissioners of election shall return said books to the
city clerk with the poll books, and the same shall be carefully
preserved by the city clerk in his office.

Sec. 10. Candidates to be voted for at the municipal election
to be held in April, one thousand nine hundred and twenty-
seven, and thereafter, may be nominated by convention, or
primary election, as may be decided by the executive commit-
tees of any of the parties recognized by law in said city, and
candidates may be nominated by petition in the manner pro-
vided by chapter three of the code of West Virginia. Each of
the political parties having the right to make a nomination
under the election laws of West Virginia shall give notice of
the manner of such nomination by publication thereof in some
daily newspaper printed in the City of Charleston for ten days
prior to the date of such convention or primary election.

Sec. 11. Whenever the county court of Kanawha county shall
arrange the voting precincts in the City of Charleston for state
and county elections, according to the lines of the city wards,
then such precincts with the same boundaries and the same
voting places as provided for such state and county elections
shall be the precincts for all city elections. Except as may
be otherwise provided, by this act, all city elections shall be
held by the council and the officers therefor appointed in the
way and manner prescribed in chapter three of the code of
West Virginia, but no double election boards shall be appointed
for any city election.
Sec. 15. The mayor shall be the presiding officer of the council and be a member thereof, with the right to vote on all questions the same as any other member of said council, and the city clerk shall be ex-officio clerk of the council, and the mayor and city clerk shall each perform such other duties as the council may require of them. The council shall, at its first meeting after each election, select one of its body as president pro tempore, who shall, in the absence of the mayor, preside as chairman of the meeting of the council, and in the absence of both the mayor and president pro tempore at any meeting of the council, some member of the council shall be elected to preside over such meeting.

Sec. 25. The mayor, manager, city clerk, municipal court clerk, treasurer, city solicitor, city collector, municipal judge, health commissioner, chief of police and chief of fire department, each shall, before entering upon the discharge of their respective duties, give an official bond, conditioned for the faithful performance of such duties as are prescribed in this act or any ordinance now or hereafter passed, in amounts as follows: The mayor, one thousand dollars; manager, ten thousand dollars; city collector, ten thousand dollars; the treasurer, sixty thousand dollars; the city clerk, municipal court clerk, municipal judge and city solicitor, three thousand dollars, respectively; health commissioner, chief of police and chief of the fire department, one thousand dollars respectively.

The council may require additional bond from any of said appointive officers, and may likewise require bond, in whatever sum they may fix, of any other appointive officer or employee. All bonds of officers or employees shall, before their acceptance, be approved by the council. The minutes of the meeting of council shall show all matters touching the consideration or approval of all bonds, and when said bonds are approved and accepted, they shall be recorded by the city clerk in a well bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds as aforesaid shall be prima facie proof of their correctness, and they, as so recorded, as well as copies thereof duly attested by the city clerk under the seal of the city, shall be admitted as evidence in all courts of this state. The city clerk shall be the custodian of all bonds, except that given by him, and as to it, the city treasurer shall be custodian. All
bonds, obligations or other writings taken in pursuance of any
provisions of this act, shall be made payable to “The City of
Charleston,” and the respective persons, and their heirs, exe-
cutors, administrators and assigns bound thereby shall be sub-
ject to the same proceedings on said bonds, obligations and
other writings, for the purpose of enforcing the conditions of
the terms thereof, by motion or otherwise, before any court
of record held in and for the county of Kanawha, that col-
lectors of county levies and their sureties are or shall be subject
to on their bonds for enforcing the payment of the county
levies.

Sec. 29. No officer of the city shall hold two offices with
the city at the same time, or be employed by the city in any
other capacity, without first having the consent of the council.

Sec. 30. Whenever the mayor or other officer shall fail to
make any and all appointments under him, or required to be
made by him, for a period of thirty days from the time such ap-
pointment should have been made, his office may be declared
vacant by the council, and his successor appointed, in the man-
er herein provided.

Sec. 35. The mayor, twenty members of council, police judge
and treasurer elected on the third Monday in April, one thou-
said nine hundred and twenty-three shall hold office until the
first Monday in May, one thousand nine hundred and twenty-
seven, and their successors shall be elected on the third Monday
of April, one thousand nine hundred and twenty-seven, and at
intervals of four years thereafter, and their terms of office shall
begin on the first Monday of May after their election. The
mayor’s salary shall not be less than three thousand nor more
than five thousand dollars per annum, and he shall not be eli-
gible to hold said office for more than two terms in succession.
The police judge elected on the third Monday in April, one
thousand nine hundred and twenty-three shall continue to hold
office as the municipal judge until the first Monday in May, one
thousand nine hundred and twenty-seven.

The mayor shall appoint the city solicitor, an assistant city
solicitor, the chief of police, humane officer or officers, building
inspector, collector, city auditor, engineer, health commissioner,
lockup keeper, municipal court clerk, and the chief of the fire
department, and these appointments shall not require any con-
firmation by the council, but shall be made at the discretion of
the mayor, who shall, with like discretion, have the full and complete power of the removal thereof. The mayor shall appoint the manager, by and with the advice and consent of the council. The council shall, either at a regular or special meeting called for that purpose, pass upon such nomination and either confirm or reject the same, and if such nomination is rejected, then the mayor shall submit to the council a further nomination of some other person or persons until the nomination is confirmed by council, for said office of manager, but it shall be the duty of the council to pass upon all nominations without unreasonable delay; and in any event within two weeks after the submission of the same, and the failure of members of the council to pass thereon within such time shall be cause for the removal from office of such members of the council as shall have refused to act thereon.

The council shall appoint a city clerk. The manager shall appoint or employ such persons as the ordinances of the city may require or the council may authorize by proper resolution. All such officers shall be appointed for the term of four years and until their successors are appointed and qualified, unless they are removed in the way and manner in this act provided.

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

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

The duties of the city solicitor or assistant city solicitor shall be to attend the sessions of council, to prosecute all suits in behalf of the city and defend all suits against the city, to advise the council and all of the departments of the city and in general to look after the interests of the city when it shall need legal services. The salary of the solicitor shall be not less than three thousand nor more than five thousand dollars per annum.

All fees of every kind collected by any officer or employee, including the municipal judge when acting as a justice, shall be paid to the city treasurer.

Sec. 41. No ordinance shall be passed, except by bill, and no bill shall be so amended in its passage as to change its original purpose. All bills must be in writing and read in full when presented at a regular or special meeting of council, and except in
case of emergency and when so authorized by a vote of four-
fifths of the members elected, taken by yeas and nays, no bill
shall be considered for final passage at the meeting at which it is
introduced; but at any subsequent regular or special meeting
bills may be taken up for consideration and final action. No bill
except in case of emergency evidenced by a vote of four-fifths of
the members of council elected shall be considered for final pas-
sage unless the same has been referred to a committee for report.
All amendments made by a committee to a bill shall be reported
to council and incorporated in said bill, and before final action
on said bill, the bill with any amendments shall be fully and dis-
tinctly read, after which reading, whether at the meeting at
which the bill is reported or a subsequent meeting, the bill may
be considered for final action. No bill shall become an ordi-
nance unless on its final passage the vote be taken, the names
of the members voting for and against the same be entered of
record in the minutes of council, and a majority of all members
elected recorded thereon as voting in its favor. Bills referred
to a committee may be withdrawn therefrom at any
subsequent meeting for present consideration by an
affirmative vote of a majority of the members of coun-
cil present. No bill except general appropriation bills,
which may embrace the various subjects and accounts for and
on account of which moneys are appropriated, and bills fixing
the annual salaries of officers and employees of the city, and
bills providing for the paving or improving of streets, or con-
struction of sewers, shall contain more than one object and that
shall be expressed in the title, but if any object shall be em-
braced in an ordinance which is not so expressed the ordinance
shall be void only as to so much thereof as shall not be so ex-
pressed. No ordinance shall be revised or re-enacted by mere
reference to the title thereof, but the same shall be set forth at
length as if it were an original ordinance, nor shall any ordi-
nance be amended by providing that designated words thereof
be stricken out and others inserted in lieu thereof, but the ordi-
nance or sections amended shall be set forth in full as amended.
All ordinances in force at the time this act goes into effect, not
inconsistent herewith, shall remain in full force until altered
or repealed as herein provided, and all rights, actions, prescrip-
tions and contracts of the city not inconsistent therewith shall
continue to be valid as if this act had not been passed.
Any ordinance heretofore passed which may be void on account of failure of council to properly observe any provisions of the charter of the City of Charleston or ordinances in force at the time said ordinance was passed shall so far as it may affect the validity of any paving or sewer assessments heretofore laid, be in full force and effect until repealed or amended, the same as if legally passed. No ordinance of the council shall take effect until the expiration of five days after its final passage, unless the council shall by a vote of three-fifths of its members elected, taken by yeas and nays, otherwise direct. It shall be the duty of the city clerk to make publication of the caption or title of every ordinance within five days after its passage, but failure so to do shall not affect the validity of any such ordinance.

Sec. 44. The municipal judge shall be ex officio a justice and a conservator of the peace, and with authority to issue process for all offenses committed within the police jurisdiction of the City of Charleston, of which a justice of the peace has jurisdiction under state statutes, and for all violations of any city ordinances, and shall have charge of and preside over the municipal court of such city; and may commit persons charged with felony or misdemeanor to jail or take bond for their appearance before the grand jury of the circuit, intermediate or other courts of Kanawha county; he shall keep an accurate record of all his judicial proceedings in said court, showing the style of each case, which record shall be indexed and numbered. It shall be his duty to hold daily sessions of his said court, Sunday excepted. Before trying any person charged with any violation of any state law or ordinance a warrant specifying the offense or violation charged shall be issued as herein provided and the municipal judge shall render judgment in any case as the law of the state or the ordinance of the city applying thereto may require; he shall also have the power to issue executions for all fines, penalties and costs imposed by him and he may require immediate payment thereof, and in default of such payment, may commit the party so in default to the jail of the City of Charleston or of the county of Kanawha, or other
place of imprisonment in said city, until the fine and penalty
and costs shall be paid or satisfied, to be employed during the
term of imprisonment as hereafter provided, but for the viola-
tion of city ordinance the term of imprisonment in any such
case shall not exceed thirty days, and in all cases where a per-
son is sentenced to imprisonment or to the payment of a fine of
ten dollars or more, such person shall be allowed an appeal from
such decision to the intermediate court of said Kanawha county
upon the execution of an appeal bond, with surety deemed suf-
ficient by the said municipal judge in a penalty double the
amount of the fine and costs imposed by him, conditioned that
the person proposing to appeal will appear before the interme-
diate court of Kanawha county on the first day of the next term
thereof to answer for the offense wherewith he is charged and
not depart thence without leave of the court and satisfy all costs
and fines imposed against him; and in no case shall judgment
for a fine of less than ten dollars be given by the municipal
judge if the defendant, his agent or attorney object there to.
Before said municipal judge shall accept any natural person as
surety upon any bond or recognizance under the provisions of
this section, such surety shall furnish a certified statement of
the clerk of the county court of any county in this state in which
such surety owns real estate, and shall also file an affidavit, the
form of which may be prescribed by the municipal judge, show-
ing the bonds and recognizances upon which he is then surety
and the amount of each bond or recognizance. If the amount of
such bond or recognizance, together with other bonds and recog-
nizances as shown by the affidavit aforesaid, exceeds in amount
the assessed value of the surety’s property as shown by the cer-
tificate of the clerk of the county court, then such surety shall
be disqualified; provided, however, that whenever any surety is
offered less than one hour before the county clerk’s office is
closed or after it is closed, surety shall make an
affidavit that he owns real estate in Kanawha county
to an assessed value above encumbrances thereon, of at
least double the amount of bond required. Any
person making or procuring to be made a false state-
ment in any such affidavit, with intent to deceive said
municipal judge, shall be guilty of perjury. If such ap-
peal be taken, the warrant of arrest, the transcript of the judg-
ment, the appeal bond and other papers of the case shall be
forthwith delivered by the said judge to the clerk of the said
intermediate court and the court shall proceed to try the case
as upon indictment or presentment and render such judgment,
including that of cost, as the law and the evidence may require.
On appeals from said municipal court the intermediate court
of Kanawha county shall be governed by the same principles
with respect to the forfeiture of bonds and recognizances, and
the issuance and execution of capiases and writs of fieri facias
as prevail in cases in which the state is a party.
The expense of maintaining persons committed to the
jail of the county by such municipal judge shall be paid by the
city. The municipal judge shall account for and pay over the
amount of all fines collected by him weekly to the treasurer of
the city and shall make monthly reports thereof, and of all other
matters, pertaining to his office to the council of said city.

Sec. 45. The municipal judge shall be an attorney at law and
shall have attained the age of twenty-eight years at the date of
the beginning of his term of service and shall have been a
resident of this state for the period of five years and of the
city of Charleston previous to the beginning of his term of
service for the period of five years. He shall not appear as
counsel in any criminal case in any court during his term of
service. In the absence or inability of the municipal judge
to perform his duties, the municipal court clerk shall act as
municipal judge in his stead, and in the event that neither the
municipal judge nor the municipal court clerk can for any
cause perform such duties, then the mayor shall act as munici-
pal judge.

Sec. 46. In all cases of arrest by the police of the city,
except in cases of arson, murder and rape, the person arrested
shall have the absolute right to give a reasonable and proper
bond for his appearance at municipal court for a trial or hear-
ing of his case, and the municipal judge, municipal court clerk,
city clerk, mayor, chief of police and the desk sergeant or person
in charge of police headquarters shall have the power, and it
shall be their duty, to accept such bond from such person so
arrested, and upon giving of such bond he shall be released,
and it shall be their further duty to permit such person arrested
to communicate in any reasonable way with any person or per-
sons with whom he may desire to have communication in
reference to his giving bail in order to obtain his release, and
each of said officers and all policemen shall render reasonable aid in assisting such person arrested to communicate with any person that he may desire for the purpose of securing such bail.

Sec. 52. The city taxes annually levied by the council shall be collected as follows: Immediately after the annual levy for city taxes is laid the council shall direct the proper officer of the city to extend the same on the property books made out by him, including therein the proper capitation tax; he shall make out therefrom proper tax tickets in the following manner: That is to say, instead of a single ticket for the whole amount charged to any person, firm or corporation there shall be two tickets, each for one-half of said amount; these half tickets shall be severally numbered or designated "first" and "second" and the same, after being examined and compared by the council and found to be correct, shall be turned over to the treasurer of the city on the first day of October following the levy and the treasurer's receipt for the gross amount thereof shall be returned, entered upon its record and the treasurer charged therewith. The treasurer shall give notice by publication for twenty days in two newspapers of opposite politics published in said city, that said tax tickets are in his hands for collection, stating the penalty for non-payment thereof and the time and place when the same may be paid; provided, however, that the taxpayers shall have the right to anticipate the payment of the whole or any part of the taxes assessed against them.

The one-half ticket designated "first" may be paid to the treasurer of the city any time before the first day of November next succeeding said levy; the one-half ticket designated "second" may be paid to the treasurer of the city at any time before the first day of May next succeeding said levy. To all the half tickets designated "first" remaining unpaid in the treasurer's hands on the said first day of November succeeding said levy, interest at the rate of ten per cent per annum shall be added as a penalty and collected from the taxpayers. To all half tickets designated "second" remaining unpaid in the treasurer's hands on the first day of May succeeding said levy interest at the rate of ten per cent per annum shall be added as a penalty and shall be collectible from the taxpayers. Provided, however, that prior to May first, nineteen hundred and twenty-seven, a penalty of ten per cent shall be added and col-
lected upon all tax tickets remaining unpaid in the treasurer’s hands on the first day of May and November of each year succeeding said levy. On said first day of November succeeding said levy all such half tickets designated “first” and on said first day of May succeeding such levy all such half tickets designated “second” remaining unpaid in the treasurer’s hands shall be taken up by the council and settlement had with said treasurer on said days respectively, or on the next succeeding days, respectively, if said days shall fall upon Sunday, and thereupon the council shall place said tickets in the hands of the city collector for collection and shall take his receipt therefor; provided, however, that the council shall have the power any year, by resolution, to extend the time within which the tickets may remain in the treasurer’s hands and be paid to him without adding the penalty, for a period named therein not exceeding, however, a total of fifteen days.

The city collector shall have the power to collect said tickets so placed in his hands, together with the penalties thereon herein provided to be added thereto, and the compensation of such city collector for making such collection of the taxes aforesaid shall be fixed by the council.

The city collector shall be charged with the gross amount of said tax tickets so delivered to him for collection, including the penalties accrued thereon so delivered, and no deduction therefrom shall be allowed, unless on or before the first day of August of each year he makes out and returns to the council a delinquent list of taxes uncollected for such year, with his oath attached thereto, stating that such list is correct and just and that he has received no part of the taxes mentioned therein, and that he has used due diligence to find property liable to distress for taxes, has found none, and that he could not collect the same.

Neither the treasurer nor the city collector shall take or collect anything but money for payment of taxes.

Sec. 53. The city collector shall have the power to collect the city taxes placed in his hands except as otherwise provided in this act, and he shall also have power to collect the city claims which may be placed in his hands by the council for collection, except that fines imposed by the municipal judge shall not be collected by him.
Sec. 57. No taxes or levies shall be assessed upon or collected from the taxable persons or property within the corporate limits of said city, for the construction, improvement or keeping in repair of roads, or the building, leasing or repairing of school houses, or the purchase of lands for the same, or for the support of schools, or for the support of the poor of Kanawha county, outside of said corporate limits, for any year in which it shall appear that said city shall at its own expense provide for its own poor and keep its own roads, streets, sewers and bridges in good order. And neither the county court of Kanawha county, nor the authorities of the district in which said city is situated, shall have or exercise jurisdiction within the corporate limits with relation to the roads, streets, alleys, bridges, wharves, docks, ferries, schools or school houses, but the same shall be and remain under the exclusive jurisdiction and control of the municipal authorities of said city, except that the board of education in the independent school district of the City of Charleston shall have jurisdiction, supervision and control of the schools and school houses in said district; and said city shall be liable only for the construction, improvement, repair and good order of the roads, streets, sewers, alleys, wharves and bridges in its corporate limits, except that the county of Kanawha may become a joint owner and controller with the city of Charleston in a bridge or bridges across Kanawha river.

Sec. 62. Whenever the council shall order the construction of any public sewer in said city, the owners of the property abutting upon any street in which such sewer shall be constructed, shall be charged with and liable for sewerage assessments as follows: when said sewer is completed the engineer of said city, shall report to the council in writing, the total cost of such sewer, and a description of the lots and lands as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated in the following manner: the total cost of constructing and laying the sewer shall be borne by the owners of the land abutting upon the streets, alleys, rights of way or easements or portions thereof, in which the sewer is laid, according to the following plan: payment is to be made by each land owner on either side of such portion of a
17 street, alley, right of way or easement in which such sewer is
18 laid, in such proportion as such frontage of his land upon said
19 street, alley, right of way or easement bears to the total
20 frontage of all lands so abutting on such street, alley right of
21 way or easement; provided, that the charge laid against any
22 owner or property shall not exceed three dollars per linear
23 foot of frontage on each side of the portion of such street, alley,
24 right of way or easement in which any such sewer is
25 laid. In case of a corner lot, frontage is to be measured along
26 the longest dimension thereof abutting on such street, alley,
27 right of way or easement in which such sewer is laid. Any lot
28 having a depth of two hundred feet or more and fronting on
29 two streets, alleys, rights of way or easements, one in the front
30 and one in the rear of said lot shall be assessed on both of
31 said streets, alleys, rights of way or easements, if a sewer is
32 constructed in both such streets, alleys, rights of way or ease-
33 ments. Where a corner lot has been assessed on the end it
34 shall not be assessed on the side, and where it has been assessed
35 on the side, it shall not be assessed on the end. Thereupon
36 said council shall give like notice by publication as is required
37 in case of street paving assessments, and the same rights shall
38 exist as to the persons and property affected and the same
39 duty as to corrections by said council as are prescribed with
40 reference to paving, which report shall in like manner be
41 examined by the council, and if found to be correct, or cor-
42 rected as aforesaid, and such estimated assessments to be a
43 fair and equitable apportionment of the cost of such sewer
44 upon the basis hereinbefore described, it shall enter an order
45 upon its records, setting forth such location, depth, ownership
46 and said amount of such sewer assessments, against each,
47 respectively, calculated as aforesaid, and the entry of such
48 order shall constitute and be an assessment for such propor-
49 tion and amount so fixed therein against such respective
50 owners and lots, and if after such advertisements, notice and
51 hearing, said council shall find that such apportionment at
52 such rate is unjust or inequitable, and contrary to the intent
53 of this act, it shall ascertain, fix and assess the cost thereof
54 among and upon the abutting owners respectively, justly and
55 equitably and according to the intent hereof, and in like
56 manner, assess and enter the amount so fixed respectively
57 upon its records, and the council shall, in either event, there-
58 upon certify the same to the treasurer for collection, and
certify a copy of such order to the clerk of the county court of Kanawha county, who shall record the same in the proper trust deed book, and index the same in the name of each owner of any such lot so charged with such assessment, and such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens, except those for taxes due the state, and shall be on a parity with other taxes and assessments due the city. Said amounts so assessed against the said several land owners shall be paid by the parties liable therefor to the said treasurer at all times, in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinafore provided in the case of assessments for paving streets and alleys in a permanent manner, and the parties liable therefor shall, in the same manner, and to the same extent, have the right and be entitled to anticipate any or all of such installments thereon as in such case provided. The owners of, the tenants, occupants or agents in control of any lot abutting on or near or adjacent to any street, avenue, alley, right of way or easement in said city, in which a public sewer is or may hereafter be laid and constructed, upon which lot any business or residence building is or may hereafter be erected, or upon which any water stands not connected with a public sewer, may be required and compelled to connect any such building or lot with such sewer. Notice to so connect may be given to the owner, lessee, or occupant of such building. Each day's failure to comply with such notice and connect with such sewer by such owner or owners, ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and every such offense shall be punishable by fine of not less than five nor more than twenty-five dollars. The expense incurred by any tenant, occupant, or agent in complying with the order of said council to make such sewer connection may be deducted out of the accruing rents as provided for in section forty-seven relating to the abatement of nuisances. Jurisdiction to hear, try, determine and sentence for violation of this section is vested in the municipal court of such city.

The liens herein and hereinbefore provided for street paving, macadamizing and sewerage assessments and assessments for other improvements shall constitute liens upon the real
100 estate upon which they are assessed, as against creditors of
101 the owners thereof, or purchasers for value, and without
102 actual notice of such liens, only from and after the time that
103 the statements thereof certified as aforesaid, shall be filed for
104 record in the office of the clerk of the county court of Kanawha
105 county.
106 In the paving, curbing, macadamizing or otherwise improv-
107 ing streets and alleys and providing for the assessment of the
108 cost thereof under section sixty-one or section eighty-eight of
109 the charter of the City of Charleston there may be included
110 in any such assessment the cost of constructing the necessary
111 drains for the disposal of surface water.

Sec. 62-a. The council is authorized and empowered to order
2 and cause to be constructed, in said city, or part within and
3 part outside of the limits of said city, public, common, lateral,
4 branch, trunk and combined sewers or public sewer systems,
5 or both, by contract or direct by the city, for the benefit of
6 said city or any part thereof, and to purchase lands or ease-
7 ments therein or to condemn lands or easements therein in
8 the manner provided by law, for such sewers or sewer systems,
9 and when the council shall order and complete the construc-
10 tion of any such sewer or sewer system or any part thereof in
11 said city, the owners of the property abutting on such sewer
12 or abutting upon an avenue, street, alley, right of way or ease-
13 ment in which such sewer shall be constructed, or abutting on
14 any avenue, street, alley, right of way, or easement in which
15 any common sewer, part of a sewer system, is constructed
16 and laid, may be charged with all or any part of the cost
17 thereof, including the cost of such sewer or sewer system at
18 and across intersections at avenues, streets, roads and alleys ad-
19 jacent thereto. If said work is let to contract, the provisions
20 of the charter of the City of Charleston relating to street pav-
21 ing contracts shall apply.
22 A sewer system shall be deemed to include all the common
23 sewers, whether they be lateral, branch, trunk or combined
24 sewers, which serve to drain a definite drainage area as speci-
25 fied in the order of the council directing the work to be done.
26 A common sewer shall be deemed to be a sewer in which all
27 abutters have equal rights of entrance and use.
28 A lateral sewer shall be deemed to be a sewer which does
29 not receive the sewage from any other common sewer.
30 A branch sewer shall be deemed to be a sewer into which the
31 sewage from two or more lateral sewers is discharged, includ-
32 ing storm and surface water sewers.
33 A trunk sewer shall be deemed to be a sewer into which the
34 sewage from two or more branch sewers is discharged.
35 A combined sewer shall be deemed to be a sewer intended to
36 receive domestic sewage and industrial wastes.
37 When said sewer or sewer system is completed the engineer
38 of said city shall report to the council in writing, the total
39 cost of such sewer or sewer system, and a description of the lots
40 and lands as to the location, frontage, depth and ownership
41 liable for such sewer assessment, so far as the same may be
42 ascertained, together with the amount chargeable against each
43 lot and owner, calculated in the following manner: The total
44 cost of constructing and laying the sewer or sewer system, in-
45 cluding the portions thereof laid in the intersections of streets
46 and alleys, shall be borne by the owners of the land abutting
47 upon the streets, avenues, alleys, rights of way or easements or
48 portions thereof in which the sewer or some part of the sewer
49 system, is constructed and laid; payment is to be made by
50 each land owner on either side of such portion of a street,
51 alley, right of way or easement in which a common sewer is
52 laid, in the proportion that the frontage of his land upon such
53 portion of said street, alley, right of way or easement in which
54 such sewer or sewer system is laid bears to the total frontage
55 of all lands so abutting on such street, alley, right of way or
56 easement; in which the sewer or some part of the sewer system
57 is laid; provided, that the charge laid against any owner of
58 property shall not exceed three dollars per linear foot of front-
59 age on each side of such street, alley, right of way or easen-
60 ment in which any such sewer or part of a sewer system is
61 laid. In case of a corner lot, frontage is to be measured along
62 the longest dimension thereof abutting on such street, alley,
63 right of way or easement in which such sewer is laid, but
64 if sewered on both sides then such corner lot is
65 to be charged only with the side first sewered.
66 Any lot having a depth of two hundred feet or more and
67 fronting on two streets, alleys, rights of way or easements, one
68 in the front and one in the rear of said lot, shall be assessed on
69 both of said streets, alleys, rights of way or easements, if a
70 sewer is constructed on both such streets, alleys, rights of way
or easements. Where a corner lot has been assessed on either or both ends, it shall not be assessed on the side, and where it has been assessed on the side, it shall not be assessed on the end.

In the case of corner lots where the cost of sewering along one dimension is not assessed against the owner thereof, and in the case of lots less than two hundred feet deep abutting at both ends on a street, alley, right of way or easement in which a sewer is laid, the cost of sewering along the dimension or end not assessed against the property owner shall in every case be borne by the City of Charleston.

Thereupon said council shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duty as to corrections by said council as are prescribed with reference to paving. The report of the city engineer shall in like manner be examined by the council, and if found to be correct or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the cost of such sewer or sewer system upon the basis hereinbefore described, it shall enter an order upon its records, setting forth such location, depth, ownership and said amount of such sewer assessments, against each, respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots; and, if after such advertisement, notice and hearing, said council shall find that such apportionment at such rate is unjust or inequitable, and contrary to the intent of this act, it shall ascertain, fix and assess the cost thereof among and upon the abutting owners respectively, justly and equitably and according to the intent hereof, and in like manner, assess and enter the amount so fixed respectively upon its records; and, the council shall, in either event, thereupon certify the same to the treasurer for collection and certify a copy of such order to the clerk of the county court of Kanawha county, who shall record the same in the proper trust deed book, and index the same in the name of each owner of any such lot so charged with such assessment, and such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens, except those for taxes due the state, and shall be on a parity with other taxes and assessments due the city. Said amounts so as-
sessed against the said several land owners shall be paid by the parties liable therefor to the said treasurer at all times, in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinbefore provided in the case of assessments for paving streets and alleys in a permanent manner, and the parties liable therefor shall, in the same manner, and to the same extent, have the right and be entitled to anticipate any or all of such installments thereon as in such case provided. The owners of, or the tenants, occupants or agents in control of any lot abutting on or near or adjacent to any street, avenue, alley, right of way or easement in said city, in which a public sewer is or may hereafter be laid and constructed, upon which lot any business or resident building is or may hereafter be erected, or upon which any water stands not connected with any public sewer, may be required and compelled to connect any such building or lot with such sewer. Notice to so connect may be given to the owner, lessee, or occupant of such building. Each day’s failure to comply with such notice and connect with such sewer by such owner or owners, ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and every such offense shall be punishable by fine of not less than five nor more than twenty-five dollars. The expense incurred by any tenant, occupant, or agent in complying with the order of said council to make such sewer connection may be deducted out of the accruing rents as provided for in section forty-seven relating to the abatement of nuisances. Jurisdiction to hear, try, determine and sentence for violation of this section is vested in the municipal court of such city.

The liens herein and hereinbefore provided for street paving, macadamizing and sewerage assessments and assessments for other improvements shall constitute liens upon the real estate upon which they are assessed, as against creditors of the owners thereof, or purchasers for value, and without actual notice of such liens, only from and after the time that the statements thereof certified as aforesaid, shall be filed for record in the office of the clerk of the county court of Kanawha county.

Sec. 69. No pavement, sewer or sewer system, or other public improvement the cost of all or a part of which is to
3 be especially assessed against abutting property, or against the
4 owners thereof, shall be made without the concurrence of two- 
5 thirds of all the members elected to council, unless the owners
6 of a majority of the foot frontage of property to be so assessed,
7 petition in writing therefor, in which event the said council
8 shall have power upon the affirmative vote of a majority of
9 all the members elected thereto to proceed with such improve-
10 ment in the manner provided by law.

Sec. 75. The council of said city may provide for the build-
2 ing of a bridge across Elk river in place of what is known as
3 the Spring street bridge, and at the present location
4 thereof and for that purpose may, if necessary, acquire
5 additional land, and lay a levy of not to exceed
6 seven cents for the year one thousand nine hundred
7 and twenty-five, and not to exceed seven cents for the
8 year one thousand nine hundred and twenty-six, in addition
9 to all other levies for each year authorized by law, for the pur-
10 pose of constructing said bridge; and the council may provide
11 for the building of trunk and branch line sewers within the
12 city, and for that purpose may, if necessary, lay a levy of not
13 to exceed seven cents for the year one thousand nine hundred
14 and twenty-five, and not to exceed seven cents for the year one
15 thousand nine hundred and twenty-six, in addition to all other
16 levies for each year authorized by law, for the purpose of build-
17 ing main or trunk line sewers within the city; and in each
18 case, may do all things necessary and proper to carry out the
19 general purpose of this section. The levy for said bridge shall
20 be called a "special bridge levy" and the levy for said sewers
21 shall be called a "special sewer levy," and the funds derived
22 therefrom shall be used for the purposes herein specified respec-
23 tively and no other, and a separate account shall be kept of all
24 receipts and disbursements of said funds, and in case the coun-
25 cil provides for such bridge or sewers, or either of them, it is
26 authorized to let the contracts in anticipation of the levies there-
27 for and issue certificates of indebtedness representing such
28 levies.

Sec. 78. The members of the fire department under and by
2 virtue of the ordinances and regulations adopted in pursuance
3 of the provisions of the charter of the City of Charleston as
4 it was on January first, one thousand nine hundred and twenty-
5 five, now in office in the City of Charleston shall remain in
office during good behavior and shall not be removed from their said offices or positions except for misconduct, or failure, inability or incapacity to perform their duties or for the good of the service, or when it shall be necessary to reduce the number in the department; provided, that the mayor may remove any member of the fire department if he shall be of opinion that it will be for the good of the service to remove such person from his position. Any member of said department so removed, may, within ten days thereafter, appeal to council from the action of the Mayor. Such appeal shall be taken only by such removed member filing with the city clerk his verified petition setting forth good cause for reinstatement, and alleging reasons why such removal order was unjust. The removed member so appealing shall carry the burden of proof on such appeal, and shall not be reinstated except upon the affirmative vote of a majority of all members elected to council reversing such order of removal as unjustified.

All persons appointed to positions in the fire department, except the chief thereof, shall be appointed in the manner provided in section seventy-seven.

Sec. 85. The mayor shall appoint such number of policemen as are or may be hereafter prescribed by the city by ordinance, and the mayor shall have at his discretion, the absolute right and power to dismiss any policeman and appoint another in his stead. The policemen shall be under the command of the chief of police, to be appointed as in this act provided for, and shall perform any and all the duties incident to the office of policemen under the instructions and command of the chief of police, and, in addition to the usual and customary duties prescribed by the laws of this state and under the provisions of this charter required of them, it shall specially be the duty of each police officer to report to the chief of police, or some one designated by said chief of police to receive such report, daily and oftener if occasion demands, the condition of all streets, sewers, sidewalks, alleys, basements, backyards, buildings, unimproved lots and all other things and matters within the limits of said city that may come under the notice of such policemen which may relate to the health of the citizens thereof, the sanitary conditions, the necessity of the removal of any obstructions upon any of the streets, alleys or sidewalks, and it shall be the duty of the policemen
22 under their instructions to perform all the duties and exercise
23 all the powers ordinarily imposed upon or given to the officers
24 now known as health officers. It shall also be the duty of
25 each police officer to perform all the duties of humane officer
26 and to exercise all the functions, power and authority relating
27 thereto which are or may be prescribed by any law of this state
28 or ordinance of the city.

Sec. 88. In addition to the method provided for paving
2 streets, by section sixty-one of the charter of the City of
3 Charleston, the council may order any street, avenue, public
4 alley, or portion thereof, to be graded and paved, re-paved, or
5 otherwise permanently improved, and the council may order
6 the mayor and city clerk to issue a certificate for each install-
7 ment of the amount of the assessment to be paid by the owner
8 of any lot or fractional part thereof fronting on such street,
9 avenue, or alley. The amount specified in said assessment
10 certificate shall be a lien as aforesaid in the hands
11 of the holder thereof upon the lot or part of a
12 lot fronting on such street, avenue, or alley, and such
13 certificate shall draw interest from the date of said
14 assessment and the payment may be enforced in the name of
15 the holder of said certificate by proper suit in equity in any
16 court having proper jurisdiction to enforce such lien; the
17 council shall fix the amount of such assessment, advertise for
18 bids and do all other things in connection therewith as is pro-
19 vided for paving or permanently improving any street or alley
20 or any portion thereof in section sixty-one, except that such
21 assessment laid under this section shall include the whole cost
22 of such improvement, including the cost of grading and paving
23 squares at intersections of streets and curbing, the costs of
24 which intersections shall be apportioned against the several
25 properties fronting upon the street or portion thereof so im-
26 proved; and such certificates shall be issued in the same number
27 of installments and payable at the same time as other paving
28 or permanent improvements are provided to be paid for, and
29 shall be a lien in the hands of the holder thereof upon the
30 particular lot against which they are assessed in the same way
31 and manner that assessments are liens under section sixty-one
32 of said charter. And nothing contained in this act, or in the
33 charter of the City of Charleston, shall be construed as impos-
34 ing a time limit upon the enforcement by appropriate suit of
any lien for public improvements, heretofore or hereafter
created.

Certificates authorized by this section may be issued, sold
or negotiated to the contractor doing the work, or to any other
person if the council deem it expedient; provided, the city in
issuing such certificates shall not be held as guarantor or in any
way liable for payment thereof.

Certificates so issued shall contain a provision to the effect
that in the event of default in the payment of any one of said
certificates, when due, and said default continuing for a period
of sixty days, then all unpaid certificates shall become due and
payable and the holder of said certificates may proceed to
collect all of such unpaid certificates in the manner hereinafter
provided. Certificates issued in pursuance of this section
shall be negotiable at any bank in the City of Charleston.

The owner of the land or lot of land assessed under this
section may at any time anticipate and pay such assessment
or certificate with accrued interest thereon.

Provided, that no street, avenue or alley shall be paved or
otherwise permanently improved pursuant to this section except
and unless two-thirds of all the members elected to the Council
shall concur in the passage of the ordinance providing therefor,
and the vote thereon shall be taken by ayes and noes, and duly
entered upon the record.

Sec. 88b. In addition to the method for the payment of the
cost of construction of sewers and sewer systems provided by
section sixty-two and sixty-two-a of the charter of the City of
Charleston, the council may order any sewer or sewer system
constructed and laid, in any block, street, avenue, alley or in
any right of way or easement, or portion thereof, and the coun-
cil may order the mayor and city clerk to issue

a certificate for each installment of the amount of
the assessment to be paid by the owner of any lot or fractional
cost thereof fronting on such street, avenue, alley, right of
way or easement in which such sewer system is constructed
and laid, and the amount specified in said assessment certificate
shall be a lien as aforesaid in the hands of the holder thereof
upon the lot or part of lot fronting on such street, avenue or
alley, right of way or easement, and such certificate shall draw
interest from the date of said assessment and the payment
may be enforced in the name of the holder of said certificate
18 by proper suit in equity in any court having proper jurisdic-
19 tion to enforce such lien; the council shall fix the amount of
20 such assessment, advertise for bids and do all other things in
21 connection therewith as is provided in section sixty-one of
22 said charter for paving or permanently improving any street
23 or alley or any portion thereof, the costs of which shall be ap-
24 portioned against the several properties fronting upon the
25 street, avenue, alley, right of way or easement or portion
26 thereof in which the sewer or sewer system is laid according
27 to the provisions of section sixty-two or section sixty-two-a, as
28 the case may be. Such certificates shall be issued in the fol-
29 lowing number of installments:
30 Where the assessment shall not exceed fifty dollars, the assess-
31 ment and certificate issued thereon shall be in one amount,
32 due and payable in ninety days from the completion and ac-
33 ceptance of the work; if over fifty dollars and not more than
34 one hundred dollars, then such amount shall be covered by
35 only two certificates of equal amounts, payable in ninety days
36 and one year, respectively; if over one hundred dollars and
37 not more than one hundred and fifty dollars, then such amount
38 shall be covered by only three certificates of equal amounts
39 payable in ninety days, one year and two years, respectively;
40 if over one hundred and fifty dollars, and not more than two
41 hundred dollars, then such amount shall be covered by only
42 four certificates of equal amounts, payable in ninety days, one
43 year, two years and three years, respectively; and if more
44 than two hundred dollars, then in five certificates of equal
45 amounts, payable in ninety days, one year, two years, three
46 years and four years, respectively; and the term "equal
47 amounts" herein shall mean as nearly equal as practicable,
48 that is, four certificates being expressed in terms of blank
49 dollars each, and, when practical, in multiples of five, the cents
50 and odd amounts being covered by the first certificate.
51 Every such certificate shall be a lien in the hands of the
52 holder thereof upon the particular lot against which it is
53 assessed in the same way and manner that assessments are
54 liens under sections sixty-two and sixty-two-a of this act.
55 And nothing in this act, or in the charter of the city of Charles-
56 ton shall be construed as imposing a time limit upon the
57 enforcement by appropriate suit of any lien for public im-
58 provements heretofore or hereafter created.
Certificates authorized by this section may be issued, sold or negotiated to the contractor doing the work, or to any other person if the council deem it expedient; and shall be negotiable at any bank in the city of Charleston; provided, the city in issuing such certificates shall not be held as guarantor or in any way liable for the payment thereof. Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one of said certificates when due, said default continuing for a period of sixty days, then all unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided.

Provided, that no sewer or sewer system shall be constructed or laid pursuant to this section except and unless two-thirds of the members elected to the council shall concur in the passage of the ordinance providing therefor, and the vote thereon shall be taken by ayes and noes, and duly entered upon the record.

Sec. 88c. If the abutting land on any avenue, street, road or alley sought to be graded, paved, repaved or otherwise improved, or on any avenue, street, road, alley, right-of-way or easement in which a sewer or sewer system is ordered laid, under any of the provisions of the charter of the city of Charleston, is not sub-divided or laid off in lots by a map or deed of record, the council may, for the purpose of making the assessments provided for in this section and other sections herein, sub-divide said land into lots of such size as the council deems advisable for the purpose of laying the proper assessment against such land.

Sec. 94. The municipal judge, mayor, city clerk, municipal court clerk, chief of police, or in the absence of the chief of police from police headquarters, the captains of police and lieutenants of police shall each have authority to issue warrants for all offenses committed within the police jurisdiction of the city of Charleston for all violations of any city ordinances. Any vacancy in the office of municipal judge shall be filled by appointment by the mayor until the next election.

All acts and parts of acts inconsistent with any of the provisions of this act are hereby repealed.
CHAPTER 13

(House Bill No. 47—By Mr. Dye)

AN ACT to amend and re-enact sections four and five of chapter thirty of the acts of the legislature of West Virginia, one thousand nine hundred and twenty-one, known as “Williamstown charter” and bound in a separate volume designated municipal charters.

[Passed March 10, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec. 4. Governing body; tenure. 
5. Primary elections; form of ballot; procedure.

Be it enacted by the Legislature of West Virginia:

That sections four and five of chapter thirty, acts of the legislature, one thousand nine hundred and twenty-one, known as Williamstown charter, be amended and re-enacted so as to read as follows:

Section 4. The governing body of the said city shall be a council composed of a mayor and four councilmen who shall be nominated and elected at large. The mayor and four councilmen now in office shall continue as such during the term for which they were elected. Elections shall be held in said city every two years on the Tuesday after the first Monday in January of such year and the first election under the said act as hereby amended shall be held on the Tuesday after the first Monday in January, one thousand nine hundred and twenty-six.

If any vacancy occurs in any such office, the remaining members of the said council shall appoint a person eligible thereto to fill such vacancy during the balance of the unexpired term.

At the said election to be so held on the Tuesday after the first Monday in January, one thousand nine hundred and twenty-six, there shall be elected a mayor and four councilmen. The mayor shall be elected for two years and the two councilmen receiving the highest number of votes cast at the said election shall serve for four years and the two councilmen receiving the next highest number of votes shall serve for two years. At all subsequent elections held in the said city under this act as amended there shall be elected a mayor who shall serve for two years and two councilmen who shall serve for four years. The terms of office of all elective officers hereunder shall begin on the second Monday after their election.
Sec. 5. Candidates to be voted for at all general municipal elections under the provisions of this act shall be nominated by a primary election, and no other names shall be printed upon the official ballot except those selected in the manner hereinafter prescribed. All such primary elections shall be held on the second Tuesday preceding the general municipal elections. The judges of the election shall be appointed by the council for the general municipal elections and the persons so appointed as such shall be the judges of the primary elections and the said primary elections shall be held at the same places as far as possible, and the polls shall be opened and closed at the same hours, with the same clerks as are required for said general municipal elections.

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

STATE OF WEST VIRGINIA, WOOD COUNTY, ss:

I, ................................, being first duly sworn, say that I reside at ................................ street, city of Williamstown, county of Wood, state of West Virginia; that I am a qualified voter therein; that I am a candidate for nomination to the office of (mayor or councilman) to be voted upon at the primary election to be held on the .......... Tuesday of .........., 19 ......, and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

Signed .................................

Subscribed and sworn to (or affirmed) before me by ............... on this .......... day of ............ 19 ...... .

Signed .................................

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

PETITION ACCOMPANYING NOMINATING STATEMENT.

The undersigned, duly qualified electors of the city of Williamstown, and residing at the places set opposite our respective names hereon, do hereby request that the name of (name of
candidate) be placed on the ballot as candidate for nomination
for (name of office) at the primary election to be held in such
city on the ............... one thousand nine hundred and
............. We further state that we know him to be a qualified
elector of said city and a man of good moral character, and
qualified, in our judgment, for the duties of such office.
Names of qualified electors———-Number———Street——
Immediately upon the expiration of the time of filing the
statements and petitions for candidates, the said clerk of the
municipality shall cause to be published in proper form, the
names of the persons as they are to appear upon the primary
ballot, which publication may be made by posting copies thereof
at four of the most public places in the said city of William-
town, including the place of meeting of the council and the may-
or’s office at least ten days immediately preceding the primary
election, or if the council so order, by publication in the last
issue of some newspaper of general circulation in said city of
Williamstown immediately preceding such primary election; and
the said clerk shall thereupon cause the primary ballots to be
printed, authenticated with a fac simile of his signature. Upon
the said ballot the names of the candidates for mayor, arranged
alphabetically shall first be placed, with a square to the left of
each name and immediately below the words "vote for one."
On the ballots which shall be prepared by the said clerk for
the election to be held on the Tuesday after the first Monday in
January, one thousand nine hundred and twenty-six, immedi-
ately below the names of the candidates for mayor shall appear
in alphabetical order the names of the candidates for council-
men with a square at the left of each name and below the names
of such candidates shall be the words, "vote for four." All bal-
lots shall be printed upon plain, substantial white paper and
shall be headed:
Candidates for nomination for mayor and councilmen of the
city of Williamstown, at the primary election, but shall have
no party designation or mark whatever. The ballot shall be in
substantially the following form:
(Place a cross in the square preceding the names of the
parties you favor as candidates for the respective offices.)

OFFICIAL PRIMARY BALLOT.

Candidates for nomination for mayor and councilmen of the
city of Williamstown at the primary election.
For Mayor
[ ] (Names of candidates)
(Vote for one)

For Councilmen
[ ] (Names of candidates)
(Vote for four)

Official ballot, attest:
Signature

City Clerk.

The ballots which shall be prepared by the said clerk for all subsequent elections in said city under the provisions of this act as amended shall be printed upon the same kind of paper and shall be in the same form except that the words "vote for two" shall be printed below the names of the candidates for councilmen.

Having caused said ballots to be printed, the said city clerk shall cause to be delivered at each polling place a number of ballots equal to twice the number of votes cast in such polling precinct at the last general election for mayor. The persons who are qualified to vote at the general municipal election shall be qualified to vote at such primary election, and challenges can be made by not more than two persons, to be appointed at the time of opening the polls by the judges of election; and the law applicable to challenges made at such primary election shall be applicable to challenges made at such primary election. Judges of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in each polling precinct for each of the candidates, and make return thereof to the city clerk without unnecessary delay. On the day following the said primary election the said clerk shall canvass said returns so received from all the polling precincts, and shall make and publish in some newspaper of general circulation in said city at least once, the result thereof or post the same as provided above for the primary election. Said canvass by the city clerk shall be publicly made. At the primary election to nominate candidates for the general municipal election to be held in said city on the Tuesday after the first Monday in January, one thousand nine hundred and twenty-six, the two candidates receiving the highest number of votes for mayor shall be the candidates and the only candidates whose names shall be placed upon the ballot for mayor at the said general municipal election, and the eight candidates receiving the highest number
124 of votes for councilmen, or all such candidates, if less than eight, 125 shall be the candidates and the only candidates whose names 126 shall be placed on the ballot for councilmen at such election.

127 At all subsequent primary elections to be so held in said city 128 the two candidates receiving the highest number of votes for 129 mayor shall be the candidates and the only candidates whose names shall be placed upon the ballot for mayor at the next suc- 130 ceeding general municipal election and the four candidates re- 131 ceiving the highest number of votes for councilmen, or all such candidates if less than four, shall be the candidates and the only candidates whose names shall be placed upon the ballot for councilmen at such municipal election. In the event of the 136 death or resignation of a nominee before the election, the can- 137 didate receiving the next highest number of votes at the primary 138 shall be placed on the ticket in his stead.

139 The ballot to be used at all general municipal elections in 140 said city shall be in the same general form as for such primary 141 elections, so far as applicable, and in all elections in such city 142 the election precincts, voting places and announcing of results, 143 shall be the same as by law provided for election of county and 144 state officers in said city, so far as the same are applicable to and 145 not inconsistent with the provisions of this act.

CHAPTER 14
(House Bill No. 688—By Mr. Dye)

AN ACT to amend and re-enact chapter thirty of the acts of the legislature of one thousand nine hundred and twenty-one, relating to the charter of the City of Williamstown.

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

Sec. 99. May issue bonds; referendum.

Be it enacted by the Legislature of West Virginia:

That chapter thirty of the acts of the legislature of West Virginia for the year one thousand nine hundred and twenty-one, regular session (bound in a separate volume entitled municipal charters), incorporating the City of Williamstown, Wood county, West Virginia, and fixing its corporate limits and prescribing and defining the powers and duties of said city, be amended and re-enacted by adding thereto a separate section designated section ninety-nine, to read as follows:
Section 99. The said city of Williamstown is hereby authorized to purchase, build and equip electric light plants, water works and distribution lines and mains, public parks, play grounds and municipal buildings and to issue and sell the bonds of said city for that purpose, but in no event shall the aggregate indebtedness of said city, bonded, funded or otherwise, exceed five per centum of the assessed value of the property within said city; and, provided further, that in no event shall any bonds be issued by said city unless and until the question of the issuance thereof shall be submitted to the legal voters thereof and be authorized by a three-fifths vote in favor thereof; and, provided, further, that no bonds shall be issued unless provision be made for sufficient levy to pay the interest and principal thereof as the same shall become due and payable according to the tenor of the said bonds; said bonds may be serial bonds, and no bonds shall be issued for a longer period than thirty years, and the submission and all orders and ordinances in reference thereto shall be under and according to the provisions of chapter forty-seven-a of Barnes' code of West Virginia, one thousand nine hundred and twenty-three, in so far as the same may be applicable.

CHAPTER 15

(House Bill No. 59—By Miss Jones)

AN ACT to provide for the election and tenure of officers of the town of Glendale, in Marshall county.

[Passed April 1, 1925; in effect 90 days from passage. Approved by the Governor.]

Sec. 1. Tenure of officers.
2. Elections; time and place; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The present officers in the town of Glendale shall hold their offices until their successors are elected and qualified. The terms of all officers hereafter elected shall commence on the first day of February in each even year and shall be for two years, and until their successors are elected and qualified according to law.
Sec. 2. Hereafter the election of officers in such corporation shall be held biennially on the first Thursday of January, at such place in the town, and under such supervision, rules and regulations, not inconsistent with the laws regulating district elections, as the council may prescribe.

All acts and parts of acts inconsistent with this act are hereby repealed.

CHAPTER 16

(1925, March 23, by Mr. Tutwiler)

AN ACT to create the municipal corporation of the City of Oak Hill, in the county of Fayette, to grant a charter thereto, and to annul the charter of the Town of Oak Hill.

[Passed March 23, 1925; in effect from passage. Approved by the Governor.]

Sec.
1. What constitutes City of Oak Hill.
2. Defining boundaries of municipal corporation.
3. Who constitute municipal officers.
4. Additional city officers.
5. Corporate powers vested in council.
6. Corporate powers of council, continued.
7. Further powers of municipal authorities.
8. Corporate powers, continued.
10. Registration of voters; council to provide for.
11. Elections; time for holding.
11-a. Nomination; how made.
12. Election of officers; when held.
13. Office of mayor; qualifications.
14. Councilmen and clerk; time for electing.
15. Councilmen and clerk; qualifications.
17. Oath of clerk, councilmen and other officers.
18. Vacancies, mayor and other officers; how filled.
19. Appointees to vacancies; term of office.
20. Removal of officers; provisions for.
21. Officers may perform other duties.
22. Council to keep record of proceedings.
23. Meetings of council.
24. Council; quorum.
25. Salaries of officers.
26. Appointive offices.
27. Mayor; duties of.
28. Clerk; duties of.
29. Auditor; duties of.
30. Auditor; additional duties.
31. City attorney; duties of.
32. Police judge; duties of.
33. Ordnances; style of.
34. Ordnances; how presented and considered; contents.
35. Ordnances; codification of.
36. Franchises; how granted; provisions.
37. Budget; how prepared and expended; levy for.
38. City licenses; bond for; on what imposed; amount; jurisdiction.
40. Taxes; how collected; when due; discounts; penalties.
41. Assessment of goods, chattels, etc.; collection of.
42. Lien on real estate for taxes; how enforced.
43. Lien on real estate, continued.
44. Money; how appropriated.
45. Sewers, paving and curbing; assessments; penalties.
46. Sewing; provisions for; assessments; penalties.
47. Sewing: provisions for; assessments; penalties.
48. Sewing and sewer assessments; when lien.
49. Assessments; when certified to clerk of county court.
50. Municipal corporation may borrow money; purposes for which used.
51. Bonds of city; how bonded; for what purpose.
52. Building for city use; regulations for.
53. Health regulations; council to enforce.
54. Habit forming and poisonous drugs; council to regulate sales; penalties for violations.
55. Health commissioner; appointment; term; board of public health; provisions for.
56. Police department; provisions for.
57. Fire department; provisions for.
58. Effect of charter.
59. Effect of charter, continued.
Be it enacted by the Legislature of West Virginia:

ARTICLE I.
The City of Oak Hill

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

ARTICLE II.
Corporate Limits

Sec. 2. The corporate limits of the City of Oak Hill shall be as follows: Beginning at a stake on the northeast side of Giles, Fayette and Kanawha turnpike, near its junction with the Meadow Fork road; thence north sixty-two degrees forty-five minutes east one thousand one hundred and fourteen feet to a stake in line of Jones and Gardner, thence on Jones north fifty-four degrees west nine hundred and seven feet to a stake near Gardner's corner; thence on Jones north fifty degrees east one thousand and sixty-eight feet to a stake in line of the old Deviese land with chestnut oak and white oak pointers; thence north fifty-two degrees west four hundred and three feet to a black oak, corner to Clark; thence with Clark north sixty-seven degrees east two hundred and eighty-nine feet to the corner of old Frazier mill foundation, on the north side of Arbuckle road; thence north sixty-six degrees east two hundred and eighty-nine feet to the corner of old Frazier mill foundation, on the north side of Arbuckle road; thence north sixty-six degrees east two hundred and eighty-nine feet to the corner of old Frazier mill foundation, on the north side of Arbuckle road; thence north sixty-six degrees west one hundred and fifty-two feet, corner to C. Mannin and in line of J. S. Lewis; thence with and through C. Mannin, north seventy degrees east eight hundred feet to a stake in Mannin's field about thirty feet from edge of the woods; thence due north three hundred and forty-two feet to a stake by the corner of a plank fence; thence north thirty-two
31 degrees west seven hundred and eighty-two feet, crossing Arbuckle creek at six hundred and fifty feet to a stake fifteen feet from south side of the Giles, Fayette and Kanawha turnpike; thence north thirty-nine degrees forty-five minutes east seven hundred and eighty-eight feet to a stake in a field near the edge of the woods; thence north seventy-nine degrees forty-five minutes west one thousand six hundred and eighty-nine feet crossing Giles, Fayette and Kanawha turnpike at three hundred feet, crossing Arbuckle creek at one thousand six hundred and fifty feet to a stake in the edge of Wood's field; thence north sixty-one degrees west four hundred and eighty-three feet to a stake in Arbuckle creek at a distance of sixteen feet, from Duncan, Ryner, Richards and others corner; thence north twenty-four degrees forty-five minutes east sixteen feet to Duncan, Ryner and Richards corner; thence with Duncan and Ryner north fifty-six degrees west two thousand eight hundred and thirty-five feet to a stake, corner to Bowyer; thence leaving Duncan and Ryner south twenty-two degrees thirty minutes west one thousand one hundred and eighty-five feet to a stake in road, corner to Bowyer, thence leaving Bowyer and with the road south sixty-two degrees thirty and sixty feet to a stake in said road and corner to McLean; thence leaving the road and with McLean south thirty-six degrees west eight hundred and twenty feet to a stake corner to McLean and Hill; thence with Hill south fifty-four degrees east two hundred and eighty-two feet, south thirty-seven degrees forty-five minutes west two hundred and eighty-one and thirty-eight feet crossing a branch at one hundred and eighty feet, crossing the Loop creek road at one thousand and eight hundred and seventy-six feet, crossing the Loop creek road at six hundred and fifty feet to a white oak on the south side of said road, corner to Duncan, Collins, Davis and others; thence with the south side of the Loop creek road south sixty-three degrees east eight hundred and thirteen feet to a stake, corner to J. Blake and Collins; thence with Blake and Collins, south ten degrees west five hundred and fifty feet to a stake; thence south twelve
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72 degrees east eight hundred and twenty-five feet to a stake in a
73 deep hollow in line of Gipson; thence up the hollow with Gipson
74 south forty-five degrees east three hundred and fifty feet to a
75 stake; thence south thirty-eight degrees east two hundred feet
76 to a stake corner to Logan; thence with Logan south four hun-
77 dredths degree west three hundred and forty-six feet to a stake,
78 corner to same; thence south seventy-three degrees west nine
79 hundred feet to a stake in Jones' field on northwest hillside;
80 thence through Jones south forty-eight degrees west six hun-
81 dred and thirty-seven feet to a stake in line of Jones and Har-
82 vey, with poplar pointer, on north side; thence south fourteen
83 degrees west seven hundred and seventy-five feet to a stake
84 on an east hillside, dogwood and chestnut pointer; thence south
85 fifteen degrees east four hundred feet, crossing the White Oak
86 road at two hundred and forty feet to a hickory by a branch,
87 corner to Jones and Harvey; thence south ten degrees west four
88 hundred and sixty-two feet to a gum on the side of the hill and
89 in line of Jones and Harvey; thence south seventy-six degrees
90 east eight hundred and forty-two feet to a stake on the top of
91 ridge in Jones' field; thence north eighty-three degrees east one
92 thousand four hundred and seventy feet, crossing two deep
93 hollows, to a stake on point of ridge, in Jones' field; thence
94 north seventeen degrees east five hundred and forty-two feet to
95 a stake by the side of a fence in Jones' field; thence north sixty-
96 one degrees east one thousand four hundred and eighty-seven
97 feet to the beginning, containing six hundred and sixty-one
98 acres.

ARTICLE III.

Municipal Authorities

Sec. 3. The municipal authorities of the City of Oak Hill
2 shall be the mayor, clerk and seven councilmen, who shall con-
3 stitute the council.

ARTICLE IV.

Officers

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

ARTICLE V.

Corporate Powers

Sec. 5. All the corporate powers of said city shall be exer-
2 cised by the said council or under its authority except as other-
3 wise provided herein.

Sec. 6. The mayor or councilmen, when elected and quali-
2 fied as hereinafter provided, shall have possession and exercise
3 corporate powers as a body politic by the name of "The City
4 of Oak Hill," and shall have perpetual succession and a com-
5 mon seal, and by the name may sue and be sued, plead and be im-
6 pleaded, and may purchase and hold or sell real estate and per-
7 sonal property necessary to enable it to discharge its corporate
8 powers, and to assess upon and collect from the property bene-
9 fited thereby for the welfare of said corporation, such taxes as
10 are authorized by law.

Sec. 7. The municipal authorities of said city, acting under
2 the powers and in the manner herein specified, shall have and
3 are hereby granted the power to have said city resurveyed; to
4 open, lay off, vacate, close, broaden, widen, keep in repair
5 streets and alleys; to curb and pave streets, sidewalks and gut-
6 ters for public use, and to alter, improve, repair and light the
7 same; to construct and maintain public sewers and laterals,
8 and shall in all cases have power to assess upon and collect
9 from the property benefited thereby such part of the expense
10 thereof as shall be fixed by ordinance, except as hereinafter
11 provided; to have control and regulation of all streets and
12 avenues, roads and alleys for public use in said city, and to
13 have the same kept in good order, free from obstruction on
14 or over them; to have the right to control all bridges within
15 said city and traffic passing over them; to regulate and deter-
16 mine the width of streets, sidewalks, roads and alleys; to order
17 and direct the curbing and paving of sidewalks and footways
18 for public use in said city, to be done and kept in good order
19 by the owners of adjacent property; to control the construc-
20 tion and repairing of all houses, bridges, culverts, sewers and
21 sidewalks, and to prescribe and enforce all regulations affect-
22 ing the erection, repair and removal of all buildings and struc-
23 trues, and to require permits to be obtained for such buildings. 
24 plans and specifications thereof to be first submitted to the 
25 building inspector or committee, and to prescribe and enforce 
26 regulations controlling the erection of such buildings, and to 
27 secure the safety and health of the public; to control and regu-
28 late traffic of all vehicles, railways and aeroplanes in and about 
29 the city; to control the opening and construction of ditches, 
30 drains, sewers, cess-pools and gutters, to deepen, widen and 
31 clear the same of unsanitary conditions; and to determine at 
32 whose expense the same shall be done; to build and maintain 
33 station houses, police stations and police courts, and to regulate 
34 the management thereof; to purchase, lay off, appropriate and 
35 control public roads, aero landings, public squares and parks, 
36 either within or without the city limits as hereinafter defined, 
37 and when the council determines that any real estate is neces-
38 sary to be acquired by the said city for any such purpose or 
39 for the lawful exercise of other powers conferred by this 
40 charter, the power of eminent domain is hereby conferred 
41 upon said city, and it shall have the right to institute con-
42 demnation proceedings against the owner thereof in the same 
43 manner and to the same extent and under the same conditions 
44 as such power is conferred upon public service corporations by 
45 chapter forty-eight of the Barnes' code of West Virginia of 
46 the edition of one thousand nine hundred and eighteen; to 
47 provide, contract for and take care of all public buildings and 
48 structures being proper for the use of said city; to provide 
49 for and regulate the building of all houses or other structures, 
50 with regard to the health, safety and moral welfare of its citi-
51 zens; to cause the removal of unsafe walls or buildings; to 
52 compel owners of property to fence in or wall their property 
53 for the protection of the public safety; to prevent the injury 
54 and annoyance to the business of individuals from anything 
55 dangerous, offensive, unwholesome or unsanitary; to abate or 
56 cause to be abated all nuisances; to regulate the keeping of 
57 gun powder and all other combustibles; to provide and main-
58 tain proper places for the burial of the dead; to regulate in-
59 terment therein upon such terms and conditions as to price 
60 and otherwise as may be determined; to provide for shade and 
61 ornamental trees and the protection or removal of same; to 
62 provide for the draining of lots by proper drains and ditches; 
63 to make proper regulation regarding danger and damage from
to provide for the poor of the city; to organize and maintain fire companies and provide the necessary apparatus; to levy taxes on persons, property and licenses; to provide revenue for the city and appropriate the same to its expenses; to provide for the valuation of property as often as it may be deemed proper and for the assessment of taxable persons and property; to adopt rules for the transaction of business and for the government and welfare of this corporate body; to promote the general welfare of the city and protect the person and property of citizens therein; to adopt rules for the transaction of business and for the government and regulation of its corporate body; to appoint such officers as they may deem proper and require and take from them bond with such security and in such penalty as may be determined, conditioned for the faithful discharge of their duty; to regulate and provide for the weighing of produce and other articles sold in said city; to regulate the transportation thereof through the streets; to inspect and regulate weights and measures; to establish and regulate markets, to prescribe the time for holding the same and what shall be sold only in such market, and to acquire and hold property for market purpose if deemed proper; to regulate the placing of signs, bill boards, posters and advertising and other obstructions in, or over the streets, alleys and sidewalks of said city, to preserve and protect the peace, order and health of the city and its inhabitants; to appoint and fix places for holding city elections; to erect, own, lease, regulate, authorize or prohibit the erection of water works, gas works, electric light systems in or near the city, and to operate the same and sell the products thereof and do all things necessary and incidental to the conduct of such business; to provide for and preserve the purity of the water of the city; to prescribe and enforce ordinances for the purpose of protecting the health, decency, morality and order of the city and its inhabitants, and to punish violations of such ordinances, even if the offenses under and against such ordinances shall also constitute offenses under the laws of the state of West Virginia or the common laws; to have and exercise all the rights, privileges and powers provided by chapter forty-seven of the Barnes code of West Virginia of the edition of one thousand nine hundred and eighteen, and amendments thereof not inconsistent with this act, and shall retain, keep and succeed to all rights, privileges, property, interest, claims
106 and demands heretofore acquired by, vested in or transferred
107 to the City of Oak Hill, or heretofore to the corporation of
108 Oak Hill.

Sec. 8. To carry into effect these enumerated powers and all
2 other powers conferred upon said city, expressly or by implica-
3 tion in this and other acts of the legislature, the municipal
4 authorities of said city shall have power in the manner hereto-
5 for prescribed to adopt and enforce all needful orders, by-laws,
6 resolutions and ordinances not contrary to the laws and consti-
7 tution of this state, and to prescribe, impose and enforce reason-
8 able fines and penalties, including imprisonment; provided, that
9 the fine and imprisonment imposed shall in no case exceed the
10 maximum provided by the laws of the state of West Virginia
11 for the same violation or offense, where the same is punishable
12 thereby.

ARTICLE VI.

Qualification of Voters

Sec. 9. Every person who may have resided within the terri-
2 tory of said city for six months next preceding an election held
3 therein, and who is a qualified voter under the laws and consti-
4 tution of this state, and none others, shall be entitled to vote
5 at any election held in said city. But no person shall be deemed
6 a resident of said city by reason of being a student of any school
7 or college therein for any temporary purpose.

ARTICLE VII.

Elections

Sec. 10. The council may by ordinance provide such regula-
2 tions for the registration of voters as the state laws provide.

Sec. 11. The first election under this act shall be held on the
2 second Tuesday in May in the year one thousand nine hundred
3 and twenty-five; and the second election on the second Tuesday
4 in May in the year one thousand nine hundred and twenty-seven,
5 and on the same day each two years thereafter, which said elec-
6 tions shall be termed and called general city election. Such
7 first election and all subsequent elections shall be held in such
8 manner as is, or shall be prescribed by law for the holding of
9 state elections and the council shall, for the first election held
10 under this act, and at least ten days before said first election
11 under this act, designate the voting places and the names of
12 the commissioners, clerks and challengers to hold the said elec-
Section 11. Special elections for any purpose must be authorized by the council and called by the mayor. Notices of all special elections must be given by publication in at least one newspaper of general circulation published in the City of Oak Hill, at least thirty days before the date fixed for all such special elections, and by posting notices in such manner as the council may deem necessary. The council shall sit on the fifth day, Sundays excepted, after every election as a board of canvassers, each member of the council having one vote; and as such board of canvassers they shall canvass, ascertain, publish and declare the result of any election held; and the circuit court of Fayette county shall have power to control proceedings of said board of canvassers by mandamus and prohibition. The said board shall keep in a separate book, marked for that purpose, a record of the proceedings, and shall take down and record any evidence, motion, or paper filed, or offered by any candidate, which book and record shall be open to the public and shall be kept in the custody of the clerk.

Sec. 11-a. The nomination of all candidates for offices to be filled by the electors of the City of Oak Hill at the elections herein provided for shall be made by convention, which convention shall meet and shall certify to the city clerk at least twenty days before the day set for the election, as provided in the charter, a list of all such candidates for office so nominated and to be voted for at said election. The convention shall further adopt a name for the ticket so nominated by them and a suitable emblem or device by which the same shall be known and designated, and certify the name and device together with the nominations. The nominations so certified, together with the name and device of the party shall be duly recorded by the city clerk and properly printed on the ballots to be cast at the said election. The printing of the ballots and the manner and conduct of the election shall be governed in all respects when applicable by the general laws of the state of West Virginia relating to the holding, conduct and ascertainment of the result of elections except as herein otherwise provided by this charter.

ARTICLE VIII.

Election of Officers

Sec. 12. On the second Tuesday in May, one thousand nine hundred and twenty-five, and on the same day every two years thereafter, there shall be elected by the qualified voters of the
city, a mayor, who shall hold office from the first day of June
succeeding in the year in which he is elected for a term of two
years and until his successor is elected and qualified.

Sec. 13. No person shall be eligible to the office of mayor
except he be assessed with and own at least five hundred dollars
worth of real or personal property in said city, and is a citizen
entitled to vote at the election at which he is elected, and no
person shall be elected to such office or retain or hold the same,
who shall be or become an officer or employee of any person,
firm or corporation holding any franchise or contract under or
with said city.

Sec. 14. On the second Tuesday in May, one thousand nine
hundred and twenty-five and each two years thereafter, there
shall be elected by the qualified voters of the city seven council-
men, to hold office from the first day of June, one thousand nine
hundred and twenty-five until the first day of June, one thou-
sand nine hundred and twenty-seven or until their successors
are elected and qualified. Beginning with the first election held
under this act, which shall be on the second Tuesday in May,
one thousand nine hundred and twenty-five, and every two
years thereafter there shall be elected a clerk by the qualified
voters of the city, to hold office for the term of two years, and
so on every two years thereafter. The officers of the city elected
under the old charter and at the election held in the year one
thousand nine hundred and twenty-five shall hold over until
their successors are elected and qualified.

Sec. 15. No person shall be eligible to the office of councilman
or clerk except he be assessed with and own at least ........
hundred dollars worth of real or personal property, and be a
citizen entitled to vote at the election at which he is elected.

ARTICLE IX.

Oath of Mayor and Other Officers

Sec. 16. The mayor, before taking his seat or performing any
of the duties of said office, shall take and subscribe an oath or
affirmation that he possesses the qualifications prescribed by this
act to hold such office, and is not subject to any of the disquali-
fications prescribed therein, and that he will support the consti-
tution of the United States and the constitution of this state,
and honestly discharge the duties of his office to the best of his
skill and judgment, which oath shall be written out and signed
and filed and preserved among the records and books of the city.
Sec. 17. The clerk, councilmen and all other officers elected or appointed under this act shall take and subscribe an oath of affirmation in the time, manner, form and effect, prescribed for the mayor.

**ARTICLE X.**

**Vacancies Occurring**

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

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

Sec. 20. The council shall have and is hereby granted the power and authority to remove from office any officer, whether elective or appointive, for cause or upon written charges preferred by any responsible citizen to the council; but to remove from office under this provision, at least five of the members of the council must be present and at least five must concur in such removal, and the officer against whom the charges are preferred shall be served with a reasonable notice of the same, together with the time of hearing thereon, and a copy of such charges showing the nature thereof, and shall have the right to be represented before the council in person and by attorney, and the right to require all witnesses to be sworn and testify under oath before the council and to have the testimony taken down.

**ARTICLE XI.**

**Officers May Perform Other Duties**

Sec. 21. Any member of the council, the mayor, clerk, treasurer, or any other elective or appointive officer shall, during the time for which he was elected or appointed, be eligible for appointment to any office under the city; provided, such employment is authorized by the council, by resolution for such appointment; but in no case shall the time of service be for a longer period than said council is selected to serve under this act.
ARTICLE XII.

Records

Sec. 22. The council shall keep a record or journal of all its proceedings, which shall, at all times, be open to the inspection of the taxpayers of the city, and be a public record, and the ayes and noes of the members shall be taken on any question, at the request of any member, and shall be taken down and entered on the record or journal.

ARTICLE XIII.

Meetings of Council

Sec. 23. The council shall hold regular meetings on the first Monday of each month of the year, and such special meetings as the business to be transacted may require, at such time, place or places in the city as the council shall, from time to time, ordain or appoint; and the council shall have the power by proper ordinance or resolution, entered of record, to vest in any officer of the city or any member or number of members of their body, authority to call such special meetings and in like manner to prescribe the mode in and by which said meetings shall be called. All questions put, except as to such matters, as herein otherwise provided, shall be decided by a majority of all the members elected. No business shall be transacted at any special meeting of the council unless specifically mentioned in the call for such meeting, which call shall be posted at least twenty-four hours prior to said meeting on the front door of the city hall.

ARTICLE XIV.

Quorum

Sec. 24. The majority of the whole number of members elected or appointed to the council shall constitute a quorum to transact business, but a smaller number may adjourn from time to time and may compel attendance of absent members in such manner and under such penalties as either body may by rules provide.

ARTICLE XV.

Salaries

Sec. 25. The mayor, clerk, regular and other officers, employees and appointees, shall receive for their official services such salaries as the council shall, from time to time, by ordi-
4 nance fix and establish; but the salaries of the officials of said
5 city shall not be increased or diminished during the term for
6 which such officers were elected or appointed; provided, that
7 the salaries of all officers elected or appointed for any term
8 shall be fixed not later than thirty days preceding any election.

ARTICLE XVI.
Appointive Officers

Sec. 26. The council shall by a majority vote of its members
2 fill all appointive offices under the city administration.

ARTICLE XVII.
Duties of the Mayor

Sec. 27. The mayor shall be chief executive officer of the city
2 and shall preside at all meetings of the council and shall have a
3 vote in case of tie; he shall have charge and control of the police
4 except as herein otherwise provided; he shall see that the laws
5 and ordinances of the city are enforced, and shall keep and pre-
6 serve a docket of all his proceedings in the trial of civil and
7 criminal cases in like manner and with like effect as provided by
8 law in the case of a justice of the peace; he shall see that the
9 peace and good order of the city are preserved and that persons
10 and property therein are protected, and to this end he may
11 cause the arrest and detention of riotous and disorderly per-
12 sons, and shall perform such other duties and services as the
13 council may ordain in addition to the duties prescribed in this
14 act and not inconsistent herewith; the clerk, except as herein
15 otherwise provided, shall perform the duties of the mayor
16 whenever and so long as the mayor is from any cause not able
17 to perform his official duties, and he shall, in the absence of the
18 mayor, perform any and all the duties of the mayor except he
19 shall not preside over the council. In the absence of the mayor
20 at a meeting of the council, the council shall select one of its
21 own members to preside over its meetings, who shall have a vote
22 as a councilman. If the mayor and clerk are both absent from
23 the city, or otherwise disabled from performing the duties of
24 the mayor, the council may elect a mayor pro tempore. The
25 mayor shall have the power at any time to appoint special po-
26 licemen, who shall be sworn in without confirmation of the
27 council.
ARTICLE XVIII.

Duties of the Clerk

Sec. 28. It shall be the duty of the recorder to keep a properly indexed journal of the proceedings of the council and board of health, and have charge of and preserve the records of the city; he shall, whenever required by the mayor, attend the police court and attend to all the duties as clerk of the police court of the city. In the absence of the mayor or police judge, he shall exercise the functions of police judge; he shall perform all other duties required of him by order or by ordinance of the council; as clerk he shall receive compensation for his service to be fixed by the council, which shall not be increased or diminished during his term of office. He may further be required by the council to perform the duties of auditor of said city as hereinafter provided, and receive additional compensation therefor to be fixed by the said council.

ARTICLE XIX.

Duties of the Auditor

Sec. 29. The auditor shall be the city accountant and auditing officer of the city and it shall be his duty to see that the accounts of said city are kept in a detailed and systematic manner, under the proper classification so as to show the bonded and other indebtedness of said city, and the amounts and claims due the same, as well from taxes, levies and assessments as from other sources.

Sec. 30. In addition to the other duties of the auditor, it shall be his duty, on or before the first day of August in each year, to make a copy from the real and personal property books of the assessor of Fayette county, West Virginia, or property shown to be liable to taxation within the limits of the City of Oak Hill, together with all proper transfers noted thereon, and to certify such copies under his hand as a true and correct copy thereof, and to deliver the same to the council and to assist the council in revising and correcting said lists and in preparing the annual estimate of expenses to be certified to the council as a basis for the annual levy. After such levy is made in each year, it shall be the duty of the auditor to extend said levy upon said real estate and personal property books for said city and to prepare proper tax tickets therefrom against all owners of real estate and personal property subject to taxation in said city.
16 He shall turn the said tax bills over to the treasurer or sergeant, 17 who shall collect said taxes when due and payable, and the treas- 18 urer shall certify to the payment of same as made. In addition 19 to the above duties of the auditor, he shall perform such other 20 duties as the council shall prescribe.

ARTICLE XX.

Duties of City Attorney

Sec. 31. The council may appoint a city attorney by a ma- 2 jority vote of its members, who shall be the legal adviser of the 3 city and all its officers in all matters arising and in which legai; 4 proceedings may be taken; he shall prosecute all the suits, ac- 5 tions and proceedings instituted on behalf of said city and shall 6 defend all suits and actions against said city, and when re- 7 quested to do so in writing, shall give his written opinion to the 8 mayor, council or any committee thereof upon such questions 9 as may be referred to him affecting the city’s interest; he shall 10 perform such other duties as may be required, and for such 11 services shall receive such compensation as may be agreed on 12 between him and the city council.

ARTICLE XXI.

Duties of Police Judge

Sec. 32. The mayor or police judge shall be ex-officio a jus- 2 tice and conservator of the peace within the city and he shall, 3 within the same, have, possess and exercise all the powers and 4 perform all the duties vested by law in a justice of the peace. 5 except that he shall have no jurisdiction in civil causes of action 6 arising out of the corporate limits of the city. He shall have 7 the same power to issue attachments in civil actions as a justice 8 of his county has, though the cause of action arose out of the 9 city limits, but in such case he shall have no power to try the 10 same but must have such attachment returnable and heard be- 11 fore some justice of the county. Any warrant or other process 12 issued by him may be executed within the same territorial limits 13 as that of a justice of the county. He shall have power to issue 14 executions for all fines, costs and penalties imposed by him, or 15 he may require the immediate payment thereof, and in default 16 of such payment he may commit the party in default to the jail 17 of the city, until the fine, penalty or costs shall be paid, but the 18 term of imprisonment in such cases shall not exceed sixty days.
19 But such mayor or police judge shall not receive any money belonging to the state, or any individual, unless he shall give bond and security as required of a justice of the peace under the laws of the state of West Virginia; and all provisions under the laws of the state of West Virginia relating to moneys received by justices 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 enacted and ordained by the council of the City of Oak Hill,"
but the ordinances now in force shall remain in effect until amended or repealed, except where they are in conflict or inconsistent with this act.

Sec. 34. All ordinances shall be presented in writing and no ordinance shall be so amended in its passage as to change the general purpose. No ordinance shall be considered for final passage at the meeting at which it was introduced unless the same shall have been reported on by a committee, but reference to a committee may be dispensed with by an affirmative vote of two-thirds of the council as elected and shall then, upon its passage, become forthwith effective. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; nor shall any ordinance be passed by the council unless a majority of all the members elected to the council shall concur therein by ayes and nays when the question is put upon its passage.

Sec. 35. All ordinances passed by the council shall be spread upon the minutes and at the next regular meeting such minutes shall be read in open council and the mayor shall sign said minutes when found correct or corrected, in the presence of the council. The council shall provide a well-bound book, in which shall be copied all the ordinances in the order in which they are passed, which ordinances so copied shall be compared with the originals by the mayor and shall be signed by him when found correct. Such book shall be indexed so as to show in brief form the substance of the ordinances. All copies thereof certified as hereinafter provided, shall be received by all the courts and justices in this state as evidence; but the council may adopt by ordinance, properly designating and describing it, a code of
14 laws and ordinances, which when adopted, shall be published
15 in a newspaper of general circulation in said city, or poste
16 and printed in book form, or it may be adopted as a whole after
17 it is printed, and the said code shall be and become the laws
18 and ordinances of the said city, and shall be received as such
19 by all the courts in this state, and the printed volumes pub-
20 lished under order of the council shall be so received as evidence
21 of what is printed therein till errors or omissions be affirma-
22 tively shown therein.

ARTICLE XXIII.

Franchises

Sec. 36. All franchises granting the right of occupancy of
2 any portion of the streets, alleys, sidewalks or other public
3 property of the city for work of public utility and service shall
4 be granted by the council, but no such franchise shall hereafter
5 be granted except under the following restrictions and condi-
6 tions:
7 No franchise shall be granted, except at the time of granting
8 it bond be made to the city providing that the grantee shall in-
9 demnify the city against all damages caused by construction,
10 maintenance or operation of such works. All reasonable addi-
11 tional provisions and conditions may be made for the protec-
12 tion of the public from unnecessary damage or inconvenience
13 by reason of the construction, maintenance or operation thereof.
14 No grant of a franchise for the extension, of, or in addition
15 to, any line of work or public service through, over or under
16 any additional street or territory of the city shall be made for
17 a period extending beyond the time limit for the expiration of
18 the franchise, if the principal work is one granted before this
19 act goes into effect and not limited as to time. Any franchise
20 granted for an extension or addition thereto shall nevertheless
21 be made, subject to the provisions hereof, including the time
22 limit of not exceeding fifty years.
23 The council shall, in all franchises hereafter granted, embed
24 therein a plainly expressed condition, when the franchise is to
25 be for work useful chiefly to the citizens of the city, that at the
26 expiration of the franchise the grantee shall, if required by
27 the council, sell to the city the plant at what it is then worth.
28 If the city or the owner of the plant cannot agree upon its
29 value, then its value shall be ascertained by an impartial arbi-
OAK HILL CHARTER

ARTICLE XXIV.

Estimate of Expenses and Levy

Sec. 37. A finance committee shall be appointed from the council members, by the mayor, which, together with the mayor shall constitute a finance committee which shall on or before the first day of August in each year, prepare and submit to the council a budget or estimate of the amount of money necessary and advisable to be expended by the city for the current year next ensuing and to be provided for by the tax levy as herein provided for such current year, in which estimate the finance committee shall ascertain and present a detailed and itemized account or estimate of the money necessary to pay interest on the bonded indebtedness of the city, the amount required for the several sinking funds, for the reduction of the principal thereof, the amount to be expended severally for the streets, alleys, curbing, water works, police department, fire department, street paving, sewers, salaries, parks, real and personal property, contingent expenses and other proper municipal expenditures and expenses, together with an itemized statement of the estimated receipts, other than that to be derived from the annual levy, and after receiving such estimates, and before making the levy the council shall apportion the rate thereof (including estimated receipts for licenses and all other sources), among the several funds to ascertain and provide for, which said apportionment when adopted, shall be spread upon the records of the council.

Upon the estimate of such expenses, the council shall thereupon, by ordinance, lay a levy for the ensuing tax year of a sum not to exceed seventy-five cents on each one hundred dollars assessed valuation of all taxable property exclusive of any levy or levies for bond purposes, real and personal, subject to taxation in said city, as well as a capitation tax not to exceed two dollars upon every male inhabitant of said city over the age of twenty-one years who is subject to the capitation tax under the laws of the state of West Virginia, and said council is authorized to levy to such maximum of seventy-five cents on each one hundred dollars of valuation, and such bond levies as
may be legally authorized and laid notwithstanding any general
laws now in force, or which may be enacted, restricting the
powers of municipal corporations to levy taxes.

The council of the City of Oak Hill shall meet on the second
Tuesday in August of each year for the purpose of making up
and certifying the estimate of expense and levy herein provided
for, at which session the said council shall ascertain the amounts
herein provided, which estimate shall be published and posted
as provided by the general laws of the state of West Virginia.
The council shall again meet on the fourth Tuesday in August
of each year for the transaction of such business as may prop-
erly come before them, including the laying of such levies as
may be necessary upon all of the taxable property within the
City of Oak Hill subject to taxation in accordance with the esti-
mate and shall certify the same in the manner provided by law.

Sec. 38. Whenever anything, for which a state license is re-
quired, is to be done within said city, the municipal authorities
as herein provided, may require a city license to be had for
doing the same, and may, in any case, require from any person
licensed a bond with sureties; and in such penalty and with
such conditions as may be proper, for the protection of the pub-
lie health, safety or morals, and the council may on notice re-
voke such license at any time, if the conditions of said bond be
broken, or for good cause.

The municipal authorities may impose a license and assess
a tax thereon on all vehicles operated in said city for hire oper-
ated wholly in the city, all dogs kept within the corporate limits
all insurance, bonding, casualty and guarantee companies, auc-
tioneers, book agents, bowling alleys, billiard saloons, bagatelle
saloons, bond, note and loan associations, building and loan asso-
ciations, capitiation taxes, commission merchants, common carri-
ers, circuses, menageries, theatres, drays, taxi stands, cabs,
hacks, etc., eating houses, express companies, hitting and strik-
ing machines, hobby horses, junk dealers, real estate agents, in-
surance agents, livery and feed stables, omnibuses, peddlers,
pawn brokers, stock brokers, slot machines, social clubs, street
venders, tobacco, snuff, cigars, etc., theatrical shows, transient
merchants, telegraph and telephone companies, electric light
companies, gas companies, water companies, and other business,
property, profession or occupation; bicycle, automobiles, butch-
ers and venders of meats, vegetables and other things sold on the
streets of the city, or upon any other article, property, business,
occupation, trade or profession for which the state now requires
or may hereafter require a license, but the taxes upon such
city license shall in no case exceed the license tax imposed by
the state thereon. The municipal officers and authorities may
prescribe, impose and enforce reasonable fines and imprison-
ment, under the order of the police judge of said city, or the
person lawfully exercising his function, upon any person carrying
or attempting to carry on any business for which the said
license is required, without first obtaining a city license therefor,
and paying the city license tax assessed thereon. All licenses
provided for in this section shall be paid to the sergeant or
treasurer. For the purposes of enforcing the provisions of this
section the city shall have police jurisdiction for two miles be-
yond the corporate limits thereof.

Sec. 39. The council shall have the power to pass and make
all regulations and pass all ordinances necessary and proper
concerning the granting and revoking of all licenses. The city
shall have the power to prohibit by ordinance and to punish
persons abusing animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes and drunken and disor-
derly persons within the corporate limits; to provide for their
arrest and manner of punishment; to prohibit and punish rail-
roads bringing in paupers or persons or animals afflicted with
dangerous diseases; to control and suppress bawdy houses.
houses of assignation and gambling houses and to punish gam-
ing; to prohibit slaughter houses within the prescribed limits
and soap or glue factories of any kind; to restrain and pro-
hibit the use of fire crackers, fireworks or other explosives, and
all dangers or unseemly noises which tend to annoy persons or
frighten horses or other animals; to make regulations guarding
against fire; to regulate the use of streets and alleys for street
cars, railroads, railroad engines, traction engines, automobiles.
trucks, tractors and vehicles of all sorts, and regulate the run-
ing and operation of the same within the city limits; to regu-
late and prevent injury, inconvenience or annoyance to the
public; to prohibit cock fighting and dog and prize fighting;
to regulate and control the kind and manner of plumbing and
electric wiring, etc., for the safety and health of the public, to
regulate, restrain and prohibit all animals and fowls running
at large; to establish and regulate markets; to regulate signs
and billboards, posters and advertisements on or over streets;
to regulate the sale and use of cocaine, morphine, opium and
poisonous drugs; to provide for purity of water, milk, meat, for service or the articles of persons or companies operating public service plants, or other public institutions or utilities; to regulate public service corporations; to provide for inspection of dairies, slaughter houses and other places of like nature; to protect places of divine worship; to have abated and removed all nuisances; to regulate the construction of all water closets, privies, cess-pools, pens, sinks, yards, stables and other places where offensive substances may accumulate; to regulate and prescribe punishment for all violations against the public peace and welfare.

ARTICLE XXV.

Taxes; How Collected

Sec. 40. The city taxes annually levied by said council shall be collected as follows: Immediately after the annual levy for city taxes is laid, the auditor shall extend the name on the property books made out by him, including thereon, the proper capitation taxes. He shall make out proper tax tickets in the following manner, that is to say: there shall be a single ticket for the whole amount charged to any person, firm or corporation, and after the tickets have been examined and compared and found to be correct by the council, they shall be turned over to the sergeant or treasurer by the first day of October following the levy. The sergeant or treasurer shall receipt for the gross amount, said receipt to be returned and entered upon the records and the sergeant charged therewith; the sergeant shall then give notice by publication in a newspaper of general circulation in the city, and posting for at least ten days, stating that the tax tickets are in his hands for collection, the penalty for the non-payment thereof, and the time and place where the same may be paid; provided, however, that a tax payer shall have the right to anticipate the payment of the whole or any part of the taxes as assessed. Immediately upon the payment of said taxes or any part thereof, the said amount shall be deposited by the sergeant or treasurer in one of the city depositories to the credit of the City of Oak Hill, and the sum so deposited shall be reported to the council at its first meeting after deposit is made. All taxes shall be due and payable within thirty days after the expiration of the notice posted and published by the sergeant as hereinbefore set forth, and in case the
same are not paid within said time, he may distrain and sell therefor, in like manner as the officer collecting the state taxes may distrain therefor, and he shall have in all other respects the same power to enforce the payment and collection thereof.

On all tickets remaining uncollected in the hands of the sergeant fifty days after the date of the expiration of the notice posted and published by him a penalty of five per cent shall be added and collectible, together with six per cent interest until paid.

The council may by ordinance allow a discount for prompt payment of taxes. The sergeant shall have the power to collect said taxes so placed in his hands together with the penalty and interest thereon, heretofore provided to be added thereto. The sergeant shall be charged with the gross amount of said tax tickets so delivered to him for collection, and no deductions therefrom shall be allowed unless on or before the first day of July of each year he makes out and returns to the council a delinquent list of taxes uncollected for the year previous with his oath attached thereto, stating that such delinquent list is correct and just, that he has received no part of the taxes mentioned thereon and that he has used due diligence to find property to distress for said taxes and has found none, and that the same are uncollectible. Penalties and interest, provided for in this section, to be added to such taxes, shall not be deemed or considered any part of the limitation in this act hereinbefore prescribed, restricting the annual city levy for general municipal purposes to seventy-five cents on each one hundred dollars valuation. The sergeant shall not take or collect anything but money and the legally issued and authorized drafts or vouchers of the city for the payment of taxes. The sergeant shall perform such other duties as the council may require, and receive such compensation as shall be fixed by the council.

Sec. 41. All goods and chattels belonging to a person, firm or corporation or estate, assessed with any city taxes, whether the same be a capitation tax, tax upon real or personal property or an assessment for paving or other improvements, shall be liable for said taxes and may be distrained therefor in whosoever possession they may be found, and the sergeant shall have the same power to collect said taxes or assessments from any person owing debts to or having in his possession any estate belonging to a person assessed with any tax or assessment of
10 any kind, that the sheriff has to collect state taxes or enforce
11 the collection thereof.

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

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

ARTICLE XXVI.

Money; How Appropriated.

Sec. 44. No money shall be appropriated and no debts
2 shall be contracted and no contracts authorized by the city,
3 except by an ordinance passed by the council as specified
4 herein, and no such ordinances shall be passed except where the
5 funds to meet the same shall have first been provided by levy
6 duly made in accordance with this act and its provisions. No
7 contract shall be entered into involving or anticipating further
8 levies, unless all the questions connected with the same shall
9 have been first submitted to the people at an election held for
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10 that purpose and shall have received three-fifths of all the votes
11 cast at such election, and no indebtedness or contractual lia-
12 bilities shall be incurred to become due and payable from the
13 current levies, in excess of the amount thereof.

ARTICLE XXVII.

Sewers, Paving and Curbing

Sec. 45. The council shall have the power to establish the
2 width of any sidewalk along any street, alley or public square
3 or portion thereof, and any owner of ground fronting on such
4 street, alley or public square shall, in such manner as the council
5 shall reasonably prescribe, pave and curb the sidewalk adjacent
6 to such property. In case of a failure or refusal of the owner to
7 pave or curb the same after reasonable notice, the council may
8 cause the same to be properly curbed and paved by the city, and
9 levy and collect from such owner the whole cost of such curbing
10 and paving adjacent to such property, with a penalty of five per
11 centum added thereto, together with six per centum interest
12 until paid; and in like manner to require the owner of any prop-
13 erty adjacent to any paved sidewalk heretofore or hereafter con-
14 structed, to keep the same in repair, and in default of doing
15 so to cause the same to be repaired, and levy and collect the cost
16 from said owner or owners with a penalty of five per centum
17 added thereto together with six per centum interest per annum
18 until paid. In all cases of such assessment, whether for the orig-
19 inal or for the repairing of sidewalks, payment thereof, including
20 penalties and interest, shall be made to the sergeant within sixty
21 days after the completion of the work, who shall have the power
22 to collect the same from the owner or owners of any such prop-
23 erty by distress and sale, in the same manner in which taxes
24 levied for the benefit of the city are authorized to be collected,
25 and in addition, there shall be a lien upon such real estate,
26 which lien shall be perfected in the same manner as other paving
27 liens and may be enforced by appropriate suit in any court of
28 record of Fayette county.

Sec. 46. Whenever the council may deem it expedient to
2 cause any street or alley in said city, or portion thereof, to
3 be paved in a permanent manner, it shall order the work done
4 in the following manner and upon the following terms: The
5 contract for such paying shall, after due advertising, in which
6 the council shall reserve the right to reject any and all bids, 
7 be let, if let, to the lowest responsible bidder. The contractor 
8 shall look only to the city for the payment for the work and 
9 in no sense to the abutting land owner. The total cost of grad-
10 ing and paving any such street or alley (except when the 
11 streets are occupied by street car tracks, for the distance be-
12 tween the rails and for two additional feet outside of each rail, 
13 which portion shall be borne and paid by the company owning 
14 and operating such railway and track) shall be borne by the 
15 owners of the land abutting upon said street, alley or portion 
16 thereof, subject to the following plans, that is to say: payment 
17 is to be made by all the land owners on either side of such 
18 street or block so paved, in such portion, of the total cost, less 
19 the portion, if any, chargeable to such street railway company, 
20 as the frontage in feet of his land bears to the total frontage 
21 so abutting on such street, alley or portion thereof so paved 
22 as aforesaid. The cost of such paving chargeable to the abut-
23 ting property is not to include any portion of the amount paid 
24 for paving of any squares at intersection of streets, which 
25 shall in all cases be borne and paid by the city. When the 
26 paving of any street or alley or portion thereof shall have 
27 been let to contract and the work done as hereinbefore pro-
28 vided, it shall be the duty of the city engineer to cause the sev-
29 eral frontages abutting thereon to be measured, to calculate 
30 the assessment upon each and every land owner so abutting, 
31 and to certify the same to the council showing the proper amount 
32 to be determined as provided in the foregoing plan. It shall 
33 be the duty of the council to examine and compare such as-
34 sessments, amounts and names so certified to it. Thereupon 
35 the council shall give notice by publication for two successive 
36 weeks in some newspaper published in said city that an assess-
37 ment, under this act, is about to be laid against abutting prop-
38 erty for paving done on said streets or alleys, describing the 
39 location of such paving. Any owner or owners of abutting 
40 property shall have the right to appear before the said council 
41 within three weeks from the first publication thereof, and 
42 move such council to correct any apportionment or assessment 
43 improperly made; which corrections the said council shall have 
44 the power to make. If found to be correct, or when rectified, 
45 the council shall cause the same to be entered, together with
the description as to the location, frontage, depth and ownership of the land, so far as the same may be ascertained, upon its records, and to enter in its record that such owners and lots be assessed and chargeable with the amount so ascertained to be borne by them respectively. When so approved, certified and entered of record, the same shall be and constitute an assessment against said owners and lots for such respective amounts. It shall be the duty of the council to immediately certify such assessment to the sergeant for collection as hereinafter provided. A copy of such order shall be certified by order to the clerk of the county court of Fayette county, who shall be required to record and index the same in the proper deed book in the name of each person against whose property assessments appear therein. The amount so assessed against any land owner, as aforesaid, shall be paid in seven payments, as follows, that is to say: One-fourth of said amount shall be paid to the sergeant when said work is completed, certified and entered of record as aforesaid, and the other three-fourths shall be paid in equal semi-annual payments with six per cent interest thereon until paid, the first of which shall be due and payable six months from date first payment is due, and so on, every six months until the full amount of assessment, with penalties and interest is paid, the purpose being to require the payment regularly until the entire amount is paid. Provided, however, that the abutting land owner so liable for any costs of such paving shall have the right at any time after the same is certified as aforesaid to the sergeant for correction, to anticipate the payment of either installment. To each of said installments of assessments remaining unpaid in the sergeant’s hands at the time specified for such payment, a penalty of four per cent shall be added and the payment thereof enforced, in all respects as hereinbefore provided for the collection of any other taxes due the city, and such shall be a lien upon the property liable therefor, the same as for other taxes, and the lien may be enforced in the same manner as provided for other taxes; provided, however, that in default of the payment of any installment of such assessment, together with interest and penalty thereon accrued, then the whole of said assessment, with interest and penalty to the date of such default, shall become due and payable and enforceable in the manner herein provid-
The liens hereinbefore provided for shall have priority over all other liens except those due the state and county for taxes, and shall be on a parity with other taxes and assessments due the city. Upon the payment of any assessment to the sergeant he shall deliver to the party paying the same a release of the lien therefor, which may be recorded in the office of the clerk of the county court as other releases for liens. Should such assessment not be in the hands of the sergeant, if the same been paid in full to any officer entitled to receive the same as designated by it, the council may direct the sergeant to execute a release of such liens, which release may in like manner be recorded.

**ARTICLE XXVIII.**

**Sewers**

Sec. 47. Whenever the council shall order the construction of any public sewer in said city the owners of the property abutting upon any street in which said sewer shall be constructed, shall be charged with and liable for sewerage assessments as follows: When said sewer is completed the city engineer shall report to the council in writing the total cost of such sewerage, with a description of the lot and land, as to the location, frontage, depth and ownership, liable for such sewerage assessment, so far as the same may be ascertained, together with the amounts chargeable against each lot and owner, estimated on the basis of cost, frontage measures on said sewer being considered, and thereupon said council shall give notice by publication in a newspaper of general circulation, published in said city, as is required in the case of street paving assessment, and the same right shall exist as to the persons and property affected, and the same duty as to correction by the council as are prescribed with reference to paving, which report shall, in like manner, be examined by the council, and if found to be correct, or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the costs of said sewer, it shall enter an order upon its records setting forth such location, depth, ownership and said amount of said sewer assessments against each property respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed.
26 therein, against such respective owners and lots. If after such
27 advertisement, notice and hearing said council shall find that
28 such apportionment at such rate is unjust or inequitable, it
29 shall ascertain, fix and assess the cost thereof among and upon
30 the abutting owners respectively fairly and equitably and in
31 like manner assess and enter the amount so fixed, respectively,
32 upon its records, and the council shall in either event there-
33 upon certify the same to the sergeant for correction, and certi-
34 fy a copy of such order to the clerk of the county court of
35 Fayette county, who shall record the same in the proper deed
36 book, and index the same in the name of the owner of any such
37 lot so charged with such assessment. Such assessment so made
38 shall constitute and be a lien upon said lots respectively, which
39 shall have priority over all other liens except those for taxes
40 due the state and county, and shall be on a parity with other
41 taxes and assessments due the city. Said amounts so assessed
42 against said several land owners shall be paid by the parties
43 liable therefor to the said sergeant at the time, in the manner
44 and with the attendant penalties and interest, for failure to pay
45 promptly at the time prescribed, in all respects as hereinbe-
46 fore provided in the case of assessment for paving of streets
47 and alleys in a permanent manner; and the parties liable
48 therefor in the same manner and to the same extent shall have
49 the right and be entitled to anticipate any or all such install-
50 ments. The owner or owners of any lot abutting upon any
51 street or alley in said city, on which a public sewer is or may
52 hereafter be laid and constructed upon which any business or
53 residence building is or may hereafter be erected, not other-
54 wise connected to the public sewer, may be required and com-
55 pelled by council to connect any such property with such sewer.
56 Notice to so connect may be given by the council to the owner,
57 lessee or occupant of such property. Each day’s failure to
58 comply with such notice and to connect with such sewer by
59 such owner or owners, after ten days have elapsed after such
60 notice has been given, shall be a misdemeanor and a separate
61 offense and a new offense under this section, and each offense
62 shall be punishable by a fine or not less than five nor more than
63 twenty-five dollars. Jurisdiction to hear, try and determine
64 and sentence for violation of this section is vested in the police
65 court of said city. If said owner or owners fail to comply with
the notice to make such sewer connection, then the council may
by ordinance order the work to be done at the expense of the
city and the costs thereof be certified to the clerk of the county
court, and the same shall constitute a lien upon said property,
with the same force and effect as taxes.

Sec. 48. The liens herein and hereinbefore provided for
street paving and sewerage assessments shall constitute liens
upon real estate upon which they are assessed, as against cred-
itors of or purchasers for value from the owners thereof and
without notice of such lien, only from and after the time that
the statement thereof, certified as aforesaid shall be filed for
record in the office of the clerk of the county court of Fayette
county.

Sec. 49. When the whole or any portion of the improve-
ments authorized by this act pass through or by a market
space, park, cemetery, structure for the fire department, water
works, school building, infirmary, market house, work house,
hospital, house of refuge, bridge, gas works, public prison, court
house, church, educational or eleemosynary institution or any
other public structure, public ground within said city, and
belonging to said city, or to the county, state or any church,
association or eleemosynary institution, the council may au-
thorize the assessment to be certified to the clerk of the county
court of Fayette county and the same shall thereupon be re-
corded by said clerk in the proper deed book and shall there-
upon become a lien against said property and collectible as
other assessments are collected against individuals under this
act. It shall be the duty of these persons having charge of the
fiscal affairs of any such property or institution to make the
proper arrangements for meeting such assessments, when due
and payable.

Sec. 50. The city of Oak Hill, by ordinance of the council,
may borrow money in an amount equal to the amount of said
liens herein acquired, for the purpose of paying any contract
for paving or sewerage under this act, and may assign said
liens as security for such loan or loans; but in no event shall
the money so borrowed be expended for any other purpose than
in the payment of the indebtedness owing by the city for such
work; that is, liens for the street paving can only be used by
the city in borrowing money to pay for street paving, and liens
for sewerage can only be used by the city in borrowing money to pay for sewerage.

ARTICLE XXIX.

Bonded Indebtedness

Sec. 51. The council of said city shall have the right to bond the said city for the purpose of paving the streets and alleys of said city and for constructing water works or repairing the same, and for construction of a sewerage system or lighting system and repairing the same, and for the purpose of providing hose and other appliances for extinguishing fires, and for any and all public improvements whenever the council thereof shall deem such improvement necessary, and to refund outstanding bonds at a lower rate of interest, and to issue new bonds for the purpose of increasing the length of time on any such indebtedness; but the aggregate indebtedness of said city shall for all purposes not exceed five per centum on the assessed valuation of the taxable property therein, based on the valuation of the last assessment next preceding the date of the incurring of such indebtedness; and the said council shall by taxation provide a fund for the payment of the interest on any and all indebtedness incurred in the manner aforesaid within the period of thirty-four years. Such bonds shall not be sold for less than par nor exchanged for the evidence of indebtedness of said city except dollar for dollar. A record of all the proceedings had hereunder shall be kept by the council.

ARTICLE XXX.

Buildings for City Use, Etc.

Sec. 52. The council shall have the authority to erect, buy, sell and lease all buildings necessary to the use of the city government, or any of its departments and lawful purposes, and to provide for and regulate the same; to establish and maintain public hospitals and receive donations, gifts or bequests for the same, in trust or otherwise.

ARTICLE XXXI.

Health

Sec. 53. The council shall have the authority to ordain and enforce such regulations within said city as shall be necessary
3 or proper to preserve the health of the inhabitants of said city
4 and to secure them from disease; to require and compel the
5 abatement of and removal of all nuisances within said city at
6 the expense of the person or persons causing the same, or of
7 the owner or owners of the ground whereon the same shall be;
8 to prevent or regulate slaughter houses within the said city;
9 or the exercise of any unhealthy or offensive business, trade or
10 employment therein; to prevent the keeping of any stale meats,
11 fish, vegetables or other matter or depositing the same or dirt,
12 rubbish or offal, upon any lot, street, alley or square within
13 said city or upon the banks of any streams within the limits
14 thereof.

Sec. 54. The council shall have the power by ordinance to
2 regulate the sale of cocaine, morphine, opium and poisonous
3 drugs within said city, and to prescribe punishment, including
4 fine and imprisonment, for the violation of any such ordinance,
5 and to provide that one or more convictions for violations of
6 same shall operate as a revocation of the license of any drug-
7 gist or pharmacist holding a license under said city.

Sec. 55. The council shall, in the month of June, one thou-
2 sand nine hundred and twenty-five, and in said month of every
3 year thereafter, appoint a suitable person, who shall be a prac-
4 ticing physician, as health commissioner, whose term of office
5 shall be for two years and until his successor is appointed and
6 qualified. The members of the council, mayor and health com-
7 missioner shall comprise the board of health of said city. The
8 board of health shall have the power to abate all nuisances
9 within said city, and it shall do and perform all such other
10 duties and exercise such other powers as may be required of
11 or conferred upon it by legal ordinances of said city. The coun-
12 cil of said city shall provide by ordinances the way and method
13 of trying and abating such nuisances, and shall prescribe all
14 penalties that may be proper and necessary for such purpose.
15 The board of health shall have the power to summon witnesses,
16 hear testimony and to do any and all other things necessary
17 and proper in the performance of such duties under this act
18 and under the general laws of the state, in such cases made and
19 provided.
ARTICLE XXXII.

Police Department.

Sec. 56. The mayor shall nominate a chief of police and such number of policemen as may be authorized by ordinance, from time to time, said nominations to be subject to confirmation by the council. Council shall prescribe by ordinance such mental and physical examinations for applicants for appointment to the police force as it shall deem proper. Police officers, when nominated and confirmed by the council shall hold office during the will of the council. The term of chief of police shall be for one year. No person shall serve or exercise any of the duties of a police officer until he shall have been confirmed as such by the affirmative vote of a majority of all the members elected to the council, unless he has been appointed a special officer as hereinbefore provided for. Policemen may be removed and discharged at any time by the mayor for good cause, in which event he shall report such suspension together with the reason therefor to the council at its next meeting. The council shall consider such suspension and may veto such suspension and may reinstate such policemen or confirm the suspension for such period as they may fix. Provided, that the council shall have the power to suspend without pay the chief of police or any policeman against whom charges are preferred.

ARTICLE XXXIII.

Fire Department

Sec. 57. The fire department shall be under the supervision and subject to the rules and regulations prescribed by the council.

ARTICLE XXXIV.

Effect of Charter

Sec. 58. All Officers of the city of Oak Hill heretofore elected by vote of the people shall remain in and hold their offices and discharge the duties thereof until the first day of June, one thousand nine hundred and twenty-five and thereafter until their successors have been elected and qualified. All valid ordinances and regulations passed and adopted by the council on or before the fifteenth day of January, one thousand nine hundred and twenty-five, and consistent with
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9 this act, shall be and remain in full force, unless and until re-
10 pealed, and the council now in office shall continue to exercise
11 its powers as such until their successors are elected and qual-
12 ified.

Sec. 59. The city of Oak Hill shall have succession to all
2 of the municipal property, rights, claims, demands, actions and
3 assets of the town of Oak Hill and shall be subject to all of the
4 indebtedness and liabilities now existing against the said town.

All acts in conflict or inconsistent with this act are to the
extent of any such conflict hereby repealed.

CHAPTER 17

(House Bill No. 82—By Mr. Cullen)

AN ACT to incorporate the City of Kimball, in McDowell county.

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

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| 54   | Repeal of inconsistent ordinances and acts. |

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of that portion of McDowell
2 county, in the state of West Virginia, included in the boundaries
3 described in section two of this act, be and they are hereby made
4 a municipal corporation by the name of "City of Kimball," by
5 which name they shall have perpetual succession and a com-
6 mon seal, and by which name they may sue and be sued, plead
7 and be impleaded, contract and be contracted with, and pur-
8 chase or otherwise acquire and hold real estate and personal
9 property needed in the discharge of the functions of govern-
10 ment conferred by this charter.

**Boundaries**

Sec. 2. Beginning at an oak tree on the ridge north of the
2 Norfolk and Western railroad tracks and east of the school
3 house; thence north seventy degrees east eight hundred and
4 thirty-four and five-tenths feet to a stake eight feet from a cliff;
5 thence north eighteen degrees thirty-seven minutes east six hun-
6 dred and eighty-five feet to a stake; thence north fifty degrees
7 thirty minutes west three hundred and sixty-four feet to the top
8 of a cliff; thence north forty-nine degrees west forty feet to the
9 top of a cliff, summit; thence north twenty-seven degrees forty-
10 nine minutes west six hundred and fourteen feet to a point on a
11 cliff; thence north sixty-eight degrees thirty-four minutes west
12 sixty-three feet to a point on a cliff; thence north forty-six de-
13 grees forty-nine minutes west four hundred and twenty-nine feet
14 to a stake one and five-tenths feet from a beech tree; thence north
15 sixty-two degrees fifty-four minutes west four hundred and
16 fifty-one feet to a stake; thence south sixty-three degrees thirty-
17 seven minutes west five hundred and fifty-three feet to a point
18 in a root; thence south thirty degrees one minute west one
19 hundred and eighty-eight feet to a point in a root on the north
20 edge of Elkhorn creek; thence south fifty-nine degrees nineteen
21 minutes west three hundred and eighty-six feet to a stake:
22 thence south sixty-six degrees forty-one minutes west, crossing
23 Laurel creek two hundred and sixty-one feet to center of King
24 Coal & Coke Company’s track; thence south sixty-two degrees
25 eight minutes west three hundred and forty feet to a stake, one
26 and five-tenths feet from twin black gums; thence south fifty-
27 one degrees thirty-seven minutes west four hundred and thir-
28 teen feet to a stake; thence south thirty degrees six minutes
29 west four hundred and thirty-two feet to a stake; thence south
30 eighteen degrees fifty-eight minutes west three hundred and sev-
31 enty-one feet to a stake; thence south forty-four minutes west
32 four hundred and forty-two feet to a point in a locust knot:
33 thence south one degree fifty-two minutes east three hundred
34 and thirty-nine feet to a point six and five-tenths feet from
35 twin hemlocks; thence south sixty-one degrees twenty-five min-
36 utes east one thousand seven hundred and fifty-one feet down
37 mountain, crossing Elkhorn creek, and also Norfolk and West-
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38 ern railroad track, four and two-tenths feet from a hickory; 39 thence south forty-eight degrees fifty-six minutes east one hun- 40 dred and eighty-one feet to a stake; thence north thirty-two 41 degrees forty minutes east one thousand five hundred and sev- 42 enty-eight feet, crossing Elkhorn creek and Norfolk and Western 43 railroad tracks to the beginning.

Wards

Sec 3. The territory included in the said city shall be divided 2 into three wards, and the wards shall be as follows:

Ward No. 1

4 Beginning at the eastern corporate limit of the center of Coe 5 street; thence in a southerly direction in line with the corporate 6 limits of the town of Kimball to a stake in the Tidewater lease; 7 thence in a westerly direction following the corporate line to 8 the west bank of Elkhorn creek; thence following the line of 9 the west bank of Elkhorn creek to a point where the second 10 Norfolk and Western railway bridge crosses Elkhorn creek, 11 crossing said bridge to the east limit of the railroad right-of- 12 way; thence crossing said creek in line with the railroad right- 13 of-way and following said right-of-way to a point where an 14 alley intersects the right-of-way between Ellwood and Lavina 15 streets; thence in a southerly direction with the center of the 16 alley, crossing Jefferson street to the intersection of an alley 17 lying parallel to and between Jefferson and Coe streets; thence 18 in a northeasterly direction with the center of said alley to the in- 19 tersection of Washington street; thence in an easterly direction 20 with the center of Washington avenue to the intersection of Coe 21 and McDowell streets; thence in line with the center of Coe 22 street in an easterly direction to the place of beginning.

Ward No. 2

24 Beginning at a point at the eastern termination of Coe street, 25 following the division line described between ward number one 26 and ward number two to the east bank of Elkhorn creek at the 27 railroad bridge described in ward number one; thence in line 28 with the east bank of said creek to a stake describing the cor- 29 porate limits of the town of Kimball at Rock House creek; 30 thence in a southerly direction following the line of the city 31 limits to the eastern termination of Coe street, being the point 32 of beginning.
Ward No. 3

Beginning at a point on the west bank of Elkhorn creek near the Norfolk and Western railroad station, following the line of the corporate limits of the town of Kimball, going in a westerly direction to a point in the Norfolk and Western right-of-way west of the tunnel; thence in line with the corporate limits, crossing Elkhorn creek at a point near the state highway; thence in a northeasterly direction up and with Elkhorn creek to the mouth of Rock House creek; thence with the division line of ward number two to the intersection of the division line of ward number one; thence in a southerly direction with the division line of ward number one to the point of beginning.

Municipal Authorities

Sec. 4. The municipal authorities of said city shall consist of a mayor, to be elected by the voters of the whole city, a recorder, to be elected by the voters of the whole city, two councilmen-at-large, to be elected by the voters of the whole city, and one councilman from each of the three wards, to be elected by the voters of the whole city, who together shall form a common council, and who shall receive such compensation as the council shall from time to time determine, which compensation shall not be increased or diminished during their term of office, and as to the five councilmen, in no event shall said compensation exceed fifty dollars each per year.

Exercise of Corporate Powers

Sec. 5. All the corporate powers and functions pertaining to said city shall be exercised by its common council, or under its authority, in the corporate name of the city, unless otherwise provided by state law or municipal ordinances.

Subordinate Offices

Sec. 6. The common council shall, if it deem best, make the recorder ex-officio chief of police, collector and treasurer of said city, or either ex-officio chief of police, collector or treasurer, or it shall appoint a superintendent of streets, a chief of police, a city attorney, an assessor, a collector, a treasurer and all other officers whose duties may be established by an ordinance of the council, and such officers shall hold their respective offices to which they are appointed during the pleasure of the council and
9 until their successors are appointed and qualified. These several 10 offices, or any two or more of them, may be held by the same 11 person, and such officers shall receive such compensation as the 12 council may prescribe by ordinance, and the same shall not be 13 increased or diminished during the term for which the appoint- 14 ment was made.

Election of Officers

Sec. 7. No person shall be eligible to the office of mayor, re- 2 corder or councilman, unless at the time of his election he is 3 legally entitled to vote in the city election for member of the 4 common council, and was for the preceding year assessed with 5 taxes upon property within the said city of the assessed valu- 6 ation of two hundred dollars, and shall actually have paid the 7 taxes so assessed. And no person shall be eligible to any subor- 8 dinate office under said city who is not at the time of his elec- 9 tion or appointment entitled to vote for member of the common 10 council.

Election of Officers

Sec. 8. On the second Tuesday in July, one thousand nine hun- 2 dred and twenty-five, and every two years thereafter on the 3 second Tuesday in July, there shall be elected by the qualified 4 voters of said city, a mayor, a recorder and five councilmen: 5 (two councilmen-at-large and one councilman from each of the 6 wards). The term of office of said mayor, recorder and coun- 7 cilmen elected on the second Tuesday in July, one thousand nine 8 hundred and twenty-five, shall commence on the first day of 9 August next after their election and end on the thirty-first day 10 of July, one thousand nine hundred and twenty-seven, or when 11 their successors shall be elected and qualified. The term of of- 12 fice of the mayor, recorder and councilmen thereafter elected 13 shall begin on the first day of August after their election and 14 be for two years, ending on the thirty-first day of July.

Sec. 9. The council of the town of Kimball as constituted 2 when this acts goes into effect shall fix an election precinct in 3 each of the wards of said City of Kimball or one precinct for 4 the voters of the whole city, and the common council thereafter 5 may either fix a precinct in each of the wards of said city or 6 one precinct for the voters of the whole city as the common 7 council may deem most proper.
Who Are Voters

Sec. 10. Every person residing in said city shall be entitled to vote for all officers elected under this act, but no person who is a minor or of unsound mind or a pauper, or who is under conviction of treason, felony or bribery in an election, or who has not been a resident of this state for one year and of said city for six months, and is not a bona fide resident of the ward in which he offers to vote, shall be permitted to vote therein.

General Elections

Sec. 11. All elections shall be held, conducted and the results thereof ascertained, certified, returned and determined, under the constitution and general laws of the state governing municipal elections, and shall conform as nearly as practicable to such.

Tie Votes—How Decided

Sec. 12. Whenever two or more persons shall receive an equal number of votes for mayor, recorder, or councilman, such tie shall be decided by the council in existence at the time the election is held.

Contested Elections

Sec. 13. All contested elections shall be heard and determined by the common council and the contest shall be made and conducted in the same manner as provided for in contests for county and district officers, and the common council in such cases shall, as nearly as practicable, conform with like proceedings of the county court in such cases.

Vacancy in Office

Sec. 14. If any vacancy is caused in the office of mayor, recorder or councilman, either by death, resignation, removal from office, or removal from the city or ward, the common council shall fill such vacancy by appointment until the next general election.

Appointment of Additional Officers and Defining Their Duties and Fixing Compensation of Such Officers

Sec. 15. The council shall also have authority to provide by ordinance for the appointment of such other officers as shall be necessary and proper to carry into full force and authority the power, capacity, jurisdiction and duties of said city which
are or shall be vested therein, or in the council, or in the
mayor or any other officer or body of officers thereof, and to
grant to the officers so appointed the power necessary or
proper for the purposes above mentioned. The council by
ordinance shall define the duties of all officers so appointed
or elected as aforesaid, and allow them reasonable compensa-
tion, which shall be payable as the council shall provide, which
compensation shall not be increased or diminished during their
term of office, and shall require and take from all of them
whose duty it shall be to receive its funds, assets or property,
or have charge of same, such bonds, obligations or other writ-
ing as they shall deem necessary or proper to insure the faith-
ful performance of their several duties. The council shall
have power and authority to remove from office any officer
elected by the voters of said city for drunkenness, incompe-
tency, misconduct or neglect of duty, or any non-feasance, mis-
feasance, or malfeasance in office, upon written charges pre-
erred by a member of council or by any responsible citizen
of said city; but only after reasonable notice to such officer,
and hearing of the charges preferred; and no such officer shall
be removed except by a two-thirds vote of all the members of
the council. Any officer appointed by the council may be re-
moved by it at its pleasure. The chief of police shall have all
power, rights, and privileges within the corporate limits of
said city in regard to the arrest of persons, the collection of
claims and the execution and return of process, that can be
legally exercised by a constable of a district within this state;
and may without having any warrant or other process there-
for arrest any person who commits any offense against the
laws of this state or infraction of the ordinances of said city,
in his presence. He shall be ex-officio the keeper of the city jail
and have charge of the city prisoners confined therein, and
may confine any person arrested by him in the city jail until
such time as the charges against such person can be inquired
into by the mayor. Any person fined by the mayor for infrac-
tion of any of the ordinances of the city may pay such fine to
either the mayor or chief of police; and the said chief of police
and his sureties shall be liable to all fines, penalties and for-
feitures that a constable of a district is liable to for any fail-
ure or dereliction in his said office, to be recovered in the same
manner and in the same courts that the said fines, penalties
and forfeitures are now recovered against a district constable. It shall be the duty of the collector to collect the city taxes, licenses, levies, assessments and other such city claims as are placed in his hands for collection by the council, and he may distrain and sell therefor in like manner as a sheriff may distrain and sell for state taxes, and he shall in all other respects have the same powers as the sheriffs to enforce the payment and collection thereof.

**Bonds**

Sec. 16. All bonds, obligations or other writings taken in pursuance of any provision of this act or under the provisions of any ordinance of said city, shall be made payable to the City of Kimball, and the obligors therein and their heirs, executors, administrators and assigns, bound thereby, shall be subject to the same proceedings on such bonds, obligations or writings for enforcing the provisions and penalties thereof, by motion or otherwise, before any court of record or justice of the peace having jurisdiction thereof, held or acting in or for said McDowell county or any district thereof or elsewhere, that the sheriff or collector of said county and his sureties are or shall be subject to on his bond taken for the performance of his duties in the payment of the county levies.

**Oath of Officers**

Sec. 17. The mayor, recorder and councilmen and all other officers provided for in this act shall each, before entering upon the duties of his office, and within twenty days after his election or appointment, take the oath or affirmation prescribed by law for all officers in this state, and make oath or affirmation that he will truly, faithfully and impartially, to the best of his ability, discharge the duties of his office so long as he continues therein. Said oath or affirmation may be taken before any person authorized to administer oaths under the laws in force at the time the same is taken or before the mayor or recorder of said city, but in any event a copy of said oath shall be filed with the recorder.

**Ineligibility or Failure to Qualify**

Sec. 18. If any person elected to any office shall not be eligible thereto under the provisions of this act, or shall fail to
3 qualify as herein required, the council shall declare his said
4 office vacant, and proceed to fill the vacancy as required by
5 this act.

Powers and Duties of the Mayor

Sec. 19. The mayor shall be the chief executive officer of the
2 city, and shall take care that the orders, by-laws, ordinances,
3 acts and resolutions of the council thereof are faithfully exe-
4 cuted. He shall be ex-officio a justice and conservator of the
5 peace within the city, and shall within the same, have, possess
6 and exercise all the powers and perform all the duties vested
7 by law in a justice of the peace, except, he shall have no juris-
8 diction in civil cases or causes of action arising out of the corpo-
9 rate limits of the city, unless the defendant resides or is found
10 therein and process therein served upon him. He shall have
11 the same power to issue attachments in a civil suit as a justice
12 of his county has, but in such case he shall have no power to
13 try the same, but such attachment shall be made returnable
14 and heard before a justice of the peace of his county. He shall
15 have control of the police of the city and may appoint special
16 officers whenever he deems it necessary, and may suspend any
17 police officer until the next regular meeting of the council. And
18 it shall be his duty especially to see that the peace and good
19 order of the city are preserved, and that persons and prop-
20 erty therein are protected, and to this end he may arrest or
21 cause the arrest and detention of all violators of the laws of
22 this state and ordinances of the city, before issuing his warrant
23 therefor, if the offense is committed in his presence. Any
24 act committed inside the corporate limits of the City of Kim-
25 ball and made a misdemeanor under the laws of the state shall
26 be an offense against the laws of said city, and the mayor,
27 in addition to the other powers herein granted, may try, con-
28 vict and punish therefor; and in the absence of any specific
29 ordinance relating thereto, may inflict the same penalties and
30 collect the same fines for the benefit of said city as are pre-
31 scribed by state laws for the same offense.
32 He shall have power to issue executions for all fines, penal-
33 ties and costs imposed by him, and may include in such costs
34 any expense necessarily incurred by the city for the support
35 of the offender while in the custody of the officers of the city,
36 or he may require the immediate payment of such fine and
costs and in default of such payment he may commit the party in default to the jail of the county of McDowell or other place of imprisonment used by said corporation, if there be one, until the fine or penalty and the costs be paid; but the term of imprisonment in such cases shall not exceed thirty days. And in all cases when a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more (and in no case shall a judgment for a fine be for less than ten dollars if the defendant, his agent or attorney object to a less fine being imposed), such person shall be allowed an appeal from such decision to the circuit court of the county of McDowell upon the execution of an appeal bond with security deemed sufficient by the mayor in a penalty sufficient to cover said fine and costs before the mayor, and the costs in the circuit court in case said judgment be affirmed, with condition that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the circuit court on such appeal. If such appeal be taken the warrant of arrest (if any), a transcript of the judgment, the appeal bond and other papers in the case, shall be forthwith delivered by the mayor to the clerk of the said court, and the court shall proceed to try the case as upon indictment or presentment, and render such judgment, including costs, as the law and the evidence may require.

The mayor shall from time to time recommend to the council such measures as he may deem needful for the welfare of the city. The expense of maintaining any person committed to the jail of the county by him, except it be to answer to an indictment, shall be paid by the city and taxed as costs against the defendant. The mayor before acting shall execute bond with good security in a penalty of not less than one thousand dollars, or in such additional penalty as the council may require, subject to the approval of the council, with the same conditions as required in bonds executed by a justice of the peace in chapter fifty of the code; and all the provisions of the said chapter relating to money received by a justice shall apply to like moneys received by the mayor.

Powers and Duties of Recorder

Sec. 20. The city recorder shall keep an accurate record of the proceedings of the council, and have charge of and preserve the records of the city, and in case of the absence from the city
4 or in case of the sickness or inability of the mayor to act, or 5 during any vacancy in the office of mayor, he shall perform 6 such duties of the mayor as pertained to him as chief executive 7 of the city, and be vested with all powers necessary for the 8 performance of such duties, but shall not be vested with any 9 of the authority of the mayor pertaining to civil suits. He 10 shall be a conservator of the peace within the city.

Quorum

Sec. 21. A majority of the whole number of the members 2 constituting the common council shall be necessary for the 3 transaction of business, but a smaller number may adjourn 4 from time to time and may compel the attendance of the absent 5 members in such a manner and under such penalties as it may 6 by rules provide.

Record of Minutes and Ordinances

Sec. 22. The council shall cause to be kept by the recorder 2 in a well bound book to be called the minute book, an accurate 3 record of all its proceedings, ordinances, acts, orders, and 4 resolutions, and in another to be called ordinance book, accurate copies of all general ordinances adopted by the council; 6 both of which shall be accurately indexed and open to the inspection of any one required to pay taxes in the city, or who may be otherwise interested therein. All the oaths and bonds 9 of officers in the town, and all papers of the council shall be 10 endorsed, filed and accurately kept by the recorder. The bonds 11 of officers shall be recorded in a well bound book to be called 12 record of bonds. The recorder shall perform such other duties 13 as by ordinance of the council may be prescribed. The transcript of ordinances, acts, orders and resolutions certified by 15 the recorder under seal of the city shall be deemed prima facie 16 correct when sought to be used in any court or before any 17 justice.

Reading of Minutes

Sec. 23. At each meeting of the council the proceedings of 2 the last meeting shall be read and corrected, if erroneous, and 3 signed by the presiding officer for the time being. Upon the 4 call of any member the ayes and noes on any question shall be 5 taken, and recorded by the recorder in the minute book. The 6 call of the members for such vote shall be made alphabetically.
Who Shall Vote in Council

Sec. 24. The mayor and recorder shall have votes as members of the council, and in case of a tie the presiding officer for the time being shall have the deciding vote, but in no case shall the presiding officer vote twice on the same proposition.

Meetings of the Council

Sec. 25. The regular meetings of the council shall be held at such times and in such place in the city as they shall from time to time ordain and appoint; and it shall be lawful for the council by ordinance to vest in any officer of the city, or in any member or number of members of their own body, the authority to call special meetings and prescribe the mode in which notice of such meetings shall be given.

To Whom Money of the City Paid

Sec. 26. All moneys belonging to the city shall be paid over to the city treasurer; and no money shall be paid out by him except as the same shall have been appropriated by the council and upon an order signed by the mayor and recorder, and not otherwise, except at the expiration of his term of office upon the order of the council signed by the mayor and recorder, he shall pay to his successor all the money remaining in his hands.

Duties and Powers of Council

Sec. 27. The council of said city shall have full power and authority therein to lay off, vacate, close, open, alter, grade, curb, pave, and keep in good repair, the roads and streets, alleys, pavements, sidewalks, crosswalks, drains, sewers, and gutters therein, for the use of the citizens or the public and to improve and light the same, and keep them free from obstructions of every kind; to regulate the width and kind of pavements and sidewalks, footways, drains, and gutters, and cause the same to be kept in good order, free and clean by the owners and occupant of the real property next adjacent thereto; to establish and regulate markets, prescribe the time for holding the same, provide suitable and convenient buildings therefor, and prevent the forestalling of said markets; to regulate the sale of all food and drink products, milk, fresh meats, fish, and vegetables, and provide for the inspection of the same; to prevent injury or annoyance to the public or to individuals
17 from anything dangerous, offensive or unwholesome; to pro-
hibit or regulate slaughter houses within the city limits, or
the exercise of any unhealthy or offensive business, trade or
employment; to regulate or prohibit the erection of mainten-
ance, in what council may deem an improper locality within the
municipality, of any blacksmith shop, livery stable, cow house,
cattle pen, poultry house, pig pen, privy, bill board, sign boards,
gas or other engines, or the use of walls or walks for signs; to
regulate or prohibit the distribution of hand bills, circulars
and other advertisements of like kinds on the streets, roads,
alleys and public places, or in private yards, buildings or other
structures without first having procured the consent of the
owner or occupier thereof; to abate all nuisances within the
city limits or to compel the abatement or removal thereof at
the expense of the person causing the same, or by, or at the
expense of the owner or occupant of the ground on which said
nuisance is placed or found; to cause to be filled up, raised or
drained, by, or at the expense of the owner, any town lot or
tract of land covered or subject to be covered by stagnant
water; to prevent horses, hogs, cattle, sheep or other animals,
and fowls of all kinds from going or being at large in such
city, and as one means of prevention to provide for impound-
ing or fining such animals and fowls at the expense of the
owner thereof, and upon the failure of the owner to reclaim,
for the sale thereof; to regulate or prohibit street carnivals or
street fairs, or street parades, advertising exhibitions or other
exhibitions thereon, or the exhibition of material or artificial
curiosities; to regulate or prohibit the use of hand organs
or other musical instruments of any annoying character
or other music of itinerant performers in the streets,
roads, parks or public places of the municipality; to
license, regulate or prohibit auctioneering; to protect
places of divine worship and to preserve order in and
about the premises when and where such worship is
held, and to prevent the desecration of the Sabbath day; to
regulate the sale and keeping of gunpowder and other inflam-
able or dangerous substances; and to provide for the regular
building of houses, or other structures, and to provide for the
kind of material to be used in the construction thereof, and
for making and maintaining of division fences by the owners of
adjoining property; to grant franchises in accordance with the
provisions of general laws relating to municipal corporations;

to provide against danger or damage by fire, and to organize,
equip and govern fire companies and hose companies as provided
by general law; to restrain all felons and persons guilty of of-
fenses against the state or the United States and to deliver
them over to the authority or court having jurisdiction of the
offense whereof such person is accused; to establish a city board
of health and invest it with the necessary power to attain its
object; to quarantine against contagious and infectious dis-
eases; to provide in or near the corporate limits of the munici-
pality a cemetery or other place for the burial of the dead, and
to regulate interments therein, and to guard and police the
same, and to provide for the cremation and incineration of dead
human bodies when from the nature of the malady or pesti-
cence from which death ensued, the municipal board of health
may direct; to arrest, convict and punish for assault and bat-
tery, drunkenness, profane swearing, lewd and lascivious con-
duct or other representation, adultery, and fornication, and lar-
ceny, where the amount stolen is less than twenty dollars; to
arrest, restrain and punish vagrants, beggars, tramps, common
prostitutes and their associates; to arrest, convict and punish
any person for keeping a house of ill-fame or for leasing or let-
ting to another person any house, or other building for the pur-
pose of being used or kept as a house of ill-fame, or knowingly
permitting any house owned by him, or under his control, to be
kept or used as a house of ill-fame, or loafering, boarding, or loiter-
ing in a house of ill-fame or frequenting same.

Sec. 27-a. To arrest, convict, and punish any person for im-
porting, printing, selling or distributing any book or other thing
containing obscene language; to arrest, convict and punish
any person for cruelty, unnecessarily or needlessly beating, tor-
turing, mutilating, killing, overloading or overdriving, or wil-
fully depriving of necessary sustenance, any horse or other
domestic animal; to arrest, convict and punish any person for
8 gambling or keeping gaming tables, commonly called A. B. C.
or E. O. table or faro bank or keno table, or table of like kind,
under any denomination, whether the game or table be played
with cards, dice or otherwise, or shall be a partner, or concerned
in interest, in keeping or exhibiting such table or bank, or keep-
ing or maintaining any slot machine, gaming device, gaming
house or place, or betting or gambling for money or anything
15 of value; to arrest, convict and punish any person for unlaw-
16 fully carrying about his person any revolver or other pistol,
17 dirk, bowie knife, razor, slungshot, billy, metallic or other false
18 knuckles, or any other dangerous or deadly weapon of like kind
19 or character; to prohibit anything against good morals and
20 common decency and to fix punishment therefor; to prevent the
21 illegal manufacture, sale, storage and keeping in possession
22 of intoxicating drinks, mixtures and preparations; to regu-
23 late the hanging of doors and the construction of stairways, ele-
24 vators and fire escapes in theatres, churches, school buildings,
25 factories, and other places where many persons are received at
26 one time, and to require the construction of fire escapes in such
27 buildings; to protect the persons of those residing or being in
28 the city; to appoint when necessary or advisable, a police force,
29 permanent or temporary, to assist the chief of police in the dis-
30 charge of his duties, who when appointed shall have the same
31 power and authority in and about the arrest of offenders as the
32 chief of police; to build or purchase, or lease a suitable place of
33 imprisonment within said city for the safe keeping or punish-
34 ment of persons charged with or convicted of a violation of
35 the ordinances of the city, or they may adopt the county jail of
36 McDowell county for that purpose; to purchase, lease or con-
37 struct buildings to be occupied by the fire department and city
38 officers and for public meetings; to purchase or condemn real
39 estate on which to erect public buildings or for carrying on any
40 of the functions authorized by this charter; to prevent injury
41 to any gas works, or any light or water works, or the pollution
42 of any gas or water used or intended to be used by the public
43 or any individual; to provide for and regulate the weighing
44 of hay and coal kept for sale within said city, and to establish
45 rates and charges for the weighing thereof; to create com-
46 mittees by ordinance and delegate such authority thereto as
47 may be deemed necessary or advisable; to provide for the an-
48 nual assessment of the taxable property therein and for the
49 revenue, for the city, for municipal purposes, and to approprai-
50 ate such revenue to its expenses; and generally to have power
51 to take such measures as are deemed necessary or advisable to
52 protect persons and property, public and private, within the
53 city, to preserve peace, quiet and good order therein and to
54 promote the health, safety, comfort and well being of the in-
55 habitants thereof and to this end may arrest, convict and pun-
56 ish any person for the commission of any act inside the corpo-
57 rate limits of the city which is made a misdemeanor under the
58 laws of the state, whether herein specifically mentioned or not.
59 The council shall have authority to pass all ordinances not re-
60 pugnant to the constitution and laws of the United States, or
61 of this state, which shall be necessary or proper to carry into
62 effect all the orders, by-laws, ordinances, rules and regulations
63 of the said council and all power and authority which is or shall
64 be granted to or vested in the said city or in the council, or in
65 any officer or body of officers of said city, and to enforce any
66 and all of their ordinances by reasonable fines and penalties and
67 by imprisoning the offender or offenders, and upon failure to
68 pay any fine or penalty imposed may compel the offender to
69 labor without compensation at and upon any of the public works
70 or improvements undertaken or to be undertaken by said city, or
71 to labor at any work, which the said council may lawfully em-
72 ploy labor upon, at such a reasonable rate per diem as the
73 council may fix, until any fine or fines and costs imposed upon
74 any such offender by said city, having been fully paid and dis-
75 charged, after deducting reasonable charges for support while
76 in the custody of the officers of the city.

Licenses

Sec. 28. In addition to the powers above enumerated the said
2 city council shall have the exclusive power and authority to re-
3 quire and grant licenses or anything to be done, carried on or
4 exhibited within said city, for which a state license is now or
5 may hereafter be required, for the keeping of hacks, carriages,
6 carts, wagons, drays and every description of wheeled vehicles
7 for hire within said city, or carrying passengers for hire in
8 any such vehicle; to license hawkers and peddlers within said
9 city, and the keeping of dogs and other animals within said city,
10 and to subject the same to such regulations as the interest of the
11 city may require. Upon all such licenses the council shall have
12 the power to levy and collect a reasonable tax for the use of the
13 city. The council may provide for the killing of all dogs, the
14 keeping of which is not so licensed.
15 The counsel shall prescribe by ordinance the manner in which
16 licenses of all kinds shall be applied for and granted, and shall
17 require the payment of the tax thereon to be made to the col-
18 lector or treasurer before delivery to the person applying
19 therefor.
20. All licenses, except for the keeping of dogs, shall be for such
21. as the council may determine, but no license shall extend beyond
22. the thirtieth day of June next after the beginning of the period
23. for which the same was granted.
24. Nothing in this section contained shall be construed to author-
25. ize the council of the City of Kimball to grant a license to any
26. person to carry about his person any revolver or other pistol,
27. dirk, bowie knife, slungshot, razor, billy, metallic or other false
28. knuckles, or any other dangerous or deadly weapon of like kind
29. or character.

 Mayor's Docket

Sec. 29. A well bound book, to be denominated the mayor's
docket, shall be kept in the office of the mayor in which shall
be noted each case brought before or tried by him, together
with the proceedings therein, including a statement of the com-
plaint, the warrant or summons, the return, the fact of appear-
ance, or non-appearance, the defense, the hearing, the judg-
ment, the costs, and in case the judgment be one of conviction
the action taken to enforce the same. The record of each case
shall be signed by the mayor and the original papers thereof,
if no appeal be taken, shall be kept together and preserved in
his office.
12. The mayor shall be entitled to receive such fees as are paid
13. to a justice of the peace for similar services but the mayor shall
14. not be paid such fees unless they are collected from the defend-
ant, and in all of such cases the chief of police shall be entitled
16. to receive such fees as are paid to a constable for similar serv-
ices, but the chief of police shall not be paid such fees unless
18. they are collected from the defendant.

 Levy

Sec. 30. The council shall cause to be made up annually, and
2 spread upon its minute book, an accurate estimate of all sums
3 which are or may become lawfully chargeable against the city,
4 and which ought to be paid within one year, and it shall order
5 at a meeting to be held by it in the month of August of each
6 year, as provided by law, a levy of so much as will, in its judg-
7 ment be necessary to pay the same; such levy shall be upon all
8 real estate and personal property otherwise subject to state and
9 county taxes, and an annual capitation tax of one dollar upon
10 each male inhabitant of said city who has attained the age of
twenty-one years; provided, that such levy shall not exceed the sum of fifty cents upon each hundred dollars of the ascertained value of the real and personal property.

**Lien for Taxes**

Sec. 31. There shall be a lien on real estate within said city for the city taxes assessed thereon, and for all fines and penalties assessed to, or imposed upon the owners thereof, by the authorities of said city from the time the same are so assessed or imposed, which shall have the priority over all other liens, except the lien for taxes due the state, county and district; and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes. If any real estate within said city be returned delinquent for the non-payment of the delinquent taxes thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for the city taxes, interest and commission thereon, in the same manner, at the same time and by the same officer as real estate is sold for the non-payment of state taxes.

**Distress for Taxes**

Sec. 32. If any person against whom, or upon whose property any taxes shall be lawfully assessed for the benefit of said city shall not wholly pay such tax on or before the first day of January after the same shall have become due, it shall be lawful for the officer authorized to collect such tax to take reasonable distress of any personal property in said city, belonging to said delinquent, in which he or she shall have any right or interest, and sell such property, right, or interest at public auction in said city, having given ten days’ notice of the time and place of sale, by advertisement posted in some public place in said city, and published or posted in such other manner as may be prescribed by ordinance of said city, if council shall by ordinance require any other or more ample advertisement, and out of the proceeds of such sale after defraying all expenses, to pay said city the said tax, or as much thereof as shall be delinquent, and return the remainder, if any, to the owner of the property so levied and sold.

**Other Remedies**

Sec. 33. In addition to all other means for the collection 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 name of the city before any justice of McDowell county, if the amount be within his jurisdiction, or in the circuit court of said county if the amount be within the jurisdiction of said court, and any judgment so obtained may be enforced as other judgment liens are enforced.

**Power to Condemn**

Sec. 34. 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, city prison, or other work or purpose of public utility; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and 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. 35. 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 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 descrip-
tion of the lot, and the amount of such assessment, to be filed in the office of the clerk of the county court of McDowell 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 McDowell 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 reasonable notice shall first be given to said owners that they are required to construct such sidewalks or footways, and in case the owner is a non-resident of the state, the notice aforesaid may be given by publication for four successive weeks in a newspaper published in McDowell county. The provisions of this section shall also be applicable to needed repairs to any of the pavements of the city, and to the substitution of new pavements for any which may have been heretofore, or which may be hereafter laid and completed, and which may be deemed insufficient.

Street Paving

Sec. 36. The council shall have the authority to provide that any street, avenue or alley or any portion thereof, between the curbstones, shall be macadamized, or paved with bricks, cobblestones, or other suitable material, upon the lowest and best terms obtainable, after advertisement for four weeks in one or more newspapers in McDowell county, for bids and proposals for the work; and two-thirds of the cost of such macadamizing or paving, from curb to curb of such street, avenue, or alley, shall be assessed to the owners of lots, fronting or abutting on such street, avenue, or alley, that is to say: The property owners on each side of said street, avenue, or alley to be assessed one-third of the cost of said improvement, to each property owner a sum proportionate to the distance, or extent in feet by him owned, and one-third of the sum so assessed shall be paid by each property owner to the city within thirty days after the completion of the work, and the remainder in two equal installments in six and twelve months thereafter, with interest thereon at the rate of six per centum per annum, or at such other times as the council may prescribe. The remaining one-third of such expense, as well as the expense of macadamizing or paving at the intersection of streets, avenues and alleys, shall be defrayed by
22 the city. The council shall cause a notice to be published for
23 one week in a newspaper in McDowell county, showing the own-
24 ers of the property and the number of feet fronting on said
25 improvements, as well as the time and the place where the said
26 council will proceed to fix said assessments as above provided,
27 and giving notice to any person having an interest in said prop-
28 erty to appear and show cause, if any they can, why such as-
29 sessment should not be made; and the council may, in making
30 said assessments, consider the petition of any person or cor-
31 poration relative to the inequality of said assessment, and may
32 equalize and adjust the same. The assessment to be made to
33 any owner of real estate shall constitute a lien on such estate;
34 and like proceedings may be had and taken to enforce such lien,
35 or to recover from such owner the amount of such assessment, or
36 any installment thereof, as those provided for in the preceding
37 section providing for the laying of sidewalks. The council of
38 said city may cause an additional annual levy of fifteen cents
39 on the hundred dollars of the ascertained value of all the real
40 and personal property within said city, or subject to taxation,
41 for the purpose only of defraying the expenses of paving the
42 streets, avenues and alleys of said city as herein provided; such
43 levy shall be made at the time the general levy is laid, and shall
44 be collected in like manner, but a separate account shall be kept
45 of the receipts and expenditures of such fund.

Sewers

Sec. 37. The council of the City of Kimball may order a sewer
2 or sewers to be constructed in or through any street or alley in
3 the city, under such regulations as may be prescribed by ordi-
4 nance either by the city itself, or upon the lowest and best terms
5 to be obtained by advertisement for bids therefor by the council.
6 The cost of the construction of any such sewer or sewers to be
7 paid by the city.

Sec. 38. The common council shall have the authority to
2 regulate by ordinance the manner and time in which connections
3 are to be made with the sewers of the said city by the owners of
4 property herein, and shall have the authority to compel the own-
5 ers of any property abutting upon a street or alley, in which
6 there is a sewer, to connect their pipes therewith under the regu-
7 lations prescribed by the common council, and may charge such
8 person or persons a reasonable amount therefor, to be fixed by
the common council by ordinance; and in case of failure of the
owner of any such property to so connect his sewer pipe with
any such sewer when required, the council may provide by ordi-
nance such fines and penalties as in its discretion may be neces-
sary to effect a compliance with its regulations. The amount
fixed by the council for the connection with such sewer shall be
paid into the city treasury to the credit of the fund to be used
for sewers, and shall be used for no other purpose.

**Bonds—Additional Levy**

Sec. 39. The municipal authorities of said city shall have
the power and authority to issue and make sale of the bonds of
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 or any amendment thereof, or may submit
to the voters of said city the question of making an additional
levy for any improvement in said city, and if three-fifths of the
votes cast at such election on such question be in favor of such
additional levy the said council may levy the same. Said mu-
nicipal authorities also shall have the power and authority to
issue and make sale of the bonds of said city and to apply the
proceeds thereof to the purchase or erection of a gas works,
electric light and power plant, or water works, or all of such
works and plants, for the use of said city, or to any other im-
provement for the use of said city, as provided in chapter forty-
seven-a of the code of West Virginia.

Sec. 40. Wherever in this act or whenever it is necessary ac-
cording to law to carry out any of the provisions of this act,
any notice is required to be published or any publication re-
quired to be made in any newspaper, such notice may be pub-
lished or such publication made in a newspaper in McDowell
county of general circulation in said city.

**General Provisions**

Sec. 41. All the general laws of the state of West Virginia
pertaining to municipal corporations, so far as they are not in
conflict with the provisions of this act, shall apply to the City
of Kimball, and the said City of Kimball shall succeed to all the
rights, powers and responsibilities and be vested with the title
to all property of the town of Kimball as they exist the day pre-
ceding the day on which this act takes effect, and shall enjoy
8 such rights, exercise such powers, and discharge such responsi-
9 bilities in the same manner as the same should have been en-
10 joyed, exercised and discharged if this act had not passed.

**Existing Ordinances**

Sec. 42. All the ordinances, by-laws, resolutions and rules
2 of the town of Kimball in force on the day preceding the pas-
3 sage of this act, which are not inconsistent therewith, shall
4 be and remain in full force over the whole of said City of Kim-
5 ball as established by this act until the same are amended
6 or repealed by the common council of said city, and the offi-
7 cers in office, in the town of Kimball, at the time this act takes
8 effect, shall remain in office until their successors under this
9 act are elected and qualified, as hereinbefore provided; and
10 after this act takes effect shall have jurisdiction over all the
11 territory embraced in the boundary specified in this act, and
12 shall perform all the duties of such respective officers under
13 this act; but nothing in this act shall be construed or held to
14 in any way affect or impair any of the bonds, obligations or
15 indebtedness of the town of Kimball issued or contracted prior
16 to the time this act takes effect, but on the contrary the said
17 City of Kimball shall be liable for all the bonds, obligations
18 and indebtedness of the town of Kimball as though the same
19 had been created in the name of the City of Kimball.

**Repeal of Inconsistent Ordinances and Acts**

Sec. 43. All ordinances of the town of Kimball as they ex-
2 ist at the time of the passage of this act, which are inconsistent
3 herewith, are hereby abrogated, and all acts and parts of acts
4 inconsistent with any of the provisions of this act are hereby
5 repealed.

**CHAPTER 18**

*(House Bill No. 83—By Mr. Bird)*

AN ACT to amend and re-enact section twenty-one of chapter
seventy-two of the acts of the legislature of one thousand nine
hundred and twenty-three, relating to the charter of the City
of Princeton, in the county of Mercer.

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

Sec.
21. Recorder: powers and duties; compensation. Duties of treas
urer.
Be it enacted by the Legislature of West Virginia:

That section twenty-one of chapter seventy-two of the acts of the legislature of one thousand nine hundred and twenty-three, relating to the charter of the City of Princeton, be amended and re-enacted so as to read as follows:

Section 21. The recorder shall keep an accurate record of all the proceedings of the council, and shall have charge of and preserve the records of the city. In case of the absence of the mayor from the city, or his inability from any cause to act, or during any vacancy in the office of mayor, the recorder shall perform such duties of mayor as pertain to the office of mayor, and to that end, in addition to the other powers herein conferred upon him, the recorder is hereby vested with all the powers necessary for the performance of the duties of the mayor, while acting as such. The recorder shall be ex-officio assessor of said city, and shall perform such duties as are imposed by law. He shall be paid a salary of four hundred dollars per year, payable in equal monthly installments, for his services as such recorder and assessor, to be paid out of the city treasury. He shall be ex-officio justice of the peace within the said city and shall, within the same, have, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace, except he shall have no jurisdiction in civil causes of action arising out of the corporate limits of the city, unless the defendant resides or is found therein and process therein served upon him. He shall have the same power to issue attachments in civil suits as a justice of the peace of his county; but, in such case, he shall have no power to try the same, but such attachments shall be made returnable and heard before a justice of the peace of his county. Any warrant issued by him, or other process, may be executed at any place in said county. He shall have power to issue his warrant for the arrest and apprehension of all persons violating the ordinances of the city, and shall have power to try the same and impose upon such violators of the ordinances of said city such fines and penalties as are prescribed by the ordinances thereof. He shall have the power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment, he may commit the party in default to the jail of said county, or other place of
imprisonment, used by such corporation, if there be one, until the fine or penalty and the costs be paid; but the imprisonment in such cases shall not exceed thirty days. And in all cases where a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more (and in no case shall a judgment for a fine be for less than ten dollars if the defendant, his agent or attorney objects to a less fine being imposed), such person shall be allowed an appeal from such decision to the criminal court of the county of Mercer, upon the execution of an appeal bond with security deemed sufficient by said recorder to cover the fine and costs, and the cost in the criminal court in case said judgment be affirmed, with condition that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the criminal court on such appeal.

If such appeal be taken, the warrant of arrest, if any, a transcript of the judgment, the appeal bond and other papers in the case shall be forthwith delivered by the said recorder to the clerk of said court, and the said court shall proceed to try the case as upon an indictment or presentment and render such judgment, including costs, as the law and evidence may require. The expense of maintaining any person committed to jail as hereinbefore set forth by the recorder, except it be to answer an indictment, shall be paid by the city and taxed as costs against the defendant. He shall have the right to charge and collect the same fees which a justice of the peace is authorized to charge and collect for similar acts in cases tried before him. The recorder shall also be ex-officio treasurer of the said city, and as such shall perform all the duties of this act imposed upon the treasurer of the said city and be vested with all the powers herein vested in and imposed upon the treasurer of the said city. It shall be the duty of the treasurer to collect the city taxes, licenses, levies, assessments, and other such city claims as are placed in his hands for collection by the council, and he may distrain and sell therefor in like manner as a sheriff may distrain and sell for state taxes; and he shall, in all other respects, have the same powers as a sheriff to enforce the payment and collection thereof.
CHAPTER 19
(House Bill No. 139—By Mr. Turley)

AN ACT to amend and re-enact section two of chapter twelve of the acts of the legislature of one thousand nine hundred and twenty-one (municipal charters) relating to the charter of the City of Logan, and making a change in the corporate boundary of said City of Logan.

[Passed March 24, 1925; in effect from passage. Approved by the Governor.]

Sec. 2. Defining corporate boundaries.

Be it enacted by the Legislature of West Virginia:

That section two of chapter twelve of the acts of the legislature of one thousand nine hundred and twenty-one be amended and re-enacted so as to read as follows:

Section 2. The corporate boundaries of the City of Logan shall hereafter be as follows:

3 Beginning at a stake in the center line of the Guyan Valley railroad at the Bill Ellis hollow; thence north seventeen degrees thirty-three minutes east eight hundred and fifty-four and sixty-five hundredths feet to a dead sugar tree in the Bill Ellis hollow; thence north twenty-nine degrees thirty-nine minutes west seven thousand and nineteen feet to a stake in the center line of the Guyan Valley railroad at the mouth of Varney branch; thence north seventy-eight degrees twenty-nine minutes west five hundred and twenty-eight and seven hundredths feet crossing Guyandotte river to a stake at high water mark and on to the lower edge of the county road; thence with the high water mark of said river to the mouth of Island creek, a distance of about one-half mile; thence with the right hand side of said creek (as you ascend the same), to the right of way of the county road at the county bridge across Island creek; thence crossing Island creek to a line parallel with said bridge to the right of way of the county road and thence with the right of way of the county road to Guyandotte river and crossing Guyandotte river on a line parallel with the county bridge across said river to high water mark on the left hand side of said river (as you ascend the same), on the lower side of the public road or street; and thence with said high water mark to the upper line of the street or public road at the point where the county bridge crosses Guyandotte river; and thence re-crossing Guyandotte
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27 river on a line parallel with the line of the county bridge across
28 Guyandotte river to high water mark on the right hand side of
29 said river (as you ascend the same); thence with the said high
30 water mark to a point where the property line of the Fairfield
31 land company intersects the same; thence with the property line
32 of the said Fairfield land company along the mountain in rear
33 of Midelburg addition until said line again intersects with the
34 high water mark of Guyandotte river; thence with the said high
35 water mark to a point opposite the Bill Ellis hollow; and thence
36 crossing Guyandotte river at the mouth of the Bill Ellis hollow
37 and running up the bank to the center of the railroad right of
38 way, the place of beginning.
39 For all purposes, except taxation, herein enumerated or im-
40 plied, the city authorities shall have jurisdiction for one mile
41 beyond the city limits.

CHAPTER 20

(House Bill No. 229—By Mrs. Davis (by request)

AN ACT to amend and re-enact article two, section two of chapter
three of municipal charters of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen, entitled "An act to create the municipal corporation of the City of Montgomery, in the County of Fayette, to grant a charter thereto and to annul the charter of the Town of Montgomery"

[Passed April 18, 1925; in effect from passage. Approved by the Governor.]

Sec. 2. Corporate limits: property owned by government excluded; election to make effective proposed part lying in Kanawha county; ascertaining lawful voters; duties of Kanawha county court with reference to registration and election; commissioners of election; when act effective.

Be it enacted by the Legislature of West Virginia:

That article two, section two of chapter three of the municipal charters of the acts of the legislature of one thousand nine hundred and nineteen be amended and re-enacted so as to read as follows:

ARTICLE II.

Corporate Limits

Section 2. The corporate limits of the City of Montgomery, 2 to be in the counties of Fayette and Kanawha, the county and 3 district lines remaining unchanged, shall be as follows:
Beginning at a stake at low water mark of the Great Kanawha river at Ellwood branch; thence with the meanders of the said Kanawha river north forty-three degrees forty-six minutes west two hundred and twenty-five feet, north fifty-six degrees sixteen minutes west four hundred and fifty feet, north fifty-seven degrees west six hundred and fifteen feet, north sixty-three degrees eleven minutes west five hundred and twenty-nine feet, north fifty-one degrees forty-eight minutes west six hundred and ninety feet, north fifty-three degrees west three hundred and seventy-seven feet, north sixty-two degrees west two hundred and ninety-six feet, north seventy-four degrees seven minutes west two hundred feet, north eighty-five degrees forty-four minutes west three hundred and thirty-eight feet, south eighty-two degrees fifty-seven minutes west eight hundred and seven feet, south eighty-one degrees thirty-six minutes west four hundred and eighty-seven feet, south seventy-two degrees west six hundred and thirty-six feet to a large sycamore stump at the river’s edge; thence down and with the said Kanawha river south seventy-six degrees twenty minutes west seven hundred and twenty feet, south seventy-five degrees thirty minutes west one thousand and sixty-five feet to the mouth of Morris creek; thence up said creek south six degrees twelve minutes east five hundred and seventy-five feet, south thirty-eight degrees thirty-four minutes east three hundred and forty-one feet, south twenty-three degrees two minutes east three hundred and thirteen feet, south twenty-six degrees nine minutes east three hundred and forty-three feet, south four degrees forty-nine minutes east six hundred and five feet to a stake in said creek; thence crossing creek north thirty-nine degrees fifty-two minutes east one thousand and sixty-eight feet to a stone; thence south eighty-three degrees east five thousand two hundred and fifty-six feet to a stone; thence north forty-one degrees forty-nine minutes east six hundred and five feet to a stake at the edge of said Kanawha river thence down said river north twenty-four degrees one minute west four hundred and twenty-five feet to the beginning, containing two hundred and sixty acres.

There is, however, to be excluded from the above limits three acres owned by the United States government located at or near the mouth of Morris creek, thereby leaving two hundred and fifty-seven acres, of which said two hundred and fifty-seven
acres two hundred and three acres is located in Fayette county, West Virginia, and fifty-four acres is located in Kanawha county, West Virginia.

This act shall not become effective as to that portion of the above described area which lies within the county of Kanawha, unless it shall be ratified by a majority of the voters who were on the first day of April, one thousand nine hundred and twenty-five, resident upon and legal voters under section nineteen of chapter forty-seven of the code of West Virginia, within the municipal corporation of Union Mines and resident upon the fifty-four acres above described as located in Kanawha county, West Virginia, for the purpose of ascertaining the will of such legal voters hereon an election upon and within the said Kanawha county territory included in the above description shall be held on the twenty-sixth day of May, one thousand nine hundred and twenty-five, at such place within said Kanawha county territory as shall be designated by the present acting municipal authorities of the town of Union Mines, at which election the ballot to be voted shall bear the following lines:

□ For ratification of annexation act.

□ Against ratification of annexation act.

There shall be a square in front of each of said lines, and the persons voting shall by a cross or mark in the square opposite one of the said lines express their will.

For the purpose of ascertaining the voters lawfully entitled to vote at such election, two registrars shall be appointed within fifteen days after the passage of this act, one by the municipal authorities of said town of Union Mines and one by the municipal authorities of the present City of Montgomery, who after taking the oath of registrars as required, by law, shall make a careful and correct registration of all persons who were on said first day of April, one thousand nine hundred and twenty-five, legal voters under the said section of chapter forty-seven resident upon that portion of the territory described in this act which is located within the said county of Kanawha. After completing the said list, the said registrars shall sit for one day at a time and place to be fixed and advertised by them by posting for five
82 days written notice thereof at ten public places in said territory
83 for the purpose of correcting the said registration by placing
84 thereon the name of any such legal voter whose name shall
85 have been omitted from the original list, and of striking there-
86 from the name of any person placed on said list through mistake,
87 and who shall be shown not to be entitled to vote at said elec-
88 tion, but no name shall be stricken from said list except after
89 notice to such person. Said registration shall, after completion
90 be submitted to the county court of Kanawha county, which
91 shall sit and review the same as provided by law for other
92 registrations of voters and then deliver them to the commis-
93 sioners of said election, together with the ballots for said elec-
94 tion, which shall be provided by said Kanawha county, in the
95 manner provided by law for general elections, as aforesaid, the
96 result thereof ascertained and certified to the municipal authori-
97 ties of the present Town of Union Mines, by three commis-
98 sioners of election, one of whom shall be chosen by the council
99 of each of said municipal corporations, and the third commis-
100 sioner selected by the two so chosen; and if said two commis-
101 sioners shall be unable to agree upon a third, then the county
102 court of Kanawha county, West Virginia, is hereby authorized
103 and directed to appoint such third commissioner upon the ap-
104 plication of said two commissioners so chosen by the said muni-
105 cipal authorities or upon other showing that they are unable to
106 agree upon a third commissioner. The three commissioners so
107 chosen shall select two clerks to aid them in holding the said
108 election, all of whom shall take the oath prescribed by law,
109 and which election shall in all other respects be held pursu-
110 ant to the laws of the state of West Virginia governing general
111 elections.

112 If at said election as so held and returned a majority of the
113 legal votes cast shall be for ratification, then this act shall
114 thereupon become effective as to the entire territory herein
115 above set out, but if a majority of said votes shall not be so
116 cast, this act shall be null and void as to that portion of said
117 territory which lives within the county of Kanawha and state
118 of West Virginia.
CHAPTER 21

(House Bill No. 248—By Mr. Federer)

AN ACT to amend and re-enact sections four, five, six, thirteen, fourteen, nineteen, twenty, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight, twenty-nine and thirty-three of chapter fifteen, municipal charters, acts of legislature of West Virginia, one thousand nine hundred and twenty-one being the charter of the City of Morgantown.

[Passed April 22, 1925; in effect from passage. Became a law without the approval of the Governor.]

Sec. Municipal authorities.

4. Exercise of corporate powers.

5. Appointive officers; powers and duties.

13. Elections; registration; oath and bond of officers.


Sec. Assessments.

22. Assessments.

24-a. Sidewalks, street paving, etc.

29. Garbage removal and disposal.


29-a. Street maintenance, sewer, etc.

32-a. Inconsistent acts repealed; invalidity of portion not to invalidate any other portion of act.

Be it enacted by the Legislature of West Virginia:

That sections four, five, six, thirteen, fourteen, nineteen, twenty, twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight, twenty-nine and thirty-three, of chapter fifteen, municipal charters, acts of legislature of West Virginia, one thousand nine hundred and twenty-one, be amended and re-enacted so as to read respectively as follows:

Municipal Authorities

Section 4. The municipal authorities of said city shall consist of not less than ten councilmen, which shall constitute the common council of said city. The word "council" in this act shall be construed as synonymous with common council. All councilmen shall serve for a term of two years and until their successors are elected and have qualified, unless sooner removed from office as hereinafter provided. They shall be residents of the city and qualified voters therein. No member of council who is, directly or indirectly, a holder or owner of any bond or stock of any corporation, owning or interested in a municipal franchise, privilege or casement in or from such city; or be an officer, agent, trustee, servant or employee of such corporation shall vote on, or participate in any discussion of any proposition in which such company is directly or indirectly interested. If any member of council shall violate this provision, he shall be guilty of a misdemeanor and upon conviction thereof,
be confined in the county jail not more than thirty days, or be fined not more than one hundred dollars.

Any officer of the city who shall become or be directly or indirectly interested in any contract or in the profits to be derived therefrom with the municipality shall forfeit his office; and in addition thereto, any such contract shall be void and unenforceable against the city; and the acceptance by any officer of any interest in such contract or any gift or gratuity from any person, firm or corporation dealing with the city shall disqualify the person for a period of five years from date of such forfeiture from holding any office or employment in the government of the City of Morgantown; and in addition, such person shall be subject to criminal prosecution under any ordinance of the city or laws of the state of West Virginia.

The council shall appoint, within ten days after their election, one of their number as their chairman or presiding officer, who shall be known officially as mayor of the city and recognized as such for ceremonial purpose and for the purpose of being served with civil processes against the city and for the performance of all duties imposed upon him by this charter. A majority vote of all councilmen elected shall be necessary for the election of such mayor. The mayor shall hold his office as such at the pleasure of the council.

**Exercise of Corporate Powers**

Sec. 5. (a) All corporate powers and functions pertaining to the said city shall be exercised by its common council or under its authority, in the corporate name of the city, unless otherwise provided herein by state law or by municipal ordinance.

(b) The common council shall have the authority to pass all ordinances not in conflict with the constitution and laws of the United States, or of this state which shall be necessary and proper to carry into full effect any power, authority, capacity or jurisdiction, which is or shall be granted to, or vested in, the said city, or in the council or any officer of said city; and provide for the enforcement of any or all of their ordinances by reasonable fines and penalties, or by imprisoning the offender or offenders violating such ordinances, and by compelling them to labor, without compensation, at any of the public works or improvements, undertaken or to be undertaken.
17 by said city, or by any or all of the said modes; provided, how-
18 ever, that no person shall be imprisoned or compelled to labor,
19 as aforesaid, more than thirty days, or fined more than one
20 hundred dollars for any offense.

Subordinate Officers

Sec. 6. (a) The council shall appoint the following officers
2 of the city, to-wit: a city manager, who shall be the administra-
3 tive head of the municipal government and who shall be respon-
4 sible for the efficient administration of all departments; a clerk,
5 who shall be known as the city clerk, who shall keep all records
6 of the meetings of the city council, all of the financial and other
7 records of the city, and shall act as clerk of the police court and
8 perform such other duties as may be required by this charter
9 or the council or the judge of the police court. The city manager
10 shall be appointed for an indefinite period. He shall receive such
11 compensation as council may determine. He shall be removable
12 by the majority vote of the whole membership of council. If
13 removed at any time after six months he may demand written
14 charges and a public hearing on the same before the council
15 prior to the date on which his final removal shall take effect,
16 but during such hearing the council may suspend him from
17 office. During the absence or disability of the city manager
18 the council shall designate some properly qualified person to
19 perform the duties of the office. All other appointees of coun-
20 cil shall hold office at the pleasure of council and shall receive
21 such compensation as council may determine, and may at any
22 time be removed from their respective offices by the council.

(b) The duties and powers of the city manager shall be:
24 (1) To see that the laws and ordinances are enforced.
25 (2) To appoint all officers of the city, except members of
26 the city council and such officers as council is hereby authorized
27 to elect and employ, or cause to be employed, all employees of
28 the city; the officers by him appointed and such employees as
29 he shall appoint or cause to be appointed to continue in their
30 offices or employment during his pleasure or that of his suc-
31 cessor as such city manager; but all appointees or employees
32 shall be upon merit and fitness alone;
33 (3) To exercise supervision and control over all depart-
34 ments and divisions created herein or that hereafter may be
created by the council, except the council and other officers by
it appointed.

(4) To attend all meetings of council with the right to take
part in discussion, but having no vote;

(5) To recommend to the council for adoption such meas-
ures as he may deem necessary or expedient;

(6) To keep council fully advised as to the financial con-
ditions and needs of the city;

(7) To approve for payment all vouchers prepared by the
city clerk, when the expenditure has been authorized by council
by proper appropriation, and the payment is otherwise proper
to be made.

(8) To supervise the conduct and performance of the duties
of other officers and employees of the city, except the members
of the city council, reporting to such council any failure of
performances of duty by any of the other appointees of such
council, and enforcing the proper performance of their duties
by the officers appointed by him and by the city council, to the
end that the city's business shall be efficiently and economically
transacted; and

(9) The city manager shall act as purchasing agent and
purchase all supplies and materials for all departments of the
city government, and make sale of all property of the city not
needed or suitable for the public use (when and after such sale
has been authorized by the city council) in such manner as the
council may direct; provided, however, he shall not make any
contract involving an expenditure in excess of five hundred
dollars without first obtaining assent of council so to do, which
said assent shall be made a matter of record and properly en-
tered upon the journal or minute book by the city clerk; he shall
submit to contractors for competitive bids, on forms approved
by council all proposals for construction work to be done for or
by the city and all improvements to be made for or by the city;
all supplies to be used by the city and all materials purchased by
the city for construction of any public improvements or for
any other city purpose, shall be done, performed, made and
purchased on competitive bids. All proposals for such shall
be upon precise specifications, and notice of the requirements
of the city shall be given to dealers in supplies and materials
of the kind required who by reason of location are best able to
furnish same at lower prices. All bids and offers shall be filed
and preserved in the office of the city clerk. In purchasing limited quantities of materials or supplies, or in case of an emergency the city manager may purchase or contract the expenditure in a sum not exceeding five hundred dollars without the assent of council or the delay necessary to secure competitive bids or offers to supply same. Council shall have the power and right to reject any or all bids or estimates for construction or improvements and may cause such work to be done, or improvements to be made otherwise than upon competitive bids, when in their opinion such bids are excessive.

(10) To perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the council. The city manager shall devote his whole working time to the performance of the duties of his office, and while occupying such office shall not engage, directly or indirectly, or be actively interested in any business other than the performance of his duty concerning the affairs of the City of Morgantown.

(11) The city manager shall have authority to appoint such officers (the appointment of whom is not vested in the council) as council may from time to time deem necessary or proper to carry into full effect any authority, power, capacity or jurisdiction, which is or shall be vested in the City of Morgantown, or in the council thereof, or in such city manager; to grant, in writing, to the officers so appointed the power necessary or proper for the purposes above mentioned; to define their duties in writing, to allow them reasonable compensation (said compensation to be approved by council), and to require and take from them such bonds, obligations or other writings as shall be necessary or proper to insure the proper performance of their several duties.

All bonds, obligations or other writings taken in pursuance of this section, as well as other bonds given to the City of Morgantown, shall be made payable to such city, and the respective persons or corporations, their heirs, executors, administrators and successors bound thereby, shall be subject to the same proceedings on the said bonds, obligations or other writings for enforcing the conditions and terms thereof, by motion or otherwise, before any court of record whose sessions are or shall be held in the City of Morgantown, as collectors of the county levies and their securities are or shall be sub-
The duties and power of the city clerk shall be:

1. To keep all records of the city, including the records of the meetings of the city council.
2. To act as auditor and to keep all records of the finances of the city.
3. To keep all other records pertaining to the city and to all departments thereof, including the records pertaining to the office of city manager and the other departments of said city.
4. To act as clerk of the police court and to perform duties required in connection therewith by the provisions of this charter, ordinances of council, or under direction of the police judge himself.
5. To act as treasurer of said city by collecting all funds due it and depositing the same in such bank as shall be named as city depository by council, but he shall pay out no money except upon vouchers approved for payment by endorsement by the city manager.
6. To make up the assessment rolls for the city, utilizing therefor the facts and data available from all sources including the board of appraisers hereinafter provided for, assessment rolls and records of the county assessor; and having made up the assessment rolls of the city, he shall prepare the tax ticket or receipts and collect the same from the tax payers in accordance with paragraph eight of this section hereof.
7. The city clerk shall report to and be under the direction of the city manager, but the city manager shall not have the right or power to remove him from office.
8. The city clerk in person or by deputy shall have charge of the collection of the city taxes and shall account to the city for the same; he shall have the same power and authority in making such collections of city taxes as is by law vested in a sheriff in making collections of state and county taxes, and shall he act by deputy in so collecting said city taxes, his deputies shall have and exercise all the powers of their principal in so doing.

Sec. 13. (a) The regular annual election in said city shall be held on the first Thursday after the first day of January in
3 each year at which there shall be elected an equal number of
4 councilmen from each ward, as provided in said chapter fifteen,
5 municipal charters, acts of legislature of West Virginia, one
6 thousand nine hundred and twenty-one. The election shall be
7 held, conducted and the results thereof ascertained, certified,
8 returned and finally determined, under an ordinance of the
9 common council of such city, which shall not be inconsistent
10 with the general statutes of the state governing municipal
11 elections, and shall conform as nearly as practicable to such
12 statutes. Whenever two or more persons receive an equal
13 number of votes for the same office, if such number be the high-
14 est cast for such office, the persons under whom the supervision
15 of the election is held shall decide by lot which of them shall
16 be returned elected, and shall make their return accordingly.
17 All contested elections shall be heard and decided by the com-
18 mon council.
19 (b) All other elections or votes on any question by the
20 qualified voters of said city, shall be held or taken at such plac&
21 and under the superintendency of such persons and subject to
22 such regulations as are by the council ordained and consistent
23 with the laws of the state.
24 (c) The council shall by ordinance provide for the adoption
25 and use by the city, in all city elections, of the regular registra-
26 tion of voters prepared by the registrars duly appointed by the
27 county court of Monongalia county (the registration hereby
28 intended to be adopted and used, being the one which would
29 be used in a general or state-wide primary election held in said
30 county and state on the same day such city election is to be
31 held), and any person who shall become a resident of the city,
32 after such registration has been prepared and filed by the
33 county authorities in the manner provided by law, and who shall
34 establish his or her right to vote in such city election, may regis-
35 ter with city clerk at any time, except on a Sunday or legal
36 holiday, until the third day before the day on which such elec-
37 tion is to be held, and his or her name shall be entered on such
38 registration list by said city clerk, and the city clerk shall have
39 the same powers in regard to the transfer of voters, from one
40 precinct to another in said city, as are now vested in the county
41 clerk of Monongalia county, for the transfer of voters from one
42 precinct to another in said county.
43. (d) In all city elections for councilmen the names of the candidates for council in each ward shall be arranged and placed alphabetically upon the ballots without party designation or symbol, whether such candidates are nominated by political parties or by petition, or such other methods as are now provided by law.

49. (e) In all city elections hereinafter held in said city, the council shall provide by ordinance for the opening of the polls at seven o'clock in the morning and the closing of same at seven o'clock in the evening.

Sec. 14. (a) No person except citizens entitled to vote in said city shall be elected to any municipal office. The city manager shall be chosen by the council solely on the basis of his executive and administrative qualifications. The choice shall not be limited to inhabitants of the city or state.

6. Every city officer before he enters upon the duties of his office shall make, before someone authorized by law to administer oaths, and file with the city clerk, an oath or affirmation to support the constitution of the United States, and of the state of West Virginia, and to perform faithfully, honestly and impartially the duties of his office, to the best of his skill and judgment.

13. (b) Such officers and employees of the city as the council may determine by ordinance, shall, respectively, furnish and file their bonds with the city clerk for approval by council as to form and security, in such penalties, respectively, and with such conditions as are fixed by such ordinance, with such corporate or other surety or securities hereinbefore mentioned, payable to the city. The furnishing of such bond shall be necessary qualifications of such officers or employees. The bonds of all appointive officers required to give bond shall also be approved as to form by the city solicitor. No officer or employee of the city of whom a bond is required shall enter into the discharge of his official duties or of the duties which he is employed to discharge, until his bond has been duly filed and approved.

Enforcement of Powers

Sec 19. To carry into effect these enumerated powers, and all other powers conferred upon such city, or its council, by this act or by any other future act of the legislature of this state,
4 the council shall have power to make and pass all needful
5 orders, by-laws, ordinances, resolutions, rules and regulations,
6 not contrary to the constitution and laws of this state, and to
7 prescribe, impose and exact reasonable fines, penalties and
8 imprisonments in the county jail or other place of imprison-
9 ment in said corporation, if there be one; no terms of imprison-
10 ment, however, to exceed thirty days or fine the sum of one
11 hundred dollars, for a violation thereof. Such fines, penalties
12 and imprisonments shall be recovered and enforced under the
13 judgment of the judge of the police court of said city, or the
14 person lawfully exercising his functions.

Annual Estimate of Expenditures

Sec. 20. The council shall cause to be annually made up
2 and entered upon its journal not later than the first day of
3 July in each year, an accurate estimate of all sums that are,
4 or may become, chargeable to such city, and which ought to
5 be paid, within one year; and it shall in the month of August,
6 thereafter, revise and correct said estimate and order a levy
7 of so much as may in its opinion be necessary to pay the same;
8 the correction and adoption of said estimate to be made and said
9 levy laid in the manner and at the time provided by chapter
10 one hundred and twenty-six of the acts of the legislature of
11 West Virginia, for the year one thousand nine hundred and
12 nineteen, and any and all acts amendatory thereof, and as
13 otherwise provided by law.

Annual Levy

Sec. 21. The levy so ordered shall be upon all dogs in the
2 city, and upon all real and personal property therein subject to
3 state and county taxes, and such levy shall be upon the basis
4 of the valuation of such properties as has been fixed for state
5 and county purposes; provided, however, that the aggregate of
6 such levy when so laid for all city purposes, shall not in any
7 one year exceed the rate of one dollar on every one hundred
8 dollars of valuation.

City Assessments

Sec. 22. The city clerk, acting in the capacity of assessor as
2 provided by section six of said chapter fifteen, municipal
3 charters, acts of legislature of West Virginia, one thousand
4 hundred and twenty-one, shall, as soon as possible after the 
5 board of review and equalization for Monongalia county has 
6 completed its work of reviewing and equalizing the assessments 
7 made by the assessor of said county, and which assessment, after 
8 being approved by said board in the manner provided by law, 
9 is hereby adopted for all city purposes, procure from said 
10 assessor a certified copy of the land books of said county embrac- 
11 ing all the real estate in the City of Morgantown, and also the 
12 personal property books embracing all the personal property 
13 in said city, for the current year, as prepared by him and 
14 approved as aforesaid; and it is hereby made the duty of the 
15 assessor of said county to furnish such certified copies of said 
16 land and personal books to the said city clerk, upon the payment 
17 of the fair and reasonable expense of copying same, which shall 
18 be paid out of the city treasury on the presentation of a proper 
19 bill therefor; and when said land and personal property books 
20 shall be delivered to said city clerk he shall extend the levies 
21 thereon and cause the tax tickets to be prepared as provided 
22 by section six hereof.

Sidewalks, Street Paving, Etc.

Sec. 24. (a) The council may by ordinance, within said city 
2 lay out and cause to be opened any streets, walks, alleys, 
3 market grounds and public squares, or extend or widen the 
4 same, first having obtained title to the ground necessary for 
5 the purpose; may grade any street, walk, alley, market ground 
6 or public square which is or shall be established within said 
7 city; and may pave or otherwise improve the same, and cause 
8 them to be kept open in good repair, and generally ordain and 
9 enforce such regulations respecting the same, or any of them, 
10 as shall be proper for the health, interest or convenience of 
11 the inhabitants of said city.

(b) The council may cause to be taken or damaged for 
13 the use of the city, for streets, alleys, markets, bridges, public 
14 squares, parks, playgrounds and other municipal purposes 
15 including occupation by sewer, water pipes, gas pipes, heating 
16 pipes, compressed air pipes and electric or other subways, any 
17 private property within the city (and where such use is to 
18 secure or improve the water supply, or for park, playground, 
19 sanitary or cemetery purposes) outside the limits of the city, 
20 but no such property shall be taken or damaged without just
compensation. The compensation, if it cannot be determined by agreement with the owner of the property so taken or damaged, shall be ascertained in such manner as is or may be prescribed by general law for the condemnation of land for public purposes.

(c) Council shall have full power and authority to make and provide, by ordinance, laws, rules and regulations for the establishing or changing of the grades of any sidewalk, footway or gutter in said city; to grade, re-grade, curb, re-curb, pave and re-pave any such sidewalk, footway or gutter and keep the same clean, in such manner and time as the council shall provide by ordinances; and to assess the amount of such expense upon such real property or the owner thereof; provided, however, that such cost shall be levied but once against the same property so far as it pertains to the change of grade.

(d) The council shall have full power and authority to make and provide by ordinance for the establishment of a method to be followed in all street grading, paving and re-paving from time to time with any suitable material therefor, depending upon the character of traffic and the grade and other conditions upon any particular street, and such ordinance shall provide for the assessment of the entire cost of such grading, re-grading, paving and re-paving (except as provided for in paragraph four of this section) to the owners of lots or the fractional part of lots abutting on that part of the streets or alleys so paved, in proportion to the distance such lot or fractional part of lot abuts on such street or alley so graded, re-graded, paved or re-paved, subject, however, to the following provisions:

(1) That when any part of said street or alley so paved or about to be paved is occupied or used by any public service or public utility company, the council shall provide for assessing such portion of the total cost of such grading, re-grading, paving or re-paving, as may be provided for in the respective franchise, for the distance such street is so occupied by such public service or public utility company, including the intersections of cross streets and alleys, and shall provide for assessing the remainder of the cost of such grading, re-grading, paving or re-paving, including such cross streets, alleys, etc., to the abutting property owners on both sides of such street,
in proportion to their frontage thereon, taking the entire distance such street is traversed by such service or public utility company as the basis of such assessment.

(2) Council shall by ordinance provide for the collection of such assessments, which at the option of the owner or owners may be paid either in cash or yearly installments of not exceeding ten years, such installments shall be evidenced by the issuance of interest-bearing certificates of assessment payable in from one to ten years, and said certificates of assessment when so issued shall become a lien upon the property for which the assessment has been levied, and such lien shall have priority over all other liens of whatsoever nature, except the lien for taxes. Said certificates of assessment shall bear interest at a rate not exceeding the legal rate of six per centum per annum to the date of issuance until paid, and shall be and are hereby made exempt from all taxation by the state of West Virginia or any of its agencies. Council may, at their option, and at any time after the issuance of said certificates of assessment, offer them for sale either in part or as a whole, and shall apply the proceeds of such sale exclusively to the liquidation of the specific debt for which they were issued; provided, however, that council shall have no power or authority to sell or offer for sale such certificates of assessment for less than the par value thereof plus the accrued interest at the date of sale. Any property owner shall have the right on ninety days’ notice to pay in whole or in part at any time before maturity any or all certificates of assessment standing as a lien against his property and shall not be liable for interest thereon or on such part so paid after payment.

(3) Nothing herein contained, however, shall authorize and empower council to cause the owner or occupant of any lot or any parcel of ground abutting on such street or alley to pay for or be assessed with the cost of such grading or re-grading, paving or re-paving, within fifteen years after such street or alley has been once graded and paved or re-paved with concrete or other permanent base, at the cost and expense of the property owners abutting thereon.

(4) Council shall provide for all necessary grading at the city’s expense upon any street or alley ordered by it to be graded and paved for the first time, in order to equalize the
cost of paving in the first instance and re-paving those streets
and alleys heretofore graded and paved at the city’s expense.
(5) Nothing herein contained, however, shall prevent the
council from including the grading of any street or alley, or
part thereof, and the paving of the cross streets or cross alleys
and the assessment of the entire cost thereof against the prop-
erty owners adjacent thereto in proportion to their frontage
upon both sides of such street, whenever the owner of a ma-
jority of the frontage abutting upon both sides of said street
shall petition council so to do, and for the purpose of this
section the distance to be paved as a unit shall not be limited
to one city block between cross streets, but shall be for the
entire distance petitioned to be paved.
(6) Immediately upon the completion and acceptance of
any such pavings, the council shall direct the city clerk to
cause to be published a notice which shall name and describe
the location of the portion of the street or alley upon which
said paving shall have been constructed; give the name or
names of the owners of each lot abutting or bounding upon
such portion of the street or alley, if known, and if the name
or names of the owner of any lot or fractional part of a lot
are unknown, such lot shall be described with reasonable cer-
trainty in order that the same may be identified; and the
number of feet that each lot or fractional part of a lot abuts
upon such paved portion, as well as the amount assessed against
each lot or fractional part of a lot for the cost of the paving.
Said notice shall cite all owners of lots or fractional parts of
lots abutting upon the portion of the street or alley which has
been paved, to appear before the council at a regular meeting
thereof, within thirty days from the first publication of the
notice, and show cause, if they can, why the assessment afore-
said should not become final, which notice shall be published
once a week for two successive weeks in one or more newspapers
of general circulation published in said city. The council shall
upon the request of any one or more of the owners of said
lots or fractional parts of lots, appoint a day to hear the
grievances of said owner or owners, and may alter or amend
any assessment made against any one or more of said owners
for good cause shown. The city clerk shall give notice to all
persons claiming to be injured by said assessment, of the
time and place of holding the meeting of the council to hear
such grievances, which meetings shall be held within ten days after the clerk shall have given the last mentioned notice. The council may adjourn the hearing from time to time. In case any owner or owners of abutting property fail within thirty days to complain to the council of any grievance or injury they may have suffered by reason of the assessment aforesaid, or to appear before the council for the purpose of having the same corrected on the day appointed by council for the hearing of such grievances as have been complained of, the assessment as laid shall be final. The findings of such council shall be subject to correction by the circuit court of Monongahelia county upon appeal, which must be taken and perfected within thirty days from the findings and be heard and determined by such court without delay, having precedence of other cases on the court's docket. The rights conferred by this section are cumulative and shall not be exhausted as to any particular street or alley by reason of having been once exercised.

When the amount of any such assessment shall be so determined, the city clerk shall thereupon certify the amount of such assessment with a description of the property chargeable therewith, and the name of the owner thereof, to the clerk of the county court of Monongalia county, who shall record the same in the trust deed books of said clerk's office, and the record thereof in such book shall constitute notice to all persons of the existence of such paving assessment; and such assessment shall be and constitute from and after the date of such recordation the first lien against such property, subject only to state, county and municipal taxes; and such assessment when due, if not paid, shall be certified by the city clerk to the auditor of the state of West Virginia and proceeded with for collection thereof as is now provided or may hereinafter be provided for the collection of taxes.

(7) All money appropriated for the paving, repaving or maintenance of streets or alleys shall be used for such purposes only, and the proceeds derived from all such paving and maintenance assessments shall be placed in special funds, and shall be applied to the city's liabilities on that particular improvement.

(8) In any case, however, where any street or alley in said city shall be paved by the state, county or district, thereby
making it unnecessary for the city to pave the same under any of the provisions of this section, the city shall have the power to assess a special maintenance assessment against the properties abutting on so much of said street or alley so paved to be applied to the maintenance of all streets and alleys of the city, and the amount of which shall be the approximate cost of the said paving based upon the frontage of each particular property abutting thereon.

(e) The council may by ordinance establish the width of any sidewalk along any street, alley or part thereof, at a width of not less than four feet and require the owner or owners of any ground fronting on such sidewalks abutting on their property to pave or re-pave the same; and in case of the failure or refusal of such owners so to do, the city may cause same to be properly paved, or re-paved at the expense of such owner or owners; and the council shall have power, by ordinance, in like manner, to require the owner or owners of property abutting on any paved sidewalk, whether heretofore or hereafter constructed, to keep such sidewalk in repair, and in default of his or their so doing, to cause the same to be repaired and assess the cost thereof upon such owner or owners. It shall be lawful for the officer authorized by council to collect any such tax or assessment for the cost of such paving or repaving to collect the same from the owner or owners of such grounds in the same manner as provided by law in the collection of city taxes; provided, however, that such cost shall be levied but once against the same property so far as it pertains to the change of grade.

(f) An all cases where the city is compelled to construct or lay sidewalks under this section, it shall include a commission of not exceeding twenty per cent, for the time of its employees in supervising such construction, laying the assessment, and collecting the same over and above the actual cost to it of such assessment.

Garbage Removal and Disposal

Sec. 26. Council shall provide by ordinance for the systematic collection, removal and disposal of all garbage of every kind and character under the control, management and at the expense of the city, and for such rules and regulations as shall by it be deemed necessary, advisable or expedient in the collection, removal and disposal of the same; and should the ex-
7 pense thereof be found to be excessive for the revenue of the
8 city, the council shall have the power to provide by ordinance
9 for the laying of a special levy for that purpose sufficient to
10 provide funds therefor.
11 But council may, by appropriate ordinance, fairly submit
12 the question of garbage collection and removal at public expense
13 to a referendum to the people and should the result of such
14 referendum show a majority vote opposed to such collection
15 and disposal at public expense then council shall suspend the
16 operation of this section and should the result of such referen-
17 dum show a majority vote in favor of such collection and dis-
18 posal at public expense, then council shall provide for the
19 collection of all garbage thereafter.

Exemption from District Poor and Road Levies; Construction and
Maintenance of Bridges

Sec. 28. The city shall support its own poor and shall con-
2 struct and maintain its own roads and streets; and by reason
3 thereof shall not be required to pay any district poor levies
4 for the support of the poor outside of the city limits, or for
5 any district road taxes for the construction and maintenance
6 of roads outside of the city limits; but the county court shall
7 remain chargeable for the construction and maintenance of
8 bridges within the city and the location of such bridges when
9 once established shall not be changed or re-located by said
10 county court without the consent of council.

Street Maintenance, Sewers, etc.

Sec. 29. (a) It shall be unlawful for any person, firm or cor-
2 poration to subject any of the streets of the City of Morgan-
3 town to a use which will destroy, impair or injure the use of
4 such street, or streets, for ordinary travel in ordinary modes.
5 The council shall carry this provision into effect by appropri-
6 ate ordinance or ordinances.
7 (b) Council shall have full power and authority to design-
8 nate by ordinance certain of the streets and alleys of the city
9 as routes for the transportation and haulage of commodities
10 and to calssify such commodities and specify the streets and
11 alleys over which certain classes shall be hauled and trans-
12 ported, and otherwise to regulate the traffic of the city in
13 such manner as in its judgment will protect the streets and
14 alleys of the city and promote the public interest.
15  (c) Council shall have full power and authority to pro-
16 vide by ordinance for the construction, maintenance and repair
17 of all streets and alleys in said city; and to provide rules and
18 regulations for the laying of water and gas lines and street
19 car tracks thereon; and for the construction of sewer pipes and
20 sewer systems thereon; and to provide rules and regulations for
21 the manner in which said pipes and tracks shall be laid and
22 re-laid in such streets and alleys, and to provide for the future
23 needs of such pipes and their connection, and such street car
24 tracks, and excavations therefor, and to provide rules and
25 regulations for excavations in such streets or alleys under the
26 supervision of such city officials as council may by ordinance
27 provide, and the council shall have full power and authority
28 to provide by ordinance for the laying of gas, water and sewer
29 pipes, and street car tracks in any such street or alley, and to
30 provide that no such street or alley or part thereof, after
31 being paved, shall be opened, excavated, or in any manner
32 interfered with, except upon such conditions and terms as
33 council may by ordinance prescribe, and council shall have
34 full power and authority to provide by ordinance for the re-
35 laying and re-location of such pipes and their connections, and
36 such street car tracks prior to the paving or re-paving of
37 any such street or alley.
38  (d) Council shall provide by ordinance for the require-
39 ment upon all public utilities or public service corporations
40 to place or renew all pipes, conduits or other underground
41 appliances, including all connections therewith to the curb
42 upon any street to be paved sufficient to provide for the reason-
43 able anticipated requirements of such company or companies
44 for the probable life of such paving and notice to that effect
45 shall be given by the city council a sufficient time in advance
46 of the commencement of such paving, not to exceed ninety
47 days, to enable such public service corporation or utilities
48 corporation fully to comply therewith, and upon their failure
49 so to do, such public utility corporation or public service cor-
50 poration shall thereafter be deprived of any rights under its
51 franchises from the city or otherwise of disturbing such pav-
52 ing to install such improvements to its plant, and council may
53 at the expiration of the time fixed in said notice, proceed with
54 its paving and not before.
55  (e) And before any streets of said city shall hereafter be
56 paved, and as preliminary to the paving thereof, council shall
57 provide reasonable adequate sewers, both main and lateral,
58 and including the connections to the property line of said
59 street.
60  (f) The council may by ordinance prohibit the disturb-
61 ance of any streets or alleys of the city, including the side-
62 walks or public grounds of said city caused by digging therein
63 for the benefit of any private person, firm or corporation
64 other than the city itself, except by city employees under city
65 supervision at the expense of such private person, firm or
66 corporation, or under the superintendence and control of the
67 city itself; and may charge a service fee to cover the perma-
68 nent injury to such streets, alleys, sidewalks or public grounds
69 impossible to repair, and the council shall by ordinance require
70 the enforcement of these provisions, including the duty of
71 making repeated repairs as often as the defects so caused shall
72 reappear.
73  (g) Council shall have full power and authority to provide
74 by ordinance for the issue and sale of bonds for the purposes
75 set forth in chapters forty-seven and forty-seven-a of the code
76 of West Virginia and any and all amendments thereof, in the
77 amount of five per centum of the valuation of all assessable
78 property lying within the limits of said city, which value
79 shall be ascertained by the last assessment made by the city,
80 in the manner hereinbefore provided, of all the taxable prop-
81 erty therein next prior to the issuing of such bonds; and
82 council shall have full power and authority to provide by
83 ordinance for the collection of a direct annual tax sufficient
84 to pay annually, the interest on such bonded indebtedness and
85 the principal thereof, within not exceeding thirty-four years
86 from the date of the issuing of said bonds; provided, however,
87 that no bonds may be issued for street paving purposes other
88 than paving street intersections or financing the grading, re-
89 grading, paving or repaving of streets or alleys ordered or
90 petitioned to be paved under ordinance providing for the
91 assessment of the cost thereof to the owners of lots or fractional
92 parts of lots abutting thereon as provided in section 24 of
93 said chapter fifteen, municipal charters, acts of the legislature
94 of West Virginia, one thousand nine hundred and twenty-one;
95 and further, that no bonds shall be issued until all questions
97 connected therewith shall have been first submitted to the
98 qualified voters of the said city and shall have received three-
99 fifths of all the votes cast for and against the same, and other-
100 wise in accordance with the provisions and requirements of
101 said chapter forty-seven-a of the code of West Virginia and
102 any and all amendments thereof.

Repeal of Certain Acts

Sec. 34-a. All acts and parts of acts which are in conflict
2 and inconsistent with this act, are hereby repealed and de-
3 clared inoperative insofar only as they are in conflict or incon-
4 sistent with this act.
5  (b) The invalidity of any portion of this act shall not affect
6 the validity of any other portion thereof which can be given
7 effect without the invalid part.

CHAPTER 22

(House Bill No. 264—By Mr. Cullen)

AN ACT to amend and re-enact section two of article two and sec-
10 tion thirty of article nineteen and adding to article ten
section twenty-a, of chapter four of the acts of one thousand
nine hundred and nineteen, incorporating the municipal
10 corporation of the City of Welch in the county of McDowell
and state of West Virginia, relative to the boundaries of said
11 city, powers of the mayor, and the levy to be made.

[Passed January 24, 1925: in effect from passage. Became a law without the
approval of the Governor.]

Sec.
2. Corporate limits.
30. Taxation.

Be it enacted by the Legislature of West Virginia:

That section two of article two and section thirty of article
nineteen of chapter four of the acts of the legislature, one thousand
nine hundred and nineteen, incorporating the municipal corpora-
tion of the City of Welch in the county of McDowell and state
of West Virginia, be amended and re-enacted, and section twenty-a
be added to article ten of said chapter, to read as follows:
ARTICLE II

Corporate Limits

Section 2. The corporate limits of the city of Welch shall be as follows, that is to say: Beginning at a set iron near the mouth of Big branch of Elkhorn fork of Tug river; thence south twenty-eight degrees nineteen minutes east one thousand one hundred and seventy feet to a set iron on east side of Big branch; thence south fifty degrees forty minutes west six thousand nine hundred and fifty-five feet to a stake; thence south forty-eight degrees forty minutes east two hundred and thirty-six feet to a set rail; thence south sixty-seven degrees twenty-two minutes east one thousand seven hundred and twenty-one feet to a set rail; thence south forty-eight degrees twenty-eight minutes west three hundred and forty-seven feet to a stake; thence south twenty-nine degrees twenty-six minutes west five hundred and seventy-three feet to a tack in the root of a large beech tree on the north bank of Tug river; thence down Tug river the following courses and distances; north seventy degrees forty-seven minutes west five hundred and eight and five-tenths feet; north eighty-four degrees sixteen minutes west four hundred and eighty-two and five-tenths feet; north fifty-four degrees forty minutes west two hundred and ninety and five-tenths feet; north forty-nine degrees thirty-eight minutes west three hundred and twenty-two feet; north sixty-six degrees thirty-one minutes west two hundred and forty-six feet; north seventy degrees two minutes west four hundred and fourteen and five-tenths feet; thence leaving Tug river south thirty degrees west seven hundred and twenty-five feet to a stake on a spur; thence north fifty-four degrees thirty minutes west two thousand four hundred and fifty feet to a stake near Little Indian creek; thence north four degrees thirty minutes east seven thousand nine hundred and fifty feet to a stake in a line of the present corporation limits; thence with same south seventy-seven degrees west eight hundred feet to a poplar, spruce pine and double beech on the bank of Cub branch; thence north sixty-four degrees thirty minutes west six hundred feet to the top of a spur where a white oak is called for; thence north twenty-two degrees east seven hundred feet to a stake on the north bank of Tug river; thence north eighty-four degrees east six hundred and fifty feet to a stake in a line of said corporate
limits; thence leaving said line and running up a spur north
twenty-eight degrees five minutes east four hundred feet;
north seventy-three degrees six minutes east one hundred sev-
enty-eight and six-tenths feet, north seventy-eight degrees east
three hundred thirty-three and seven-tenths feet; north forty-
seven degrees thirty minutes east ninety-two feet; north
forty-nine degrees east ninety-seven feet; north sixty-
two degrees thirty minutes east four hundred and ninety-
seven feet; north forty-six degrees east two hundred twenty-
four and six-tenths feet; north thirty-seven degrees east
ninety-six and six-tenths feet; north seventy-six degrees east one
hundred thirty-four and five-tenths feet; south eighty-eight
degrees east one hundred and seventy-six feet; south thirty
five degrees east thirty minutes east three thousand four hun-
dred and forty-nine feet, crossing Brown’s creek and about twenty feet north of the county road;
thence south fifty-three degrees forty-three minutes east three
thousand four hundred and forty-nine feet, crossing Brown’s
creek and ridge between Brown’s creek and Elkhorn to a
point of intersection between this line and the Pollard line;
thence south two degrees thirty minutes west one thousand
three hundred and fifteen feet crossing the main line of the
Norfolk and Western railway and Elkhorn fork of Tug river,
to the beginning, containing one thousand four hundred and
sixty-two acres.

ARTICLE X

The Mayor

Sec. 20-a. Any act committed inside the corporate limits
of the city of Welch and made a misdemeanor under the
laws of the state of West Virginia shall be an offense against
the laws of said city, and the mayor, in addition to the other
powers herein granted, may try, convict and punish therefor,
and in the absence of any specific ordinance relating thereto,
7 may inflict the same penalties and collect the same fines for the benefit of said city as are prescribed by state laws for the same offense.

**ARTICLE XIX**

**Taxation**

Sec. 30. The council shall be governed in all respects in laying the annual levy or any additional or special levy by chapter nine of the acts of the extraordinary session of the legislature of West Virginia of one thousand nine hundred and eight and by chapter eighty-five of the acts of the session of the legislature of one thousand nine hundred and fifteen as the same is amendatory of certain sections of the said chapter nine of the said acts of one thousand nine hundred and eight, except that they may include a poll tax of not exceeding one dollar each year upon each able-bodied man therein, who is above the age of twenty-one years and not over fifty years of age, which poll tax shall be used exclusively for opening, improving and maintaining roads, streets and alleys of the city, and shall designate the same as the "street taxes"; and the said council may also impose such license tax upon dogs and other animals as they may deem proper, and collect the same from the owners of such animals as other taxes are collected, and prescribe such rules, regulations and penalties governing the payment of such tax on animals as they may deem reasonable. And the general annual levy upon the taxable property within the corporate limits of said city shall not exceed the sum of seventy-five cents upon each one hundred dollars valuation. But in addition to said levies above mentioned, and in addition to any levies provided by the general law, with which these are not meant to conflict, the council of said city is empowered to and shall lay a special annual levy not to exceed ten cents on each one hundred dollars valuation of the property in said city for the purpose of creating a sinking fund with which to pay off the principal of the present outstanding bonded indebtedness of said city when the same becomes due and for the purpose of paying annually, when due, the interest coupons of the said present outstanding bonded indebtedness of the said city, which said special levy shall be continued annually by the
37 council for as many years as may be necessary to pay off
38 said present outstanding bonded indebtedness and the interest
39 coupons that may become due thereon, but no longer. Also, in
40 addition to the above, the said council, beginning with the
41 year one thousand nine hundred and twenty-five, is empowered
42 to and shall lay a special annual levy not to exceed five cents on
43 each one hundred dollars valuation of the property in the
44 said city for the purpose of paying off any outstanding orders
45 issued against the treasury of said city prior to July the first,
46 one thousand nine hundred and twenty-five, and for the pur-
47 pose of paying off any debts contracted prior to said date,
48 or any judgment taken against the said city prior to said date.
49 And both of the aforesaid special levies, when collected, shall
50 be used for no other purpose than for the aforesaid purposes
51 for which they shall be laid as aforesaid.

CHAPTER 23

(AN ACT to amend and re-enact the acts of the legislature of West
Virginia, known as chapter five of the acts of one thousand
nine hundred and fifteen entitled "The City of Follansbee"
and to re-enact and amend the amendment to said chapter
five of the acts of the legislature of one thousand nine hundred
and fifteen as amended and re-enacted by the acts of the
legislature of one thousand nine hundred and twenty-one,
chapter nine; and to amend and re-enact sections eight and
twelve-a of the charter of the City of Follansbee.

[Passed March 24, 1925; in effect 90 days from passage. Approved by the
Governor.]

be it enacted by the Legislature of West Virginia:

That sections eight, twelve-a, twenty-three-b, forty-eight-a and
forty-eight-b of the charter of the City of Follansbee be amended
and re-enacted to read as follows:

Officers

Section 8. The officers of the said city shall be a mayor, six
2 councilmen, city attorney, city clerk, chief of police, city col-
lector and treasurer and a city manager. The mayor and three
of said councilmen (the three other councilmen of said city
holding over until the next election as provided by the charter
of the City of Follansbee) city attorney, city clerk and chief of
police shall be elected on the Tuesday after the third Monday in
March, one thousand nine hundred and twenty-seven, and every
two years thereafter, by the qualified voters of the said city, who
shall hold their respective offices for two years, and until their
successors shall be duly elected and qualified.

The city manager, collector and treasurer shall be appointed
by the council, and the said offices of city manager and city
collector and treasurer may be at the option of said city council
held by the same person or may be held by separate appoint-
ments as the said city council may deem best; and no person
shall be elected to any office or retain and hold the same who
shall be or become an officer or employee of any person, firm
or corporation holding any franchise or contract under or with
said city, and the said council of said city shall fix the compen-
sation of all elective and appointive officials and employees of
said city.

Mode of Voting

Sec. 12-a. Candidates to be voted for at all general municipal
elections at which a mayor, city attorney, city clerk, chief of
city and councilmen from each ward are to be elected under the
provisions of this act, shall be nominated by a primary election
(the said mayor, city attorney, city clerk, chief of police shall
be nominated and elected at large and the said councilmen
shall be nominated and elected from their respective wards),
and no other names shall be printed upon the general ballot,
except those selected in the manner hereinafter prescribed.

The primary election for such nomination shall be held on
the first Tuesday in March preceding the general municipal
election. The judges of election shall be appointed by council
for the general municipal election, who shall be the judges of the
primary election, but said election officers shall have first been
recommended by a majority vote of all candidates at least ten
days preceding the said primary election and all primary and
general elections shall be held at the same place, so far as pos-
sible, and the polls shall be opened and closed at the same hours.

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

STATE OF WEST VIRGINIA, BROOKE COUNTY, ss:

I, ___________________________ being first duly sworn
say that I reside at ___________________________ street, City of
Follansbee, county of Brooke, state of West Virginia; that I
am a qualified voter therein; that I am a candidate for nomination
to the office of (mayor, city attorney, city clerk, chief of
police or councilman from first, second or third ward) to be
voted upon at the primary election to be held on the.............
Tuesday of.........................., 19....., and I hereby
request that my name be printed upon the official primary ballot
for nomination by such primary election for such office.

Signed ___________________________.

Subscribed and sworn to (or affirmed) before me by.............
on this ........................................
day of.........................., 19......

Signed ___________________________.

and shall at the same time file therewith the petition of at least
ten qualified voters requesting such candidacy. Each petition
shall be verified by one or more persons as to the qualifications
and residence, with street number, of each person so signing
the said petition, and the said petition shall be in substantially
the following form:

PETITION ACCOMPANYING NOMINATING STATEMENT

The undersigned, duly qualified electors of the City of Foll-
ansbee, and residing at the places set opposite our respective
names hereon, do hereby request that the name of (name candi-
date) be placed on the ballot as a candidate for nomination for
(name of office) at the primary election to be held in said city
on the .................. Tuesday of.....................
19...... We further state that we know him to be a qualified
elector of said city, and a man of good moral character, and
qualified, in our judgment, for the duties of such office.

Names of Qualified Electors. Number. Street.

Immediately upon the expiration of the time of filing the
statements and petitions for candidates, the said city clerk (now
recorder) shall cause the primary ballot to be printed, authen-
ticated with a facsimile of his signature. Upon the said ballot
the names of the candidates for mayor, arranged alphabetically,
shall first be placed, with a square at the left of each name,
immmediately below the words "vote for one." Following these
names, likewise arranged in alphabetical order, shall appear the
names of the candidates for city attorney, city clerk and chief
of police, with a square at the left for each name, and below the
names of such candidates shall appear the words "vote for one;"
following, likewise arranged, shall appear the names of the
candidates for councilmen in each ward, with a square at the
left of each name, and below the name of such candidates shall
appear the words "vote for one or two," according to the num-
ber of councilmen to be elected in said ward.

The ballots shall be printed upon plain, substantial white
paper, and shall be headed:

"Candidates for Nomination for Mayor, City Attorney, City
Clerk, Chief of Police and Councilmen for the .................
Ward of the City of Follansbee, at the Primary Election," but
shall have no party designation or mark whatever. The ballots
shall be in substantially the following form:

(Place a cross in the square preceding the names of the
parties you favor as candidates for the respective offices.)

**OFFICIAL PRIMARY BALLOT.**

<table>
<thead>
<tr>
<th>Candidate</th>
<th>Number of Candidates</th>
<th>Vote for one or two as the case may be</th>
</tr>
</thead>
<tbody>
<tr>
<td>For Mayor</td>
<td>Name of candidates</td>
<td>(Vote for one)</td>
</tr>
<tr>
<td>For City Attorney</td>
<td>Name of candidates</td>
<td>(Vote for one)</td>
</tr>
<tr>
<td>For Chief of Police</td>
<td>Name of candidates</td>
<td>(Vote for one)</td>
</tr>
<tr>
<td>For Councilman</td>
<td>Name of candidates</td>
<td>(Vote for one)</td>
</tr>
</tbody>
</table>

Judges of election shall, immediately upon the closing of the
polls, count the ballots, and ascertain the number of votes cast
102 in such precinct for each candidate, and make return thereof
to the city clerk before nine o'clock A. M. of the following day.
103 On the day following said primary election the council shall
104 canvass said returns so received from all the polling precincts,
106 and shall make and publish in all the newspapers of said city
107 at least once, the result thereof. Said canvass shall be pub-
108 licly made.
109 The two candidates receiving the highest number of votes
110 for mayor, city attorney, city clerk, chief of police, shall be the
111 candidates and the only candidates whose names shall be
112 placed upon the ballot for the said offices at the next
113 succeeding general election, and at the first election
114 to be held under this charter, the four candidates
115 receiving the highest number of votes for councilmen in each
116 ward, shall be the candidates and the only candidates whose
117 names shall be placed upon the ballot for councilmen at said
118 first election, and at all other general elections at which said
119 officers shall be elected, the two candidates receiving the highest
120 number of votes for councilmen in each ward, shall be the
121 candidates and the only candidates whose names shall be placed
122 upon the ballot for councilmen at such municipal election,
123 unless there should be two members of council to elect from
124 any of said wards, then the four candidates receiving the highest
125 number of votes shall be placed upon the ballot for councilmen
126 at such election. In the event of the death or resignation of a
127 nominee before the election, the candidate receiving the next
128 highest number of votes at the primary shall be placed on the
129 ticket in his stead.
130 The ballot at such general municipal election shall be in the
131 same general form as for such primary election, so far as
132 applicable, and all elections in said city, of whatsoever kind,
133 held under this act, shall be conducted, returned and the result
134 thereof ascertained and declared in the manner prescribed by
135 the laws of the state relating to elections, in so far as they are
136 not in conflict or inconsistent with the provisions of this act.

**City Manager**

Sec. 23-b. The city manager shall have general supervision
2 over the streets, alleys, sidewalks, drains and sewers of said city
3 and of the construction of any streets, alleys, sidewalks, drains
4 and sewers, and of making changes in the ones existing; and
5 shall see that the streets are properly lighted, pursuant to con-
tract. It shall be his duty to investigate all applications for
7 new streets, alleys, sidewalks, drains and sewers, and report the
8 same to the council with his recommendation in regard thereto.
9 He shall have general supervision of the construction of all
10 streets, alleys, sidewalks, drains and sewers and the planting of
11 trees and other improvements which may from time to time
12 be made in any public street or alley, and to this end, may by
13 and with the consent of the council, appoint such assistants as
14 are necessary in the faithful performance of his duties herein
15 conferred.
16 It shall likewise be his duty to report to the council every
17 obstruction found in any of the streets, alleys, sidewalks, drains
18 or sewers, in said city, and on such report the mayor shall
19 instruct the chief of police to summons the offender to show
20 cause why the same should not be removed at the expense of the
21 offender, and why a fine should not be imposed upon such an
22 offender for violation of such ordinance of said city in regard
23 thereto.
24 It shall likewise be the duty of said city manager to supervise
25 and protect all the buildings and other properties belonging to
26 said city and provide for the public heating, cleaning and light-
27 ing of said city building and look after the same, and he shall
28 have supervision of all the tangible property of said city and all
29 the appliances used by the fire department of said city, and he
30 shall see to it that the same are properly taken care of and kept
31 in proper condition for use.
32 He shall also supervise the granting of building permits, and
33 see that all buildings erected in said City of Follansbee are
34 erected and constructed in accordance with the ordinances of
35 said city.
36 He shall also employ such unskilled labor as may be necessary,
37 fix their wages, with the consent of the common council of said
38 city, and have authority to terminate their employment at any
39 time.
40 He shall also perform such other duties as may properly
41 devolve upon him under this charter or be required of him by
42 ordinances or resolutions of the common council of said city.

Sec. 48-a. This act shall not become effective unless the same
2 is adopted by a majority of the voters in said city as hereinafter
3 provided for within six months after the passage of this act.
4 Upon the passage of this act it shall be the duty of the council
5 of the City of Follansbee as the same exists at that time, to set
6 a time for an election. The question of the adoption of this
7 amendment to the charter shall be referred to the legal voters
8 of Follansbee, and thereupon the mayor of said city shall issue
9 a proclamation setting the date of such election and the object
10 of such election, and further stating that a copy of said amend-
11 ment to the charter is on file in the office of the city clerk and
12 open to the inspection of all persons interested, but it shall not
13 be necessary for said proclamation to be therein contained a
14 copy of this act. Such proclamation shall be published in some
15 newspaper of general circulation in said city, at least once a
16 week for two successive weeks before the election.
17 It shall be the duty of the council of said city to appoint the
18 election commissioners and clerks to conduct said election, to
19 provide ballots, poll books and other things for the proper
20 conduct of said election; and said election shall be conducted
21 at such place as shall be provided by the mayor in his proclama-
22 tion and according to the rules and regulations for elections
23 now in force in said City of Follansbee.
24 The ballots used in said election shall be printed in substan-
25 tially the following form:
26 "Election by the voters of the City of Follansbee in the
27 county of Brooke and state of West Virginia, on the..........
28 ..................day of ......................, 1925, on
29 the question of adopting or rejecting the amendment to the
30 charter of Follansbee, as enacted by the Legislature of West
31 Virginia at the regular session, one thousand nine hundred and
32 twenty-five thereof.
33 For the adoption of said amendment to the
34 charter [ ]
35 Against the adoption of said amendment to the
36 charter [ ]
37 On the day after the said election it shall be the duty of said
38 council of said city, to canvass the returns of said election and
39 ascertain and declare the result thereof. If a majority of the
40 votes so cast at said election are for the adoption of the amend-
41 ment to the charter, a certificate thereof shall be published and
42 entered in the minute book of said council and publication
43 thereof be made in the next succeeding issue of such newspaper
in which the said proclamation of the mayor calling said elec-
45 tion was published.

Sec. 48-b. All ordinances of the City of Follansbee, as they
exist at the time of the passage of this act, which are inconsistent
therewith, are hereby abrogated, and all acts and parts of acts
inconsistent with any of the provisions of this act are hereby
50 repealed.

CHAPTER 24

(House Bill No. 315—By Mr. Morris)

AN ACT to amend chapter eight of the acts of the legislature of
one thousand nine hundred and fifteen, regular session, munici-
pal charters, incorporating the City of Pennsboro, by adding
thereto section nineteen-a relating to permanent improvements
in said city, and the issuing of bonds to pay for the same.

[Passed April 14, 1925; in effect 90 days from passage. Approved by the
Governor.]

Sec. 19-a. Bond or city; powers and duties
of council: for what purpose; when and how issued; engineer's
report; election for: notice of
election; holding election; prov-
sions for; registered or coupon
bonds.

Be it enacted by the Legislature of West Virginia:

That chapter eight of the acts of the legislature of West Vir-
ginia, of the year one thousand nine hundred and fifteen, regular
session, municipal charters, be amended by adding thereto section
nineteen-a, which section shall read as follows:

Section 19-a. The council of said city shall have the right
2 and power to bond the said city for the purpose of paving the
3 streets and alleys thereof, or for the construction of sewers,
4 including a general sewerage system, or for other permanent
5 improvements, or for the purpose of taking up, paying off, or
6 refunding any already outstanding city bonds, or items of
7 indebtedness, whenever the said council may deem the same
8 necessary; but the aggregate indebtedness of said city for all
9 purposes shall never at any time exceed five per centum of
10 the assessed valuation of the taxable property therein, accord-
11 ing to the last assessment next preceding said date; provided,
12 that no debt shall be contracted, or bonds issued hereunder,
13 except in the manner provided herein.
14 (a) No debt shall be contracted or bonds issued under this
15 act until all questions connected therewith shall have been
first submitted to a vote of the qualified voters of said city, and shall have received three-fifths of all the votes cast for and against the same. The council of said city may, (and when requested so to do by a petition in writing, praying that bonds be issued and stating the purpose and amount thereof, signed by the legal voters of said city equal to twenty per cent of the votes cast for mayor at the last preceding election), shall enter of record an order reciting the necessity for contracting the debt and the issuing of bonds in connection therewith, or, if a petition has been filed as provided herein, that such petition has been filed, and reciting generally the nature of the contemplated improvements and appointing a competent engineer and vesting in him power and authority to make up plans, specifications, profiles and estimates of the proposed improvements, and if the same relate to the paving of streets and alleys, showing the proposed grade of the same after completion with reference to the abutting property, file the same with the clerk of said city. Upon the filing of his report by said engineer, the council of said city may, or if a petition has been filed as provided herein, shall, by ordinance entered of record direct that an election be held for the purpose of submitting to the voters of said city all questions connected with the contracting of said debt and the issuing of such bonds. Such ordinance shall state: (1) a summary of the engineer’s report, setting forth the approximate extent and the estimated cost of the proposed improvement, and the kind or class of work to be done thereon; (2) purpose or purposes for which proceeds of bonds are to be expended; (3) valuation of the taxable property in the city as shown by the last assessment thereof for state, county and city purposes; (4) indebtedness, bonded or otherwise; (5) amount of proposed bond issue; (6) maximum term of bonds and series; (7) maximum rate of interest; (8) date of election; (9) if a special election, names of commissioners for holding same; (10) that said council is authorized to lay a sufficient levy annually to provide funds for the payment of the interest upon the bonds and the principal at maturity, and the approximate rate of levy necessary for this purpose; and (11) any other provisions which do not violate any positive provisions of the law, or transgress some principal of public policy.
Such ordinance may specify more than one purpose for which bonds are to be issued; provided, that the amount of the proceeds of the issue to be used for each purpose shall also be specified therein.

(c) Elections for the purpose of voting upon the question of issuing such bonds may be held at any general, primary, or special election, which the said council, in the ordinance submitting the same to vote may designate, except, that when a petition is filed asking that bonds be issued as herein provided, said council, if it be not designated in the petition that the election shall be held at a general or primary election, shall order a special election to be held within sixty days from the filing of the engineer's report as provided in this act.

(d) Notice of all bond elections hereunder shall be given, by the publication of the ordinance provided for herein at least once each week for four successive weeks prior to the date of the election in two newspapers of different politics, if there be such published in said city. If there be only one newspaper published therein, such notice shall be published as aforesaid therein. If no newspaper be published therein, then in some newspaper published in the county of Ritchie, of this state. Notice shall also be given by posting printed copies of such ordinance at the front door of the meeting place of said council, and at each voting place in said city, at least ten days before the election.

(e) When such elections are held in connection with any general or primary elections no registration of the voters of said city other than that made by the county court shall be had; but if such elections are not held in connection with any general or primary elections, but are special elections, then for amending and correcting the registration of voters for such special elections as provided by the general registration law, the council of said city shall do and perform all things thereby imposed upon county courts.

(f) All elections held hereunder shall be at the voting precincts established for the election of municipal officers.

(g) For the purpose of holding such elections the clerk of said city, under the supervision and direction of the council thereof, shall procure and furnish to the election commissioners at each voting precinct the tickets, poll books, tally sheets,
96 and other things necessary for conducting the election, and
97 perform all duties imposed by law upon clerks of the circuit
98 courts in relation to general elections.
99 (h) The commissioners appointed to hold such elections may
100 appoint two clerks to assist in the holding of such elections,
101 and which clerks shall perform the same duties as clerks
102 of general elections, and all the provisions of the general
103 election laws of this state concerning general, primary or
104 special elections, when not in conflict with any of the provisions
105 of this act, shall apply to bond elections hereunder, insofar as
106 practicable.
107 (i) The ballots to be used at elections hereunder shall be
108 in substantially the following form:
109 “Shall the City of Pennsboro, a municipal corporation,
110 incur debt and issue bonds to the amount of ..........dollars,
111 to run not more than........ years from the date thereof,
112 with interest not exceeding the rate of........ per centum
113 per annum, for the purpose of ............, and levy taxes
114 sufficient to pay the interest on and the principal of said
115 bonds.
116 Yes. □
117 No. □
118 Notice to Voters: To vote in favor of the proposition
119 submitted on this ballot place an X mark in the square
120 after the word ‘Yes,’ and to vote against it place a similar
121 mark after the word ‘No.’”
122 (j) The council of said city shall canvass the returns and
123 declare the result of said elections at the same time and in
124 the same manner provided by law with reference to the elec-
125 tion of municipal officers, and as is required of county courts
126 for general elections.
127 (k) If three-fifths of all the votes cast for and against the
128 same shall be in favor of the proposition to incur debt and
129 issue negotiable bonds, the council of said city shall by resolu-
130 tion duly passed and entered of record authorize the issuance
131 of such bonds in an amount not exceeding the amount stated
132 in the proposition; fix the date thereof; set forth the denomi-
133 nations in which they shall be issued, which denominations
134 shall be one hundred dollars or multiples thereof; to deter-
135 mine the rate of interest which the bonds shall bear, which
136 shall be within the maximum rate stated in the proposition
137 submitted to vote and payable semi-annually, and shall in
138 no case exceed six per centum per annum; prescribe the
139 medium with which the bonds shall be payable; require that
140 the bonds shall be made payable at the office of the treasurer
141 of the state of West Virginia, and at such other place or
142 places as said council may appoint; provide for a sufficient
143 levy to pay the semi-annual interest on the bonds and the
144 principal at maturity; fix the times within the maximum
145 period as contained in the proposition submitted to vote when
146 the bonds become payable, which shall not exceed thirty-four
147 years from the date thereof; and prescribe a form for executing
148 the bonds authorized.
149 (t) Said bonds shall be made payable in annual install-
150 ments, beginning not more than two years after the date
151 thereof, and the amount payable in each year may be so fixed
152 that when the annual interest is added to the principal amount
153 to be paid the total amount payable in each year, in which
154 part of the principal is payable, shall be as nearly equal as
155 practicable. It shall be an immaterial variance if the dif-
156 ference between the largest and smallest amounts of prin-
157 cipal and interest payable annually during the term of the
158 bonds shall not exceed three per centum of the total authorized
159 issue. Or, said bonds may be payable in annual install-
160 ments beginning not more than two years after the date
161 thereof, each installment being as nearly equal in amount
162 as may be practicable.
163 (m) The resolution authorizing the bonds provided for in
164 the last preceding paragraph may direct that they shall con-
165 tain the following recital:
166 "It is certified that this bond is authorized by and is issued
167 in conformity with the requirements of the constitution and
168 statutes of the state of West Virginia."
169 Such recital shall be deemed an authorized declaration by
170 the council of said city and to import that there is constitu-
171 tional and statutory authority for incurring the debts and
172 issuing the bonds; that all proceedings therefor are regular;
173 that all the acts, conditions and things required to exist,
happen and be performed precedent to and in the issuance
of the bonds, have existed, happened and been performed,
in due time, form and manner as required by law; that
the amount of the bond and the issue of which it forms a
part, together with all other indebtedness, does not exceed any
limit, or limits, prescribed by the statute, or statutes, of
this state; and that all questions connected with incurring
the debt and issuing the bonds have been first submitted to
the vote of the people and have received three-fifths of all
the votes cast for and against the same at an election regu-
larly called and held for the purpose, after notice published
and posted in the manner required by this act. If any bond
be issued containing the said recital, it shall be conclusively
presumed that said recital construed according to the im-
port hereby declared, is true, and neither the said city nor
any taxpayer thereof shall be permitted to question the
validity or legality of the obligation in any court, or in any
action or proceeding.

Bonds issued hereunder may be either registered or
coupon bonds. Coupon bonds may be registered as to prin-
cipal in the holder's name on the books of the clerk of said
city, the registration being noted upon the bonds by such
clerk, after which no transfer shall be valid unless made on
such clerk's books by the registered holder, and similarly
noted on the bond. Bonds registered as to principal may
be discharged from registration by being transferred to bearer,
after which they shall be transferable by delivery, but may
be again registered as to principal as before. The registra-
tion of the bonds as to principal shall not restrain the negoti-
ability of the coupons by delivery merely.

All bonds issued hereunder shall be signed by the
mayor of said city and signed by the clerk, recorder or secre-
tary thereof, and the seal of said city shall be affixed thereto.
Interest coupons shall be signed by the fac-simile signatures
of such officers. The delivery of any bonds or coupons so
executed at any time thereafter shall be valid, although be-
fore the date of delivery the persons, or any of them, sign-
ing such bonds or coupons shall have ceased to hold office.

It shall be the duty of the council of said city to
impose and collect annually, in excess of all other taxes, a tax
on all property subject to taxation within the corporate
limits of said city under the constitution and laws of this
state, sufficient in amount to pay semi-annually interest on
such debts and the principal thereof falling due in each year,
such tax to be levied and collected by the same officer, at the
same time and in the same manner as the general city taxes
are collected.

(g) The council of said city shall sell all bonds issued pur-
suant to this act and collect the proceeds, and which pro-
cceeds shall be deposited with its treasurer. Whenever any
such bonds are to be sold, the said council before offering
them to the public shall offer them in writing to the secre-
tary of state, which shall be held to be an offer to sell such
bonds at their par value to each of the governmental agencies
of the state authorized by law to purchase such bonds. If,
after such offer is made, the council of said city shall be
notified in writing that none of such agencies of the state
has elected to purchase such bonds, or after ten days have
elapsed after such offer of sale has been made without an
acceptance by any such agencies of the state, then the council
of said city shall advertise said bonds for sale, on sealed
bids, which advertisement shall be published at least once
a week for three weeks, the first publication to be made at
least twenty-one days preceding the date fixed for the recep-
tion of bids, in a newspaper published in said city, or if
there be none published therein, in a newspaper published
in the county of Ritchie of this state, and also posted in three
public places in said city at least twenty-one days before the
date fixed for the reception of bids, and at the option of
the council of said city said bonds may be advertised for
sale for alike period of time in a financial paper published
in the city of New York, or the city of Chicago, or in any
newspaper of general circulation published in any city of
the state of West Virginia having a population of not less
than twenty thousand inhabitants, according to the last
federal census. The council of said city may reject any and
all bids. If the bonds be not sold pursuant to such adver-
tisement they may be sold by the council of said city at private
sale within sixty days after the date advertised for the
reception of bids, but no private sale shall be made at a price
less than the highest bid which shall have been received. If not sold, said bonds shall be re-advertised in the manner herein provided. In no event shall such bonds be sold for less than their par value.

The profits, if any, accruing upon any such bonds offered to the secretary of state under the provisions of this act, and purchased by the state sinking fund commission and sold by said commission at a premium, shall be credited to the sinking fund of said city for the payment of said bonds and interest thereon.

The proceeds derived from the sale of such bonds shall be used only for the purpose or purposes for which the same were issued, as set out in the ordinance submitting the question to vote, but the purchasers of such bonds shall not be obliged to see to the application of the proceeds thereof.

This act shall, without reference to any other act of the legislature, be full authority for issuance and sale of the bonds hereby authorized; and no ordinance, order, resolution or proceeding in respect to the issuance thereof hereunder shall be necessary, except such as are required by this act. No publication of any order, ordinance, resolution or proceeding relating to the issuance of such bonds shall be necessary, except such as is required by this act. Any publication prescribed hereby may be made in any newspaper conforming to the terms of this act, without regard to designation thereof.

All bonds issued hereunder shall have all the qualifications of negotiable paper under the law merchant and shall not be invalid for any irregularity or defect in the proceedings for the issuance thereof, and shall be incontestable in the hands of bona fide purchasers or holders thereof for value.

The council of said city shall, as soon as practicable after the result of the election authorizing the issuance of bonds as provided herein shall have been officially ascertained, transmit to the attorney general a duly certified copy of all the orders, ordinances, proclamations, notices, advertisements, affidavits, resolutions and records of all the proceedings connected with or pertaining to such bond issue and any other matters relating thereto which the attorney
294 general may require. And all the provisions of section
295 twenty-four of chapter fourteen of the acts of the legislature
296 of one thousand nine hundred and twenty-three, relating to
297 the approval or disapproval of the attorney general of bonds
298 in general shall apply to and govern the issuing of bonds
299 under and by virtue of this act.
300 (w) All other acts or parts of acts, whether general or
301 special, insofar as the provisions thereof are inconsistent with
302 the provisions of this act, are hereby repealed; provided,
303 however, that nothing contained in this act shall affect or in
304 any wise impair or abridge the powers conferred upon the
305 said City of Pennsboro under section nineteen of chapter eight
306 of the acts of one thousand nine hundred and fifteen, regular
307 session, (municipal charters,) but the powers hereby conferred
308 upon said city shall be in addition to the powers conferred
309 upon it by said section nineteen of chapter eight of the acts
310 aforesaid.

CHAPTER 25

(House Bill No. 347—By Mr. Dorsey)

AN ACT to amend and re-enact section twenty-one of chapter six
of the acts of the legislature of West Virginia of one thousand
nine hundred and seven.

[Passed March 31, 1925; in effect 90 days from passage. Approved by the
Governor.]

Sec. 21. Levy on real and personal prop-
erty and dogs; rate of tax; pur-
pose of.

Be it enacted by the Legislature of West Virginia:

That section twenty-one of chapter six, of the acts of the legis-
lature of West Virginia of one thousand nine hundred and seven,
relating to the charter of the City of Parsons, be amended and re-
enacted so as to read as follows:

Annual Levy.

Section 21. The levy so ordered shall be upon all dogs in
2 the said city, and upon all real and personal property therein
3 subject to state taxes upon the basis of the valuation of such
4 property as fixed for state purposes; but no taxes so levied
5 upon property shall exceed the rate of fifty cents on every
6 one hundred dollars of the valuation thereof in any one year
7 for current purposes... and five cents for a special fire protection
8 fund, said fire protection fund, or so much thereof as may be
9 levied and collected to be kept separate from all other funds
10 and used for fire fighting equipment only, and to be levied,

CHAPTER 26

(House Bill No. 15—By Mr. Armstrong)

AN ACT relating to the board of park commissioners of the City
of Huntington.

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

Sec. 1. Park district defined.
2. Board of park commissioners, a body corporate; title and management vested in.
2-a. Definitions of terms.
3. Commissioners, election and tenure of.
4. Commissioners, oath of, by whom administered; vacancies, how filled.
5. Governor to appoint first board of

Be it enacted by the Legislature of West Virginia:

Section 1. The City of Huntington in the counties of Cabell
2 and Wayne shall constitute an independent park district to be
3 known as the park district of Huntington.

Sec. 2. The board of park commissioners of Huntington
2 shall be a body corporate and as such may purchase, hold,
3 sell, or convey real or personal property, may receive any gift,
4 grant, donation or devise; may sue and be sued, or contract
5 and be contracted with, and do other corporate acts; it shall
6 have the management of and be vested with the title to all
7 real and personal property acquired for the use of or useful
8 in the maintenance or enjoyment of parks, parkways, play-
9 grounds, athletic fields, swimming pools, cemeteries and boule-
10 vards within the district and shall manage and dispose of the
11 same as in its opinion will best serve the purpose of this act.
12 Provided, however, that nothing herein contained shall be
13 construed as limiting the board of park commissioners from
14 going beyond its territorial limits in the state of West Vir-
15 ginia, to lease, purchase or acquire any real estate for public
16 grounds, parks, parkways, cemeteries, athletic fields or boule-
17 vards.
Sec. 2-a The words 'park commission' as herein used, unless the context indicates to the contrary, shall be construed to mean the board of park commissioners of the City of Huntington; the words 'board of education', unless the context indicates to the contrary, shall be construed to mean the board of education of the independent school district of the City of Huntington; and the words, 'municipal authorities' of the City of Huntington shall be construed to mean the governing body of the City of Huntington as it is constituted at the time of the passage of this act, and as it may from time to time be changed by proper legislative action.

Sec. 3. There shall be nominated and elected by the voters of said district in the general election for state officers, on the first Tuesday after the first Monday in November, one thousand nine hundred and twenty-six, and in the manner prescribed by the general law for the nomination and election of district officers, six commissioners, and every two years thereafter, two commissioners, whose term of office shall commence on the first day of January following their election, and which shall be for six years and until their successors are elected and qualified, except that two of the commissioners elected in one thousand nine hundred and twenty-six shall serve only two years and two others for only four years, the ballots designating the term of each member, and, provided, that not more than one-half of said board shall be members of the same political party. The said commissioners shall constitute a board of park commissioners of the City of Huntington. They shall receive no compensation for their services.

Sec. 4. Before entering upon their duties as park commissioners each of said commissioners shall be required to qualify by taking and subscribing to the following oath of office: "I, ................., do solemnly swear (or affirm) that I will faithfully perform the duties as a member of the board of park commissioners of the City of Huntington during the term for which I was elected, to the best of my ability according to law, so help me God."

The secretary of the board of park commissioners, or any other person authorized to administer an oath, is authorized to administer said oath, a copy of which shall be kept upon the files in the office of the board. Any vacancy which may occur in the office of park commissioner, by death, resignation,
refusal to serve, or otherwise, shall be filled by the board of
park commissioners at its first regular meeting thereafter, by
appointment of a suitable person, who is a member of the same
political party as the member whose death, resignation, refusal
to serve or otherwise shall have caused the vacancy, and the
person so appointed shall hold office until the next election for
park commissioners, when a commissioner shall be elected
for the unexpired term.

Sec. 5. Immediately upon the passage of this act, the gov-
ernor shall appoint six persons, not more than three of
whom shall be members of the same political party, who are
citizens and voters in the City of Huntington, as park com-
missioners of said city, to hold office from the date of their
respective appointments to the election and qualification of the
park commissioners as provided for in section three, of this
act.

Sec. 6. The first meeting of the board of park commis-
ioners in one thousand nine hundred and twenty-five shall be held
as soon after the governor shall have made his appointments as
convenient, at a time and place to be designated by the mayor of
the City of Huntington, and bi-annually thereafter the first
meeting shall be held on the first Wednesday after the first
Tuesday in January, at such time and place as the board
may have designated. At its first meeting and bi-annually there-
after, the board shall elect one of its number president, and
also shall elect a secretary. Before entering upon the duties
of his office, the secretary shall enter into a bond with a surety
company, or at least two good personal securities to be ap-
proved by the board, conditioned for the faithful performance
of his duties, the bond to be payable to the board of park com-
missioners of the City of Huntington, in such penal sum as
the board determines, which bond shall be filed with the board
for safe keeping.

Sec. 7. The president shall perform such duties as ordinar-
yly devolve upon the presiding officer of a deliberative body,
except he shall have a vote upon each and every question, as
every other commissioner, but he shall have but one vote on each
question. In his absence the board may choose a president
pro tempore from among its number.

Sec. 8. The secretary shall record in a book to be provided
for that purpose, a record of the official acts and proceedings
3 of the board, which shall be a public record open to the in-
4 spection of all persons interested therein. He shall preserve
5 in his office all papers containing evidence of title, contracts
6 and obligations; and in general shall record and keep on file in
7 his office all such papers or documents as may be required by
8 any of the provisions of this act or by the board of park com-
9 missioners. For this service, he may receive such compensa-
10 tion as the board may allow. In his absence the board may
11 appoint a secretary pro tempore.

Sec. 9. The board of park commissioners shall hold stated
2 meetings at such times and places as it may appoint, not less
3 than four members being required to constitute a quorum for
4 the transaction of business. Special meetings may be called
5 by the president, or at the request of two members, by the
6 secretary; the concurrence of four members of the board
7 shall be required to decide all questions involving the expendi-
8 ture of money.

Sec. 10. The board of park commissioners shall have and
2 is hereby given power to acquire land for a system of parks,
3 parkways, playgrounds, athletic fields, stadiums, swimming
4 pools, cemeteries, boulevards and streets, necessary to connect
5 up such system, and if the land necessary for such purposes
6 can not be acquired by purchase, the power of eminent do-
7 main is hereby conferred upon the said board, and it shall
8 institute condemnation proceedings against the owners thereof
9 under the provisions of chapter forty-two of Barnes' West Vir-
10 ginia code, one thousand nine hundred and twenty-three e<l-
11 edition. The term, system of parks, parkways, playgrounds, athletic
12 fields, boulevards and streets as used herein shall embrace any
13 body of land of whatever shape or area, designated ultimately
14 to be used for parks, parkways, playgrounds, athletic fields,
15 boulevards, or streets, necessary to connect parks, and the board
16 of commissioners shall agree, with the municipal authorities of
17 the City of Huntington, upon what parts of the streets are
18 necessary for and are to be used as a part of the system of parks
19 and boulevards.
20 The board of park commissioners shall have and is hereby
21 given the necessary authority to control all parks, parkways,
22 playgrounds, athletic fields, swimming pools, stadiums, ceme-
23 teries, boulevards and streets, used as a part of the park sys-
24 tem, within its district; and by proper ordinances to regulate
the use thereof and driving thereon; to have the same kept in good order and free from obstruction; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes or disorderly persons on parks, parkways, playgrounds, athletic fields, swimming pools, stadiums, cemeteries, boulevards and streets, used as a part of the park system, but persons arrested under such ordinances shall be tried by the police judge of the City of Huntington, who is hereby given jurisdiction of all warrants issued under any such ordinances; to construct and improve and repair parks, boulevards, or streets, part of the park system, parkways, athletic fields, swimming pools, stadiums, cemeteries, roads, bridges, culverts and sewers on any grounds controlled by said board; to acquire, lease, appropriate, and control lands either within or without the city limits as they now exist, or such limits as may hereafter be enlarged; to make contracts with the board of education, the municipal authorities of the City of Huntington, the state authorities, jointly or separately for the purpose of the construction and erection of a stadium to be used jointly by the school board, Marshall college students and the public, under such terms and conditions as the said parties may deem best; to enter into contract with any internal improvement company for the joint ownership of any bridge, to be built by the board of park commissioners, and such company, but such bridge shall be a public highway, and the interest of the internal improvement company therein shall be only such a proportionate part thereof of which it may pay for; to cause any boulevard, road, street or alley which is a part of the park system to be graded or curbed or surfaced with stone, concrete or other suitable materials or paved or re-paved between curbs with suitable materials or to be graded, surfaced, re-surfaced, curbed and re-curbed and paved or re-paved as aforesaid, or to be macadamized or otherwise permanently improved or repaired in the same manner and to the same extent as similar power is conferred upon the board of commissioners of the City of Huntington, by sections sixty-seven, sixty-eight, sixty-nine and seventy of chapter two of the acts of the legislature of one thousand nine hundred and nineteen; to order and cause to be constructed in any boulevard, street, alley or road which is a part of the park system, a public sewer, either main or lateral, in the same manner in
which the board of commissioners of the said City of Hunting-
ton is authorized by section seventy-one of chapter two of the
acts of the legislature of one thousand nine hundred and nine-
teen; and the liens created under the aforementioned sections
are to be released and are subject to all of the provisions of sec-
tion seventy-two of chapter two of the acts of one thousand nine
hundred and nineteen; to provide by contract with the munici-
pal authorities of the City of Huntington for the joint construc-
tion of sewers, main or lateral, through parks, parkways, ceme-
teries, playgrounds, athletic fields boulevards, roads, streets or
alleys which are part of the park system of the City of Hunting-
ton, to be paid for out of joint funds; to provide for the con-
struction and maintenance of a stadium and swimming pools
and to provide the necessary equipment for the use and enjoy-
ment of the parks and playgrounds.

Sec. 11. For the purpose mentioned in the foregoing section,
the board of park commissioners is here given the power to and
is required annually to levy a tax on the property taxable in
the said district, not to exceed in any one year, the rate of six
cents on each one hundred dollars valuation thereof, according
to the latest assessments of the same for state and county pur-
poses. The levy to be made at the time and in the manner as
provided by sections five, six and eight, of chapter twenty-eight-a,
of Barnes' West Virginia code, one thousand nine hundred
twenty-three edition, insofar as the same are applicable, and the
board of park commissioners is hereby given expressly all the
powers and is subject to all of the limitations of sections nine,
ten, eleven, twelve and thirteen of said chapter twenty-eight-a,
except that after the board of park commissioners shall have
made the levy, it shall certify to the treasurer of the City of
Huntington, the amount of the said levy, and the said city
treasurer shall thereupon extend the levy upon the tax tickets,
and all levies made by the said board of park commissioners
shall be collected and held by the city treasurer who is here
made treasurer of the board of park commissioners, and who
is required to deposit all park funds received or collected by
him in a special deposit to his credit as treasurer of the board
of park commissioners, and to pay out such money upon vouch-
ers drawn upon the order of the board of park commissioners
on the city treasurer, which orders are to be signed by the
26 president of the board of park commissioners, and counter-
27 signed by its secretary.
28 Provided, further: That inasmuch as the City of Huntington-
29 ton annually pays to the county assessor, certain fees for mak-
30 ing out for its use copies of the land and personal property
31 books, the board of park commissioners shall hereafter contribute
32 to the payment of this amount, such a proportional part thereof
33 as the amount of the levy made by the said board of park com-
34 missioners bears to the amount of the levy made by the City
35 of Huntington.

Sec. 12. Upon the passage of this act, the title to all parks,
2 parkways, play-grounds, athletic-fields, cemeteries and boule-
3 vards which is vested in the City of Huntington, but under
4 the provision of this act, pass to the jurisdiction of the board
5 of park commissioners, shall be vested in the board of park
6 commissioners of the said city and held as herein set out.
7 But provided always: That there may be no confusion of
8 the streets which are parts of the park boulevard system, and
9 what are boulevards. The board of commissioners of the City
10 of Huntington shall, within four weeks after the passage of
11 this act, adopt an ordinance setting out what parks, parkways,
12 play-grounds, athletic fields, cemeteries, boulevards and streets,
13 which are part of the boulevard system are embraced in said
14 system, and upon the passage of said ordinance, the jurisdiction
15 of all parks, parkways, play-grounds, cemeteries, athletic fields,
16 boulevards and streets mentioned therein shall pass to the con-
17 trol of the board of park commissioners.
17-a The board of park commissioners shall have and maintain its
18 offices in the city hall of the said City of Huntington.

Sec. 13. Immediately after the first meeting of the board of
2 park commissioners as herein provided, the municipal authori-
3 ties of the City of Huntington shall transfer to the said board,
4 all sums in the treasury of the City of Huntington remaining
5 to the credit of the park and cemetery funds, and shall at the
6 same time turn over to the said board of park commissioners
7 any unpaid accounts against the said funds, and any unex-
8 ecuted contracts in relation thereto, and the said board shall
9 assume said accounts and carry out such unexecuted contracts.
CHAPTER 27

(House Bill No. 370—By Mr. Armstrong)

AN ACT to amend chapter eleven of the acts of the legislature of one thousand nine hundred and twenty-one (municipal charters) as amended by section two of chapter seventy-eight of the acts of the legislature of one thousand nine hundred and twenty-three, relating to the corporate limits of the City of Huntington.

[Passed April 15, 1925; in effect from passage. Approved by the Governor.]

Sec. 2. Corporate limits; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section two of chapter seventy-eight of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-three be amended and re-enacted to read as follows:

Section 2. The corporate limits of the City of Huntington shall be as follows, to wit:

Beginning at a stake at low water mark of the Ohio river, southerly side thereof, about a mile above the mouth of the Guyandotte river, in the west side of the Peck farm; thence southerly with the west line of the Peck farm to the top of the river hill; thence leaving the corporation line as heretofore established, and continuing southerly with the west line of the Peck farm and with the property lines in a general southerly direction to the south line of the Chesapeake and Ohio railway company right of way; thence westerly and with the south line of the right of way of the Chesapeake and Ohio railway company to the top of the bank on the west side of Pat’s branch, being a point in the corporation line as heretofore established; thence continuing with said corporation line as heretofore established, southwesterly with the west bank of said Pat’s branch to the northeast side of the state road No. 3 on the east side of the Guyandotte river; thence southeasterly with the northeast line of said state road No. 3 to the east line of the International Nickel Company property, and thence with the east line of said company and in a northerly direction, to the south line of the right of way of the Chesapeake and Ohio Railway Company, and thence easterly with said south line of the right of way of said railway company to a point where...
19-f said line intersects with the west line of Fifth Street, as shown
19-g upon Plat No. 1 of Altizer Place, and thence with the
19-h west line of said Fifth Street to a point in said
20 line where said state road No. 3 turns southward to cross the
21 Guyandotte river; thence continuing with the west line of said
22 state road, and across said river, to a point where said west line
23 intersects with the north line of the Norway avenue-Russel creek
24 road; thence westerly with the north line of said Norway avenue-
25 Russel creek road to its intersection with the southeastly cor-
26 poration line of the City of Huntington, as heretofore consti-
27 tuted by chapter one hundred and fifty of the acts of the legis-
28 lature of one thousand nine hundred and one; thence south and
29 then westerly with said corporation line to the Huntington-
30 Hamlin pike; thence in a straight line and westerly direction
31 to a point on the west side of the McCoy (Eighth street) road
32 two feet northeast of the northeasterly corner of the F. L. Wey-
33 mouth land; thence westerly across the McCoy road to the north-
34 easterly corner of the F. L. Weymouth land; thence following
35 the northeasterly line of the F. L. Weymouth land and the
36 northerly line of the land of F. L. and F. A. Weymouth to the
37 intersection of the present corporation line at the left fork of
38 Hissey creek; thence westerly with the northerly bank of the
39 said left fork to its intersection with the right fork; thence
40 westerly with the northerly bank of Hissey Fork of Four Pole
41 creek to where said old corporation line crosses said Hissey Fork;
42 thence in a northerly direction by said line, as heretofore con-
43 stituted by chapter one hundred and fifty of the acts of the
44 legislature of one thousand nine hundred and one, to the north-
45 easterly branch of Four Pole creek; thence in a westerly direction
46 and down Four Pole creek with the northerly bank thereof to
47 the intersection of said creek with Hissey Fork of said creek;
48 thence with the northerly bank of Four Pole creek westerly and
49 down the same to the intersection of said creek with the southerly
50 line of the right of way of the Chesapeake and Ohio railway
51 company; thence continuing westerly with the said southerly
52 line of the right of way of said railway company to its intersec-
53 tion with the division line between Wayne and Cabell counties;
54 thence continuing with the southerly line of the right of way of
55 said railway company to the point of its intersection with the
56 easterly corporation line of the town of Ceredo in Wayne county;
57 thence in a northerly direction with said easterly corporation
58 line of the town of Ceredo to the low water mark of the southerly
59 side of the Ohio river; thence easterly with said low water mark
60 of the Ohio river to the point of beginning. Provided, that the
61 territory embraced relating to that part of the boundary line
62 in Wayne county shall always remain in Wayne county.

All acts and parts of acts inconsistent with this act are hereby
repealed.

CHAPTER 28

(House Bill No. 466—By Mr. Schon)

AN ACT to amend and re-enact sections sixty-seven and sixty-eight
of chapter seventy-eight of the acts of the legislature of one
thousand nine hundred and twenty-three, amending the charter
of the city of Huntington, concerning paving and sewer certi-
ficates.

[Passed April 15, 1925; in effect from passage. Approved by the Governor.]

Sec. 67. Paving assessments and certifi-
cates; form of.

Sec. 68. Sewer system authorized; assess-
ments and certificates; publication; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections sixty-seven and sixty-eight of chapter seventy-eight
of the acts of the legislature of one thousand nine hundred and
twenty-three, amending the charter of the City of Huntington, be
amended and re-enacted to read as follows:

Section 67. The board of commissioners may contract for
such paving (including grading and curbing), or other said
improvements, to be done as aforesaid, and may acquire or
take land for street and park purposes, as aforesaid, and
may, if the board so elect, stipulate that the costs thereof, in
whole or in part, shall be paid in installments by the abut-
ting property owners, as provided in (a) and (c) of section
sixty-five, or specially benefitted property owners, as pro-
vided in (g) of said section, in five equal or nearly equal in-
stallments, (making four in terms of dollars only and when
practicable in multiples of ten, the cents and odd amounts to
be covered by the first installment), except as hereinafter pro-
vided in this section, to be evidenced by a certificate issued
therefor against each separate lot or tract of land, setting out
the total amount of such assessment against the same, payable
16 in five installments except as hereinafter provided, as fol-
17 lows: The first in thirty days after date of certificate, the
18 second on the first day of May of the year following the
19 year in which the certificate is issued, and the remaining
20 three on the first day of May of the three following years
21 respectively. The date of certificate in case of permanent
22 improvement of streets or other roadways shall be the day on
23 which the city received said work from the contractor, and
24 it shall bear interest at the rate not to exceed six per cent
25 per annum, payable on the due date of each principal install-
26 ment, which certificate is to be signed in person by the mayor
27 and clerk, or other person or persons designated of record by
28 the board. Said certificate shall bear coupons designated
29 "principal installment coupons," representing the respective
30 amounts of the installments to be paid under the same, and
31 which coupons shall be due and payable on the dates pro-
32 vided for the payment of the installments in this section, and
33 said certificate shall also bear interest coupons representing
34 the interest to be paid on said assessment, and which said
35 interest coupons shall be due and payable at the same time
36 the principal installment coupons are due and payable. Upon
37 the due date of any principal installment coupons excepting
38 the first, the accrued interest on so much of said assess-
39 ment as remains unpaid, shall be due and payable and shall be
40 represented by interest coupons as herein above set out. The
41 interest on the first principal installment coupon shall be paid
42 when the said principal installment coupon is paid. Both the
43 principal installment and interest coupons shall be signed by
44 the mayor and clerk, or other person or persons designated,
45 of record by the board, either in person or by stamp, bear-
46 ing a fac simile of the written name of the person signing, or
47 lithographed in fac simile on said principal installment and
48 interest coupons. The certificates herein provided for may
49 be sold either to the contractor doing the paving or other im-
50 provements, or to any other person, and which shall cover the
51 entire cost of such work provided for in the ordinance or
52 resolution, including the cost of acquiring or taking land for
53 street or park purposes, the cost of surveys, notices and other
54 things pertaining thereto; provided, when the entire amount
55 to be assessed against any lot or piece of ground under the
provisions of this section does not exceed fifty dollars, then such amount shall be covered by only one set of said coupons, payable thirty days after date of issue of certificate; if over fifty and not more than one hundred dollars, then such amount shall be covered by only two principal installment and interest coupons payable in thirty days after date of certificate and on the first day of May of the year succeeding the year in which the certificate was issued, respectively; if over one hundred and not more than one hundred and fifty dollars, then such amount shall be covered by only three principal installment and interest coupons, payable in thirty days from date of certificate and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one year thereafter, respectively; if over one hundred and fifty dollars and not more than two hundred dollars, then such amount shall be covered by only four principal installment and interest coupons payable in thirty days after date of certificate and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one and two years thereafter, respectively; if more than two hundred dollars, then such amount shall be covered by five principal installment and interest coupons payable in thirty days after date of certificate and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one, two and three years thereafter, provided, further, the city in negotiating and selling such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of the commissioners as expressed by resolution of record. And the certificate and coupons covering the amount of the assessment and interest shall be paid by the owner of the land, lot or fractional part thereof, so assessed for the cost of said improvement on such avenue, street, road or alley so paved or improved, or land acquired or taken, as aforesaid. The amount specified in said assessment certificates shall be a lien in the hands of the holder thereof upon the lands, lots or parts thereof so assessed, and shall also be a debt against the owner of such real estate, and said amount shall draw interest from the date of said certificates, payable on
97 the due date of each principal installment coupon; and the 
98 payment of the debt may be enforced as provided by law 
99 for the collection of other debts or such lien may be enforced 
100 in the name of the holder of such certificate in manner pro-
101 vided by law for the enforcement of other liens against real 
102 estate and accrued interest shall be a lien the same as amount 
103 set out in assessment certificate.
104 After a contract has been made by a board to pave or 
105 otherwise permanently improve any public road, avenue, street 
106 or alley in said city under this act, and the paving or other 
107 permanent improvement, or stipulated part thereof, has been 
108 completed, or the cost of acquiring or taking land as aforesaid, 
109 has been ascertained, the board shall assess the amount each 
110 lot shall bear and shall make a written report, stating the 
111 number of lots, and the blocks or tracts of land, when not 
112 laid off into lots, the names of the owners of such lots of land 
113 when known, and the amount assessed thereon; and when 
114 the said board approves said report, or modifies it and then 
115 approves it, a copy of said report, so adopted by the board, 
116 when certified to by the city clerk of said city shall be re-
117 corded in the clerk's office of the county court of Cabell 
118 county, in a trust deed book and shall be a continuing tax lien 
119 upon the lot or ground against which the assessment is made 
120 until the certificates as aforesaid are paid, except as otherwise 
121 provided in this act, and the clerk shall index the same in 
122 the name of each lot or land owner mentioned therein; pro-
123 vided, any property owner shall have the right to pay the 
124 whole amount of any such assessment against his property 
125 as soon as the same shall have been ascertained, but before 
126 the day on which the city enters such assessments of record 
127 after the two weeks' notice provided in section seventy-four 
128 of chapter eleven of the acts of the legislature of the state of 
129 West Virginia of one thousand nine hundred and twenty-one 
130 (municipal charters); and such payment shall be made to the 
131 city clerk, who shall give proper receipt therefor, and such as-
132 sessment, so paid, shall not be included in the report to be re-
133 corded in the office of the county clerk as set out in this sec-
134 tion; and the amount so paid to the clerk shall forthwith be 
135 paid to the contractor or other person entitled thereto, which 
136 shall operate as full discharge of the amount of such indebted-
ness of such property owner. The certificates and principal
installment and interest coupons herein provided for may be
made in the following form or to the same effect:

No. ...........

$ ...........

THE STATE OF WEST VIRGINIA
(State Coat of Arms)
CITY OF HUNTINGTON

PAVING ASSESSMENT CERTIFICATE

This certifies that ........................................ as the
owner of a lot, piece or parcel of real estate, situate in the
city of Huntington, West Virginia, known and designated as
Lot No. ........... in Block No. ..........., has been duly
assessed the sum of ................................ dollars, with
interest from this date at the rate of six per centum per
annum, payable on the due date of each principal installment
coupon, as hereinafter set out, which assessment has been
made to pay the cost of the public improvement hereinafter
recited.

This certificate is one of a series issued pursuant to the
provisions of the charter of the city of Huntington, West
Virginia, and the laws of the state of West Virginia, to pay
the cost of grading, curbing and paving ..................... ,
from ................................ to ................................ in
the city of Huntington, West Virginia.

The charter of the city of Huntington, West Virginia, re-
quires assessments for such improvements to be made payable
in installments as follows:

(a) If not more than fifty dollars in one installment
due in thirty days after date of certificate.

(b) If more than fifty dollars and not more than one hun-
dred dollars in two installments due in thirty days, and on
the first day of May of the year succeeding the year in which
the certificate was issued.

(c) If more than one hundred dollars and not more than
one hundred and fifty dollars, in three installments, due in
thirty days, and on the first day of May of the year succeeding
the year in which the certificate was issued, and on the first
day of May one year thereafter.

(d) If more than one hundred and fifty dollars and not
more than two hundred dollars, in four installments, due in
thirty days, and on the first day of May of the year succeeding
the year in which the certificate was issued, and on the first
day of May in one and two years thereafter, respectively.
(e) And if more than two hundred dollars, in five install-
ments due in thirty days, and on the first day of May of the
year succeeding the year in which the certificate was issued,
and on the first day of May in one, two and three years there-
after, respectively.
Said assessments to draw interest at the rate of six per centu-
per annum, payable on the due date of each principal install-
ment.
Installments of this certificate, therefore, are evidenced by
principal installment coupons hereunto attached, which show the amounts of such installments,
the due date thereof, and are signed by the mayor and the
clerk of the city of Huntington, West Virginia.
The interest on this certificate and the installments thereof
are evidenced by interest coupons hereunto attached, which
show the amount of such interest, the due date thereof, and
are signed by the mayor and clerk of the city of Hunting-
ton, West Virginia.
Upon the due date of any principal installment coupon,
excepting the first, the accrued interest on so much of said
assessment as remains unpaid, shall be due and payable in
accordance with, and as evidenced by interest coupons hereto
attached. The interest on the first principal installment
coupon shall be paid when the said principal installment
coupon is paid.
The said several principal installment and interest coupons
respectively, are payable at the office of the treasurer of the
city of Huntington.
The amount of the assessment represented by this certi-
ficate and principal installment coupons attached has been
duly levied, equalized and confirmed, and along with accrued
interest is a lien upon the real estate herein mentioned, and
is also a debt against the owner of said real estate and the
holder or bearer of this certificate may enforce the debt evi-
denced thereby, as provided by law.
It is hereby certified and recited that all the acts, conditions
and things required to be done precedent to and in the let-
of the contract for said improvement, the equalization and making of said assessment, and the issuing of this certificate, have been done and performed in regular and due manner and form, as required by the charter of the city of Huntington, West Virginia, and the constitution and laws of the state of West Virginia.

In testimony whereof, the city of Huntington, a municipal corporation created and existing under the laws of the state of West Virginia, has caused this certificate to be signed by its mayor and clerk and the principal installment and interest coupons, respectively, hereunto attached, to be signed by its mayor and clerk this day of ............. .

19 ....

Clerk. Mayor.

No. .......... Principal Installment $ ............. .

Coupon

On the .......... day of ................... , 19 .... , there will be due and payable to the bearer hereof, from the sum of ............. .

dollars, being the installment on certificate No. .......... of the City of Huntington, West Virginia, for the curbing, grading and paving of ............. .

to ............. .

Clerk. Mayor.

No. .......... Interest Coupon $ ............. .

On the .......... day of ................... , 19 .... , there will be due and payable to the bearer hereof, from the sum of ............. .
dollars, representing interest at six per centum from .......... to .......... .

of certificate No. .......... on installment No. .......... of the City of Huntington, West Virginia, for curbing, grading and paving of ............. .

to ............. .

Clerk. Mayor.
Sec. 68. The board of commissioners of said city is au-
2 thorized and empowered to order and cause to be constructed,
3 in said city, or part within and part outside of the limits of
4 the said city, a public sewer or sewers, either main or lateral
5 or both, by contract or direct by the city, for the benefit of
6 said city or any part thereof, and to purchase land or ease-
7 ment therein, or to condemn land or easement therein in the
8 manner provided in this act, for such sewer; and when the board
9 shall order and complete the construction of any such sewer or
10 any part thereof in said city, the owners of the property abut-
11 ting thereon or abutting upon an avenue, street, road or alley
12 in which such sewer shall be constructed, or abutting on any
13 land or easement therein specially procured for the purpose of
14 the construction of a sewer therein, may be charged with all or
15 any part of the cost thereof, including the cost of such sewer at
16 and across intersections at avenues, streets, roads and alleys
17 adjacent thereto. If said work is let to contract, the provisions
18 of (1) section sixty-five, shall apply.
19 When said sewer is completed in any one block, or be-
20 tween two designated points, the board of commissioners shall
21 cause a report to be made in writing setting out the total
22 cost of such sewer and a description of the lots or
23 lands as to location, frontage and ownership liable
24 therefor, including the cost of acquiring or taking
25 land or easement therein for such purpose and cost
26 of surveys, notices, etc., therefor, together with the
27 amount chargeable against each lot or piece of land
28 and the owner thereof. If any lot fronts on two
29 streets, or on a street and road, or on a street (or road) and
30 alley in which a sewer is constructed, it may be assessed on
31 both said streets, or street and road or street (or road) and al-
32 ley. Said board shall enter an order upon its records setting
33 forth the location and owner of each lot or piece of land, and the
34 amounts of said sewer assessments there against, calculated
35 in the same way as provided for street paving in (c) of sec-
36 tion sixty-five herein. The city clerk shall file a certified
37 copy of said order with the clerk of the county court of
38 Cabell county, who shall record the same in the proper trust
39 deed book, and index the same in the name of each owner,
40 and any lot or land thus charged with said assessment. The
entry of such order shall constitute and be an assessment for
such proportionate amounts so fixed therein against respective
lots and land and the owners thereof; and said board shall
thereupon certify the same to the treasurer for collection;
and for the purpose of facilitating the collection of such as-
sessments against the properties as hereinbefore set out, the
board of commissioners may issue assessment certificates, with
principal installment and interest coupons attached thereto,
in form and manner provided for street improvement cer-
tificates and coupons in section sixty-seven, to be delivered
to and charged against the city treasurer who shall collect
the same, and as such coupons and certificates are paid he
shall deliver the cancelled coupons and certificates to the
party paying the same; provided, the board of commissioners,
if they so elect, may after passage and publication of ordi-
ance or resolution and final action thereon by the citizens
board, as provided in (g) of section sixty-five, order and
cause the construction of any such sewer, and may acquire
or take land or easement therein, either in or outside said
city, or both, for said sewer purposes, and assess all or any
part of the cost thereof upon and against the abutting, ad-
jacent, contiguous and other lots of land specially benefitted
by the construction of such sewer, as provided in (g) of sec-
tion sixty-five, and said assessments along with accrued inter-
est thereon shall be a lien upon such lots or land, and a debt
against the owners thereof for the amount so charged against
them respectively, which debt may be collected as provided
by law for the collection of other debts of like kind, and which
lien may be enforced in the same manner as provided for the
enforcement of paving liens in this act; and the city shall
have exclusive ownership and control of that part of any
such sewer constructed outside of said city, unless otherwise
provided by some ordinance of the city.
The amounts so assessed against said abutting lots or land,
or lots or lands specially benefitted, and which shall be a
lien there against, shall be collected in the manner provided
in this act for the collection of paving liens. Said assess-
ments shall be divided into five installments, each for one-
fifth of the amount thereof, as near as practicable (making
four in terms of dollars only, and when practicable, in mul-
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81 multiples of ten, the cents and odd amounts to be covered by the
82 first installment), the first due and payable in thirty days,
83 the second on the first day of May of the year succeeding the
84 year in which said certificates are issued, and a like amount on
85 the first day of May for each succeeding year thereafter from
86 the time of receiving said sewer (except as hereinafter provided
87 in this section), all bearing interest at the rate of six per
88 centum per annum from such date, interest payable on the due
89 date of each principal installment and the board of commis-
90 sioners may issue sewer certificates, and principal installment
91 and interest coupons thereon as of such date, as provided in sec-
92 tion sixty-seven of this act for street improvement assessments,
93 as further evidence of said indebtedness and lien therefor, and
94 said certificates may be sold or negotiated, at not less than par
95 and without any kind of discount to the contractors doing such
96 work, or other person, if the board deem it expedient; provided,
97 the city, in negotiating and selling such certificates, shall not be
98 held as guarantor or in any way liable for payment thereof
99 except upon the direct action of the board of commissioners
100 as expressed by resolution of record. But the owner of the
101 land or lot so assessed may, at any time, anticipate and pay
102 such assessment or certificate with accrued interest thereon
103 until the day on which the next undue assessment shall be-
104 come due. And if such assessment shall not exceed fifty
105 dollars, then such amount shall be covered by only one set
106 of said coupons, payable thirty days after date of its issue
107 of certificate; if over fifty dollars and not more than one
108 hundred dollars, then such amount shall be covered by only
109 two principal installment and interest coupons payable in
110 thirty days and on the first day of May of the year succeed-
111 ing the year in which the certificate was issued, respectively;
112 if over one hundred dollars and not more than one hundred
113 and fifty dollars, then such amount shall be covered by only
114 three principal installment and interest coupons, payable in
115 thirty days from date, and on the first day of May of the
116 year succeeding the year in which the certificate was issued,
117 and on the first day of May one year thereafter, respectively;
118 if over one hundred and fifty dollars and not more than two
119 hundred dollars, then such amount shall be covered by only
120 four principal installment and interest coupons payable in
thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one and two years thereafter, respectively; if more than two hundred dollars, then such amount shall be covered by five principal installment and interest coupons payable in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one, two and three years thereafter, respectively; and the term "equal amounts" herein shall mean as nearly equal as practicable, that is, four installments being expressed in terms of dollars only, and, when practical, in multiples of ten, the cents and odd amounts being covered by the first installment.

All assessments along with accrued interest thereon made under this section shall constitute and be a lien upon said lots or lands, respectively, which shall have priority over all other liens except for state, county and municipal taxes.

The certificates and principal installment and interest coupons provided for in this section may be made and issued in form or to the same effect as provided for certificates and principal and interest coupons for street improvements in section sixty-seven.

If two newspapers of opposite politics are not published in the city at the time of the passage of any of the ordinances or resolutions provided in this act to be published, then the same may be published in one newspaper of general circulation in the city, as provided by this act, and if the publication of the ordinance cannot be procured in any newspaper in said city at reasonable rates, then the same may be posted for the period provided in this act for publication, at the south front door of the city hall, and such posting shall be equivalent to publication as herein provided.

All certificates, principal installment and interest coupons provided for in this act or chapter eleven (municipal charters), or the acts of the legislature of the state of West Virginia, of one thousand nine hundred and twenty-one shall be made payable at the office of the treasurer of the city of Huntington.

Provided, that wherein said chapter or this act, in relation to tax liens and assessment liens, and reports or orders of the municipal authorities are required to be filed by the
160 city clerk in the office of a county court clerk, if the real
161 estate sought to be encumbered by such lien is situated wholly
162 within Cabell county, such report or order shall be filed in the
163 office of the county clerk of Cabell county; but if wholly sit-
164 uated in Wayne county, then such report or order shall be
165 filed in the office of the county clerk of Wayne county; and if
166 the real estate, the subject matter of the report or order is
167 situated in both counties then such report or order shall be
168 filed in the office of the county court of both Wayne and Cabell
169 counties.

All acts and parts of acts inconsistent with this act are hereby
repealed.

CHAPTER 29

(House Bill No. 379—By Mr. Mathews)

AN ACT to amend and re-enact sections sixty, sixty-one, sixty-two,
sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eigh,
sixty-nine, seventy, seventy-one, seventy-two, seventy-three,
eighty-five and eighty-six of chapter seven of the acts of the
legislature of one thousand nine hundred and twenty-one
bound in a volume of "municipal charters" of such acts and
known as the "Charter of the City of Dunbar," all relating to
and becoming a part of the charter of the City of Dunbar.

[Passed April 23, 1925; in effect from passage. Became a law without the approval
of the Governor.]

Sec.
62a. Sewer assessments.
Sec. of two-thirds of council.
Sec. 62a. Council empowered to construct
sewers; definitions; liens for
Sec. 62b. Liens for sewers.
Sec. 62c. Council may sub-divide land for
assessments purposes.

Be it enacted by the Legislature of West Virginia:

That sections sixty, sixty-one, sixty-two, sixty-three, sixty-four,
sixty-five, sixty-six, sixty-eight, sixty-nine, seventy,
seventy-one, seventy-two, seventy-three, eighty-five and eighty-six
of chapter seven of the acts of the legislature of one thousand nine
hundred and twenty-one, bound in the volume of "municipal
charters" of such acts known as the "Charter of the City of Dun-
bar" be amended, re-enacted and added to the charter of the City
of Dunbar so as to read as follows:

Section 62. Whenever the council shall order the construc-
tion of any public sewer in said city, the owners of the prop-
property abutting upon any street in which such sewer shall be constructed, shall be charged with and liable for sewerage assessments as follows: When said sewer is completed the engineer of said city shall report to the council in writing, the total cost of such sewer, and a description of the lots and lands as to location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated in the following manner: The total cost of constructing and laying the sewer shall be borne by the owners of the land abutting upon the streets, alleys, rights of way or easements or portions thereof, in which the sewer is laid, according to the following plan: Payment is to be made by each land owner on either side of such portion of a street, alley, right of way or easement in which such sewer is laid, in such proportions as such frontage of his land upon said street, alley, right of way or easement bears to the total frontage of all lands so abutting on such streets, alleys, rights of way or easements in which said sewer is laid; provided, that the charge laid against any owner or property shall not exceed two dollars per linear foot of frontage on each side of the portion of such street, alley, right of way or easement in which any such sewer is laid. In case of a corner lot, frontage is to be measured along the longest dimension thereof abutting on such street, alley, right of way or easement in which such sewer is laid. Any lot having a depth of two hundred feet or more and fronting on two streets, alleys, rights of way or easements, one in the front and one in the rear of said lot shall be assessed on both of said streets, alleys, rights of way or easements, if a sewer is constructed in both such streets, alleys, rights of way or easements. Where a corner lot has been assessed on the end it shall not be assessed on the side, and where it has been assessed on the side, it shall not be assessed on the end. Thereupon said council shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duty as to corrections by said council as are prescribed with reference to paving, which report shall in like manner be examined by the council, and if found to be correct, or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the cost of such sewer
44 upon the basis hereinbefore described, it shall enter an order
45 upon the records, setting forth such location, depth, owner-
46 ship and said amount of such sewer assessments, against each
47 respectively, calculated as aforesaid, and the entry of such
48 order shall constitute and be an assessment for such propor-
49 tion and amount so fixed therein against such respective own-
50 ers and lots, and if after such advertisements, notice and hear-
51 ing, said council shall find that such apportionment at such
52 rate is unjust or inequitable, and contrary to the intent of this
53 act, it shall ascertain, fix and assess the cost thereof among
54 and upon the abutting owners respectively, justly and equita-
55 bly and according to the intent hereof, and in like manner,
56 assess and enter the amount so fixed respectively upon its
57 records, and the council shall, in either event, thereupon cer-
58 tify the same to the treasurer for collection, and certify a
59 copy of such order to the clerk of the county court of Kana-
60 who county, who shall record the same in the proper trust
61 deed book, and index the same in the name of each owner of
62 any such lot so charged with such assessment, and such assess-
63 ment so made shall constitute and be a lien upon said lots re-
64 spectively, which shall have priority over all other liens, except
65 those for taxes due the state, and shall be on a parity with
66 other taxes and assessments due the city, or other person for
67 that improvement. Said amounts so assessed against the said
68 several land owners shall be paid by the parties liable therefor
69 to the said treasurer at all times, in the manner and with the
70 attendant penalties for failure to pay promptly at the time
71 prescribed in all respects as hereinbefore provided in the case
72 of assessments for paving streets and alleys in a permanent
73 manner, and the parties liable therefor shall, in the same
74 manner, and to the same extent, have the right and be entitled
75 to anticipate any or all of such installments thereon as in such
76 case provided. The owners of, or tenants, occupants, or
77 agents in control of any lot abutting on or near or adjacent to
78 any street, avenue, alley, right of way or easement in said city,
79 in which a public sewer is or may hereafter be laid and con-
80 structed, upon which lot any business or residence building is
81 or may hereafter be erected, or upon which any water stands
82 not connected with a public sewer, may be required and com-
83 piled to connect any such building or lot with such sewer.
84 Notice to so connect may be given to the owner, lessee, or occupant of such building. Each day's failure to comply with such notice and connect with such sewer by such owner or owners, ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and every such offense shall be punishable by fine of not less than five nor more than twenty-five dollars. The expense incurred by any tenant, occupant, or agent in complying with the order of said council to make such sewer connection may be deducted out of the accruing rents as provided for in section forty-seven relating to the abatement of nuisances. Jurisdiction to hear, try, determine and sentence for violation of this section is vested in the police court of such city.

97 The liens herein and hereinbefore provided for street paving, macadamizing and sewerage assessments and assessments for other improvements shall constitute liens upon the real estate upon which they are assessed as against creditors of the owners thereof, or purchasers for value, and without actual notice of such liens, only from and after the date that the contract is made for such work and shall have priority over all liens placed on said real estate after said contract is made by the city for said work.

106 In the paving, curbing, macadamizing or otherwise improving streets and alleys and providing for the assessment of the cost thereof under section sixty-one or section eighty-eight of the charter of the City of Dunbar there may be included in any such assessment the cost of constructing the necessary drains for the disposal of surface water.

Sec. 62-a. The council is authorized and empowered to order and cause to be constructed, in said city, or part within and part outside of the limits of said city, public, common, lateral, branch, trunk and combined sewers or public sewer systems, or both, by contract or direct by the city, for the benefit of said city or any part thereof, and to purchase lands or easements therein or to condemn lands or easements therein in the manner provided by law, for such sewers or sewer systems, and when the council shall order and complete the construction of any such sewer or sewer system or any part thereof in said city, the owners of the property abutting on such sewer or abutting upon an avenue, street,
13 alley, right of way or easement in which such sewer shall
14 be constructed, or abutting on any avenue, street, alley, right
15 of way, or easement in which any common sewer, part of
16 a sewer system, is constructed and laid, may be charged
17 with all or any part of the cost thereof, including the cost
18 of such sewer or sewer system at and across intersections
19 at avenues, streets, roads and alleys adjacent thereto. If
20 said work is let to contract, the provisions of the charter of
21 the city of Dunbar relating to street paving contracts shall
22 apply.
23 A sewer system shall be deemed to include all the common
24 sewers, whether they be lateral, branch, trunk or combined
25 sewers, and the outlet therefor, which serve to drain a definite
26 drainage area as specified in the order of the council direct-
27 ing the work to be done.
28 A common sewer shall be deemed to be a sewer in which
29 all abutters have equal rights of entrance and use.
30 A lateral sewer shall be deemed to be a sewer which does
31 not receive the sewage from any other common sewer.
32 A branch sewer shall be deemed to be a sewer into which
33 the sewage from two or more lateral sewers is discharged,
34 including storm and surface water sewers.
35 A trunk sewer shall be deemed to be a sewer into which
36 the sewage from two or more branch sewers is discharged.
37 A combined sewer shall be deemed to be a sewer intended
38 to receive domestic sewage and industrial wastes.
39 When said sewer or sewer system is completed the engineer
40 of said city shall report to the council in writing, the total
41 cost of such sewer or sewer system, and a description of the
42 lots and lands as to the location, frontage, depth and owner-
43 ship liable for such sewer assessment, so far as the same may
44 be ascertained, together with the amount chargeable against
45 each lot and owner, calculated in the following manner:
46 The total cost of constructing and laying the sewer or sewer
47 system, including the portions thereof laid in the intersec-
48 tions of streets and alleys, shall be borne by the owners of
49 the land abutting upon the streets, avenues, alleys, rights of
50 way or easements or portions thereof in which the sewer or
51 some part of the sewer system is constructed and laid; pay-
52 ment is to be made by each land owner on either side of
53 such portion of a street, alley, right of way or easement in
which a common sewer is laid, in the proportion that the
frontage of his land upon such portion of said street, alley,
right of way or easement in which such sewer or sewer
system is laid bears to the total frontage of all lands so
abutting on such street, alley, right of way or easement in
which the sewer or some part of the sewer system is laid;
provided, that the charge laid against any such owner of
property shall not exceed two dollars per linear foot of
frontage on each side of such street, alley, right of way or
easement in which any such sewer or part of a sewer system
is laid. In case of a corner lot, frontage is to be measured
along the longest dimension thereof abutting on such streets,
alleys, rights of way or easements in which such sewer is
laid, if sewered on the long side only, but if sewered on
both sides then such corner lot is to be charged only with
the side first sewered. Any lot having a depth of two hun-
dred feet or more and fronting on two streets, alleys, rights
of way or easements, one in the front and one in the rear
of said lot, shall be assessed on both of said streets, alleys,
rights of way or easements. Where a corner lot has been
assessed on either or both ends, it shall not be assessed on
the side, and where it has been assessed on the side, it shall
not be assessed on the end.
In the case of corner lots where the cost of sewering along
one dimension is not assessed against the owner thereof, in
the case of lots less than two hundred feet deep abutting
at both ends on a street, alley, right of way or easement in
which a sewer is laid, the cost of sewering along the dimen-
sion or end not assessed against the property owner shall in
every case be borne by the city of Dunbar.
Thereupon said council shall give like notice by publi-
cation as is required in case of street paving assessments,
and the same rights shall exist as to the persons and prop-
erty affected and the same duty as to corrections by said
council as are prescribed with reference to paving. The
report of the city engineer shall in like manner be examined
by the council, and if found to be correct or corrected as
aforesaid and such estimated assessments to be a fair and
equitable apportionment of the cost of such sewer or sewer
system upon the basis hereinbefore described, it shall enter
an order upon its records, setting forth such location, depth,
ownership and said amount of such sewer assessments, against each, respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots; and, if after such advertisement, notice and hearing, said council shall find that such apportionment at such rate is unjust or inequitable, and contrary to the intent of this act, it shall ascertain, fix and assess the cost thereof among and upon the abutting owners, respectively, justly and equitably and according to the intent thereof, and in like manner, assess and enter the amount so fixed, respectively, upon its records; and, the council shall, in either event, thereupon certify the same to the treasurer for collection and certify a copy of such order to the clerk of the county court of Kanawha county, who shall record the same in the proper trust deed book, and index the same in the name of each owner of any such lot so charged with such assessment, and such assessment so made shall constitute and be a lien upon said lots, respectively, which shall have priority over all other liens, except those for taxes due the state, and shall be on a parity with other taxes and assessments due the city. Said amounts so assessed against the said several land owners shall be paid by the parties liable therefor to the said treasurer at all times, in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinbefore provided in the case of assessments for paving streets and alleys in a permanent manner, and the parties liable therefor shall, in the same manner, and to the same extent, having the right and be entitled to anticipate any or all of such installments thereon as in such case provided. The owners of, or the tenants, occupants or agents in control of any lot abutting on or near or adjacent to any street, avenue, alley, right of way or easement in said city, in which a public sewer is or may hereafter be laid and constructed, upon which lot any business or residence building is or may hereafter be erected, or upon which any water stands not connected with any public sewer, may be required and compelled to connect any such building or lot with such sewer. Notice to so connect may be given to the owner, lessee, or occupant of such building. Each day's failure to
comply with such notice and connect with such sewer by such owner or owners, ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and every such offense shall be punishable by a fine of not less than five nor more than twenty-five dollars. The expense incurred by any tenant, occupant, or agent in complying with the order of said council to make such sewer connection may be deducted out of the accruing rents as provided for in section forty-seven relating to the abatement of nuisances. Jurisdiction to hear, try, determine and sentence for violation of this section is vested in the municipal court of such city.

The liens herein and hereinbefore provided for street paving, macadamizing and sewerage assessments and assessments for other improvements shall constitute liens upon the real estate upon which they are assessed, as against creditors of the owners thereof, or purchasers for value, and without actual notice of such liens, only from and after the date the contract is made for such work, and shall have priority over all liens placed on said property after said contract is made by the city for said work.

Sec. 69. No public improvement, the cost or part of the cost of which is to be especially assessed on the owners of property, shall be made without the concurrence of two-thirds of all of the members of council present unless the owners of a majority of the foot frontage to be assessed petition in writing therefor, in which event the said council shall be authorized upon the affirmative vote of a majority thereof to proceed with the improvement in the manner provided for.

Sec. 88. In addition to the method provided for paving streets, by section sixty-one of the charter of the city of Dunbar, the council may order any street, avenue, public alley, or portion thereof, to be graded and paved, repaved, or otherwise permanently improved, and the council may order the mayor and city clerk to issue a certificate for each installment of the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such street, avenue or alley. The amount specified in said assessment certificate shall be the personal debt of the property owner and a lien as aforesaid in the hands of the holder thereof upon the lot or part of a lot fronting on such street, avenue, or alley, and such certificate
shall draw interest from the date of said assessment and the payment may be enforced in the name of the holder of said certificate by proper suit in equity in any court having proper jurisdiction to enforce such lien; the council shall fix the amount of such assessment, advertise for bids and do all other things in connection therewith as is provided for paving or permanently improving any street or alley or any portion thereof in section sixty-one, except that such assessment laid under this section shall include the whole cost of such improvement, including the cost of grading and paving squares at intersections of streets and curbing, the costs of which intersections shall be apportioned against the several properties fronting upon the street or portion thereof so improved; and such certificates shall be issued in the same number of installments and payable at the same time as other paving or permanent improvements are provided to be paid for, and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner that assessments are liens under section sixty-one of said charter. And nothing contained in this act, or in the charter of the city of Dunbar shall be construed as imposing a time limit upon the enforcement by appropriate suit of any lien for public improvements, heretofore or hereafter created.

Certificates authorized by this section may be issued, sold or negotiated to the contractor doing the work, or to any other person if the council deem it expedient; provided, the city in issuing such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the council expressed by resolution of record before sale.

Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one of said certificates, when due, and said default continuing for a period of sixty days, then all unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided. Certificates issued in pursuance of this section shall be negotiable at any bank in the city of Dunbar.

The owner of the land or lot of land assessed under this section may at any time anticipate and pay such assessment of certificate with accrued interest thereon; provided, that no street, avenue or alley shall be paved or otherwise permanently
improved pursuant to this section except and unless two-thirds of all the members of council present shall concur in the passage of the ordinance providing therefor, and the vote thereon shall be taken by ayes and noes, and duly entered upon the record.

Sec. 88-b. In addition to the method for the payment of the cost of construction of sewers and sewer systems provided by section sixty-two and sixty-two-a of the charter of the city of Dunbar, the council may order any sewer or sewer system constructed and laid, in any block, street, avenue, alley or in any right of way or easement, or portion thereof, and the council may order the mayor and city clerk to issue a certificate for each installment of the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such streets, avenues, alleys, rights of ways or easements in which such sewer system is constructed and laid, and the amount specified in said assessment certificates shall be a lien as aforesaid in the hands of the holder thereof upon the lot or part of lot fronting on such street, avenue or alley, right of way or easement, and such certificate shall draw interest from the date of said assessment and the payment may be enforced in the name of the holder of said certificate by proper suit in equity in any court having proper jurisdiction to enforce such lien; the council shall fix the amount of such assessment, advertise for bids and do all other things in connection therewith as is provided in section sixty-one of said charter for paving or permanently improving any street or alley or any portion thereof, the costs of which shall be apportioned against the several properties fronting upon the street, avenue, alley, right of way or easement or portion thereof in which the sewer or sewer system is laid according to the provisions of section sixty-two or section sixty-two-a, as the case may be. Such certificates shall be issued in the following number of installments:

Where the assessment shall not exceed fifty dollars the assessment and certificates issued thereon shall be in five equal amounts or installments, due and payable on the first day of May succeeding after completion and acceptance of said work, and one on the first day of May of each year thereafter for the next four succeeding years. If more than fifty dollars, the assessment and certificates issued thereon shall be in ten equal
amounts or installments, the first of which will be due on the
first day of May next after the completion and acceptance of
said work, and one on the first day of May of each year there-
after for the next nine years; and the term “equal amounts”
herein shall mean as nearly equal as practicable, that is, four
certificates being expressed in terms of blank dollars each, and,
when practical, in multiples of five, the cents and odd amounts
being covered by the first certificate.

Every such certificate shall be a lien in the hands of the
holder thereof upon the particular lot against which it is as-
essed in the same way and manner that assessments are liens
under sections sixty-two and sixty-two-a of this act. And
nothing in this act, or in the charter of the city of Dunbar shall
be construed as imposing a time limit upon the enforcement by
appropriate suit of any lien for public improvements hereto-
fore or hereafter created.

Certificates authorized by this section may be issued, sold
or negotiated to the contractor during the work, or to any other
person if the council deem it expedient; provided, the city in
issuing such certificates shall not be held as guarantor or in
any way liable for the payment thereof, except upon the direct
action of the council, expressed by resolution of record before
sale. Certificates so issued shall contain a provision to the
effect that in the event of default in the payment of any one
of said certificates, when due, said default continuing for a
period of sixty days, then all unpaid certificates shall become
due and payable and the holder of said certificates may proceed
to collect all of such unpaid certificates in the manner herein-
before provided; provided, that no sewer or sewer system shall
be constructed or laid pursuant to this section except and un-
less two-thirds of the members elected to the council shall con-
cur in the passage of the ordinance providing therefor, and
the vote thereon shall be taken by ayes and noes, and duly
entered upon the record.

Sec. 88-c. If the abutting land on any avenue, street, road
2 or alley sought to be graded, paved, re-paved or otherwise im-
proved, or on any avenue, street, road, alley, right-of-way or
easement in which a sewer or sewer system is ordered laid,
under any of the provisions of the charter of the city of Dunbar,
is not sub-divided or laid off in lots by a map or deed of record,
the council may, for the purpose of making the assessments pro-
8 vided for in this section and other sections herein, sub-divide 9 said land into lots of such size as the council deem advisable for 10 the purpose of laying the proper assessment against such land.

CHAPTER 30

(House Bill No. 409—By Mr. Brewster, by request)

AN ACT to amend and re-enact section thirty-six-a and section thirty-eight of chapter ninety of the acts of the legislature of the year one thousand nine hundred and thirteen by amending said sections of the charter of the City of Weston, in the county of Lewis, relating to tax levies, and relating to liens for taxes and liens for other municipal assessments, fines and penalties.

(Passed March 20, 1925; in effect from passage. Approved by the Governor.)

Sec.
36-a. Tax levies.
38. Liens for taxes.

Be it enacted by the Legislature of West Virginia:

That section thirty-six-a and section thirty-eight of chapter ninety of the acts of the legislature of one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows:

Section 36-a. The council shall cause to be made annually and spread upon its minute book an accurate estimate of all sums which are or may become lawfully chargeable against the city and which ought to be paid within one year; and it shall order a levy of so much as will in its judgment be necessary to pay the same. Such levy shall be upon all tithables and upon all real and personal property therein subject to the state and county taxes, including a poll tax of not more than one dollar upon each male resident of said corporation over twenty-one years of age; provided, that such levy shall not exceed one dollar on each tithable and fifty cents on every one hundred dollars of the ascertained value of such property. At least once in each year the council shall cause to be made up and published in one or more newspapers of the city a statement of the revenue received from the different sources, and of the expenditures upon the different accounts, for the preceding year or portion of year, as the case may be.

Sec. 38. There shall be a lien on all real estate within said city for the city taxes assessed thereon from the day fixed by law for
3 the commencement of the assessment of such taxes in each year
4 and the interest upon such taxes at the rate of six per centum
5 per annum from the first day of January next after such assess-
6 ment until payment, which may be enforced by the council in
7 the same manner now provided by law for the enforcement of the
8 lien for state or county taxes, or in such other manner as the
9 council may by ordinance prescribe.
10 There shall also be a lien on all real estate within said city
11 for all other assessment, fines and penalties assessed to or im-
12 posed upon the owners thereof by the authorities of said city
13 from the time the same are so assessed or imposed, which lien
14 shall be priority over all other liens except the lien for taxes, and
15 such lien may be enforced by the council by suit in equity in the
16 corporate name of said city, or in the same manner now pre-
17 scribed by law for the enforcement of the lien for state or
18 county taxes, or in such other manner as the council may by or-
19 dinance prescribe. If any real estate within said city be returned
20 delinquent for the non-payment of the city taxes thereon, a copy
21 of such delinquent list may be certified by the council to the
22 auditor, and the same may be sold for the taxes, interest and
23 commissions thereon in the same manner, at the same time and
24 by the same officer as real estate is sold for the non-payment of
25 state taxes.

CHAPTER 31
(House B II No. 439—By Mr. Bartlett)

AN ACT to amend chapter ten of the acts of the legislature of West
Virginia, of one thousand nine hundred and fifteen (municipal
charters), and chapter twenty-two of the acts of the legislature
of West Virginia of one thousand nine hundred and nineteen
(municipal charters) in relation to the charter of the City
of Fairmont, by repealing certain sections, amending certain
other sections, and by amending and re-enacting certain other
sections of said chapters and adding to said charter certain new
sections, as hereinafter set out.

[Passed April 23, 1925; in effect from passage. Became a law without the approval
of the Governor.]

Sec.
4. Municipal authorities; corporate
powers.
5-a. Powers and duties board of direc-
tors; promoting general health
and welfare; board of adjust-
ment, powers and duties.
7. Vacancies; how filled.
8. Qualifications.
14. When office vacated.
Be it enacted by the Legislature of West Virginia:

That sections thirty, one hundred and eleven, one hundred and twelve, one hundred and thirteen, one hundred and fourteen, one hundred and fifteen, one hundred and sixteen, one hundred and seventeen, one hundred and twenty, one hundred and twenty-one, one hundred and twenty-two and one hundred and forty-four of article one of chapter ten (municipal charters) of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen be amended and re-enacted as hereinbelow set out, and,

That sections four, six, seven, eight, fourteen, nineteen-b, twenty-nine, sixty-six, eighty, eighty-a, one hundred and one, one hundred and nine-a, one hundred and twelve-a, one hundred and fifteen-a, and one hundred and eighteen of article one of chapter twenty-two (Municipal Charters) of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen be amended and re-enacted as hereinbelow set out, and,

That sections nineteen-c, nineteen-d, nineteen-e, nineteen-f, nineteen-g, nineteen-h, nineteen-i, nineteen-j, sixty-seven and one hundred and twelve-a of article one of said chapter twenty-two be repealed, and

That new sections, to be known as sections five-a, and one hundred and nineteen, respectively, be added to the charter, as hereinbelow set out, and,

All pertaining to the charter of the City of Fairmont and all so as to read as follows:

Section 4. The municipal authorities of the City of Fairmont, shall be four directors who shall constitute a board of directors and shall be known as the "board of directors of the City of Fairmont." All the corporate powers of said city shall be vested in, and exercised by, the board of directors or under its authority, except as otherwise provided in this act. After the...
expiration of the terms of the present directors of said city, 
said board of directors shall consist of three members.

Sec. 5-a. (1) For the purpose of promoting health, 
safety, morals, or the general welfare, public convenience or 
prosperity of the community, the board of directors of the 
City of Fairmont is hereby empowered in the exercise of the 
police power to regulate and restrict the height, number of 
stories and size of buildings and other structures, the per-
centage of lot that may be occupied, the size of yards, courts 
and other open spaces, the density of population, and the loca-
tion and use of buildings, structures and land for trade, in-
dustry, residence or other purposes.

(2) For any or all of said purposes the board of directors 
may divide the municipality into districts of such number, 
shape and area as may be deemed best suited to carry out the 
purposes of this section; and within such districts it may 
regulate and restrict the erection, construction, reconstruc-
tion, alteration, repair, or use of buildings, structures, or land. 
All such regulations shall be uniform for each class or kind of 
buildings throughout each district, but the regulations in one 
district may differ from those in other districts.

(3) Such regulations shall be made in accordance with a 
comprehensive plan and designed to lessen congestion in the 
streets; to secure safety from fire, panic and other dangers; to 
promote health and the general welfare, public convenience 
and prosperity; to provide adequate light and air, to prevent 
overcrowding of land; to avoid undue concentration of popu-
ation; to facilitate the adequate provision of transportation, 
water, sewerage, schools, parks and other public requirements. 
Such regulations shall be made with reasonable consideration, 
among other things, as to the character of the district and its 
peculiar suitability for particular uses, and with a view to con-
serving the value of buildings and encouraging the most ap-
propriate use of land throughout the City of Fairmont.

(4) The board of directors of the City of Fairmont shall 
provide for the manner in which such regulations and restric-
tions and the boundaries of such districts shall be determined, 
established and enforced, and from time to time amended, 
supplemented or changed. However, no such regulation, re-
striction or boundary shall become effective until after a pub-
lie hearing in relation thereto, at which parties in interest and 
citizens shall have an opportunity to be heard. At least fifteen
41 days' notice of the time and place of such hearing shall be
42 published in a paper of general circulation in such munici-
43 pality.
44 (5) Such regulations, restrictions and boundaries may from
time to time be amended, supplemented, changed, modified or
46 repealed. In case, however, of a protest against such change
47 signed by the owners of twenty per cent or more either of the
48 area of the lots included in such proposed change, or of those
49 immediately adjacent in the rear thereof extending one hun-
dred feet therefrom, or of those directly opposite thereto, ex-
tending one hundred feet from the street frontage of such
50 opposite lots, such amendment shall not become effective except
51 by the favorable vote of a majority of all the members of
52 the board of directors of the City of Fairmont. The provisions
53 of the previous sub-section relative to public hearings and
54 official notice shall apply equally to all changes or amendments.
55 (6) In order to avail itself of the powers conferred by this
56 act, the board of directors may appoint a commission consist-
ing of freeholders of the City of Fairmont to be known as the
57 zoning commission to recommend the boundaries of the vari-
60 ous original districts and appropriate regulations to be en-
62 forced therein. Such commission shall make preliminary re-
63 port and hold public hearings thereon before submitting its
64 final report; and the board of directors of the City of Fair-
65 mont shall not hold its public hearings or take action until it
66 has received the final report of such zoning commission.
67 (7) The board of directors may provide for the appoint-
68 ment of a board of adjustment, and in the regulations and re-
69 strictions adopted pursuant to the authority of this sub-section
70 may provide that the said board of adjustment may, in appro-
71 priate cases and subject to appropriate conditions and safe-
72 guards, make special exceptions to the terms of the ordinance,
73 in harmony with its general purpose and intent and in accord-
74 ance with general or specific rules therein contained.
75 The board of adjustment shall consist of five members, each
76 to be appointed for a term of three years and removable for
77 cause by the appointing authority upon written charges and
78 after public hearing. Vacancies shall be filled for the unex-
79 pired term of any members whose term becomes vacant.
80 The board of adjustment shall adopt rules in accordance
81 with the provisions of any ordinance adopted pursuant to this
82 section. Meetings of the board of adjustment shall be held at
the call of the chairman and at such other times as it may de-
determine. Such chairman, or in his absence the acting chair-
man, may administer oaths and compel the attendance of wit-
nesses. All meetings of the board of adjustment shall be open
to the public. The board of adjustment shall keep minutes of
its proceedings, showing the vote of each member upon each
question, or if absent or failing to vote indicating such fact,
and shall keep records of its examinations and other official
actions, all of which shall be immediately filed in the office of
the board of adjustment and shall be a public record.

Appeals to the board of adjustment may be taken by any
person aggrieved or by any officer, department, board, or bu-
reau of the city affected by any decision of the administrative
officer. Such appeal shall be taken within a reasonable time,
as provided by the rules of the board of adjustment by filing
with the officer from whom the appeal is taken and with the
board of adjustment a notice of appeal specifying the grounds
thereof. The officer from whom the appeal is taken shall forth-
with transmit to the board of adjustment all the papers consti-
tuting the record upon which the action appealed from was
taken.

An appeal stays all proceedings in furtherance of the action
appealed from, unless the officer from whom the appeal is
taken certifies to the board of adjustment after the notice of
appeal shall have been filed with him that by reason of facts
stated in the certificate a stay would, in his opinion, cause im-
minent peril to life or property. In such case proceedings
shall not be stayed otherwise than by a restraining order which
may be granted by the board of adjustment or by a court of
record on application on notice to the officer from whom the
appeal is taken and on due cause shown.

The board of adjustment shall fix a reasonable time for the
hearing of the appeal, give public notice thereof, as well as due
notice to the parties in interest, and decide the same within a
reasonable time. Upon the hearing any party may appear in
person or by agent or by attorney.

The board of adjustment shall have the following powers:
(a) To hear and decide appeals where it is alleged there is
error in any order, requirement, decision, or determination
made by an administrative official in the enforcement of this
section or of any ordinance adopted pursuant thereto.
(b) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

(c) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising the above-mentioned powers such board may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant or any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a circuit court of the county or any county in which the municipality is situated a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board of adjustment.

Upon the presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten days and which time may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board of adjustment and on due cause shown, grant a restraining order.
The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Costs shall not be allowed against the board unless it shall appear to the court that it acted in bad faith, or with malice in making the decision appealed from.

All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this article or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

The board of directors of the City of Fairmont may, by ordinance, prescribe reasonable criminal penalties for the violation of regulations and restrictions imposed pursuant to this section.

Wherever the regulations made under authority of this section require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other high standards than are re-
quired in any other statute or local ordinance or regulation, 
The provisions of the regulation made under authority of this 
section shall govern. Wherever the provisions of any other 
statute or local ordinance or regulation require a greater width 
or size of yards, courts, or other open spaces, or require a 
lower height of building or less number of stories, or require a 
greater percentage of lot to be left unoccupied, or impose other 
higher standards than are required by the regulations made 
under authority of this section, the provisions of such statute 
or local ordinance or regulation shall govern. 

(11) The board of directors may include in the annual 
budget of the City of Fairmont such amount of money as it 
deems proper to carry into effect the objects of this section, to 
provide for the proper expenses of the zoning commission and 
the board of adjustment, if and when appointed, as well as for 
other objects contemplated under this section.

Sec. 6. The first general municipal election for said city held 
hereunder shall be held on the second Tuesday of June, one 
thousand nine hundred and twenty-seven, and on the same day 
in every fourth year thereafter, at which there shall be elected 
by the qualified voters of the whole city, three directors, con-
stituting said board of directors; and all members of the board 
of directors shall be elected at large for a term of four years, 
beginning on the first day of July following the election. The 
present board of directors, consisting of four members, shall 
continue in office until the election and qualification of their 
successors.

Sec. 7. Vacancies in the board of directors shall be filled by a 
special primary followed by a special election, as provided for 
the nomination and election of members of the board of direc-
tors in the first instance. Such primary and special election to 
be held as soon as practical, provided, if there remain less than 
a period of six months of the term of office vacated, the city 
attorney shall fill the unexpired term, with full authority of 
member of the board of directors and of the respective depart-
ment and receive the compensation provided therefor, and in 
other cases, pending the filling of the vacancy, as aforesaid, the 
city attorney shall so act.

Sec. 8. Members of the board of directors shall be residents 
of the city having the qualifications of electors therein and shall 
be free holders, owning real estate in said city. No member of 
the board of directors of said city shall hold any other elective
office, or have any other employment, which will interfere with
the duties of his office as member of the board of directors, dur-
ing his term of office; nor shall any member of the board of
directors or employee of the city be interested in the profits or
emoluments of any contract, job work or services for the munici-
pality. A member of the board of directors who shall cease to
possess any of the qualifications herein required shall forthwith
forfeit his office, and any such contract in which any member
of the board of directors or any employee of the city is or may
become interested shall be void.

Sec. 14. If any person elected as a member of the board of
directors fail to qualify as herein provided within thirty days
after his said election, or shall after having been qualified,
resign his office, or move from the city, his office shall be vacated,
or if a vacancy in his office occur from any other cause, except
by recall election, the provisions of section seven shall apply.

Municipal Primary

Sec. 19-b. Candidates to be voted for at general municipal
elections at which members of the board of directors are to be
elected under the provisions of this charter (but not at special
recall elections), shall be nominated by a primary election, and
no other names shall be printed upon the ballots used at the
general election except those selected in the manner hereinafter
prescribed. The primary election for such nominations shall be
held on the second Tuesday of April preceding the general mu-
nicipal election. The judges, challengers and clerks of any pri-
mary or general municipal election shall be selected by the board
of directors in the manner provided for the selection of such
election officers by chapter three of the code of West Virginia,
except that the duties therein provided to be performed by the
county court shall be performed by the board of directors, and
the duties therein provided to be performed by the county
executive committee or county chairmen of the dominant
political parties shall be performed by the city executive com-
mitee or city chairmen of such dominant political parties, and
except that such election officers shall be appointed by the
board of directors at least ten days before any such election,
and except further that the duties to be performed by the
clerks of the circuit or county court shall be performed by the
city clerk.
Nominating Petitions

The name of any person desiring to become a candidate for board of directors shall be printed upon the primary ballots, if ten days prior to said primary election there be filed with the city clerk a petition requesting such privilege, signed by at least twenty-five and not more than fifty qualified voters of said city. Each petition shall be verified by the affidavit of one or more credible persons as to the qualifications and residence of each of the persons so signing the said petition. Said petition shall specify the particular department of the board of directors for which petitioner proposes the candidate, whether director of law and public welfare, or director of finance or director of public highways. Said petition shall be in form or effect as follows:

The undersigned, duly qualified electors of the City of Fairmont and residing at the place set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballots as a candidate for nomination for (name of office) at the primary election to be held in such city on the second Tuesday in April, 19... We further state that we know him to be a qualified elector of said city and a man of good moral character, and qualified, in our judgment, for the duties of such office.

Names of qualified voters: Number.

Any person whose name has been submitted for candidacy by any such petition shall file his acceptance of such candidacy with the city clerk not later than seven days before the day of the primary election, and in the absence of such acceptance the name of the candidate shall not appear on the ballots. Immediately upon the expiration of the time of filing the petitions for and acceptance of the candidates, the city clerk shall cause to be published in all the daily newspapers of the city once, in proper form, and under appropriate captions for the several departments the names of the persons as they are to appear upon the primary ballots; and the said clerk shall thereupon cause the primary ballot to be printed, authenticated with a fac simile of his signature. No candidate shall circulate his own petition for nomination, and the name of any such candidate circulating his own name for nomination shall be omitted from the primary ballot.
The ballots shall be printed upon plain, substantial white paper, without party mark or designation, and shall contain the names of the candidates in alphabetical order, under the appropriate caption for the several offices. The ballots shall be substantially in the following form or to the following effect, to-wit:

**Official Primary Ballot**

Candidates for nomination for board of directors of the City of Fairmont at the primary election.

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

For member of the board of directors, for the office of director of the department of law and public welfare.

(Names of Candidates)

(Vote for one only for the office of director of law and public welfare.)

For member of the board of directors for the office of director of the department of finance.

(Names of Candidates)

(Vote for one only for the office of director of finance.)

For member of the board of directors for the office of director of the department of public highways.

(Names of Candidates)

(Vote for one only for the office of director of public highways.)

Official ballot, attest:

_Fac simile of the signature_ ................. City Clerk.

**Proceedings of Elections**

Having caused said ballot to be printed the said city clerk shall cause to be delivered at each polling place a number of said ballots equal to at least twice the number of votes cast in such polling precinct at the last general municipal election. The persons who are qualified to vote at the general election shall be qualified to vote at such primary election, and the law applicable to challenges at a general municipal election shall be applicable to challenges made at such primary election. The commissioners of election in each precinct shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in their precinct for each of the candidates, and make return
105-106 thereof on proper blanks, properly sealed, to the city clerk within six hours of the closing of the polls, and post duplicate return blanks on the outside of the voting place. On the day following the said primary election, the board of directors shall canvass said returns so received from the polling precincts, and shall make and publish in all the newspapers of said city, at least once, the result thereof. Said canvass by the board of directors shall be publicly made. The two candidates receiving the highest number of votes for board of directors for each department, shall be the candidates whose names shall be placed upon the ballots at the next ensuing general municipal election. In the event of the death or resignation of a nominee before the election, the name of the candidate receiving the next highest number of votes at the primary, shall be placed on the ticket in his stead.

When more than two persons shall have an equal number of votes for the same nomination and more than the other candidates for the same office, so that there is no choice at the primary, the city clerk shall place two names (or more if there be three or more so tied) of those voted on at the primary, and tied as aforesaid, on the ballot for the next ensuing regular election, and whenever in any other case no choice of candidate is made at a primary by reason of a tie vote, such clerk shall place the names of all so tied on the ballots for the next ensuing regular election.

The ballot at such general municipal election shall be in the same general form as for such primary election, so far as practicable.

The necessary and legitimate expenses of the holding of any such primary, as well as of any regular or special municipal election in said city for ballot, stationery, forms, ballot boxes, booths, voting places, judges and clerks, and notices of the election, shall be paid by the city. At every such primary election and at every other municipal election in said city, regular or special, the polls shall be open at seven o'clock, A. M. and close at seven o'clock, P. M.

Sec. 20. The candidate receiving the greatest number of votes for director of the department of law and public welfare, the candidate receiving the greatest number of votes for director of the department of finance, and the candidate receiving the greatest number of votes for director of the department of
6 public highways shall be declared elected as a member of the 
7 board of directors and as the director of the respective depart-
8 ment. If two or more candidates receive an equal number of 
9 votes for such offices, the canvassing board, before whom the 
10 said election returns shall have been canvassed, shall decide 
11 between them and if a majority of said canvassing board cannot 
12 agree, then the matter shall be decided by lot.

13 All contested elections shall be heard and determined by the 
14 board of directors, and the contests shall be made and heard 
15 and conducted in the manner and as provided for such contests 
16 for county and district offices; and the board of directors 
17 shall conduct its proceedings in such cases as nearly as prac-
18 ticable in conformity with the proceedings of the county court 
19 in such cases.

Sec. 29. The salaries of all appointive officers shall be fixed 
2 by the board of directors and paid monthly or semi-monthly as 
3 the services shall have been rendered.

Sec. 30. The board of directors shall by resolution fix the 
2 salaries of all appointive officers.

Sec. 66. The person elected as director of the department of 
2 law and public welfare shall be ex officio the mayor of the city.

Sec. 80. In order to better dispense the business of the city 
2 and assign more in detail the members of the board of directors, 
3 the government of said city is hereby divided into three de-
4 partments, to-wit:

5 (a) The department of law and public welfare, under which 
6 shall be included the departments of fire, police, law, health 
7 and charity and kindred subjects. The director of this depart-
8 ment shall be styled the director of law and public welfare.

9 (b) The department of finance, under which shall be in-
10 cluded all finances of the city, water rents and taxation and 
11 kindred subjects. The director of this department shall be 
12 styled the director of finance.

13 (c) The department of public highways, under which shall 
14 be included the streets, alleys, storm sewers, sanitary sewers, 
15 surface drainage, wharves, bridges, public buildings and 
16 grounds and kindred subjects. The director of this depart-
17 ment shall be styled the director of public highways.

18 (d) The department of water, under which shall be included 
19 the city’s water system. The director of this department shall 
20 be styled the director of water. The present incumbent of this
office or his successor shall continue as the director of water until the expiration of his term and until the provision for three directors instead of four directors shall become effective and thereafter the office of director of water shall be abolished; it shall then be the duty of the board of directors to appoint some qualified person to perform all the duties at the present time devolving on the director of water, saving and excepting only the duties of member of the board of directors. Such person so appointed by the board of directors shall hold his office at the pleasure of the board of directors and he shall be styled superintendent of water and he and his department shall be classified under the department of finance.

Sec. 80-a. The directors of the several departments shall have the immediate care and supervision of their respective departments, subject to the control of the board of directors. The business and the labors incident thereto of each of the departments shall be that which properly falls within the scope of the particular department, but, which, in detail, may be fixed from time to time by the board of directors. The head of each department shall see to the performance of all the business coming within his department or which may be referred thereto or to any officer thereunder, from time to time.

Sec. 101. Subject to the supervision and control of the board in all matters the director of public highways shall manage and have charge of the construction, improvement, repair and maintenance of streets, alleys, sidewalks, lanes, bridges, viaducts and all other public highways; of storm sewers, surface drainage, 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, and of sanitary sewers. 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. 109-a. Subject to the general supervision and control of the board of directors, and the special supervision and control of the director of finance, the superintendent of water shall manage and have charge of the construction, improvement, repair, maintenance, and operation of the water system owned
6 and controlled by said city; he shall have charge of the water
7 works; he shall preserve all contracts, papers, maps, plans,
8 tools and appliances belonging to the city and pertaining to
9 the water system. He shall perform such other duties and be
10 charged with such other responsibilities as the board of direc-
11 tors may from time to time determine. He shall be paid such
12 salary as the board of directors may fix. The present director
13 of water shall continue as director of water until a superinten-
14 dent of water shall be appointed by the board of three direc-
15 tors, to constitute the board of directors, as herein provided,
16 after the expiration of the term of office of the present board
17 of directors of four members.

Sec. 111. The board of directors may require all owners,
2 tenants and occupants of improved property which may be
3 located upon or near any street or alley along which may ex-
4 tend any sewer or system of sewerage, which the said city may
5 construct, own or control, to connect with such sewer or system
6 of sewerage, all privies, water closets, cess-pools, drains or sinks
7 located upon their respective properties or premises so that
8 their contents may be made to empty into such sewer or system
9 of sewerage.

Sec. 112. The board of directors is authorized and empow-
2 ered to cause to be put down a suitable curb of brick, stone or
3 other materials along and for the footways and sidewalks of
4 the avenues, streets, roads or alleys of said city, and to order
5 and cause the laying or relaying or repair of sidewalks and
6 gutters of such material and widths as the board may deter-
7 mine; and the planting or replanting of and caring for shade
8 trees along said avenues, streets and roads at such points and
9 in such manner as the board may determine; and to require
10 the owners or occupiers of the land or lots or parts of lots
11 facing upon said avenues, streets, roads, or alleys to keep such
12 sidewalks clean and in good repair, and to grade the plot of
13 ground on either side of the sidewalks between the street curb
14 and the property line and keep the same sodded with grass and
15 free of weeds and obstructions, and otherwise in good condi-
16 tion and repair. The owners or occupiers of the land or lots
17 abutting upon such avenues, streets, roads or alleys shall not
18 lay any sidewalks, curb or gutter, or plant any such shade
19 trees, unless specially required to do so by resolution adopted
20 by the said board; but said city may lay such sidewalks, curb
21 or gutter, and plant or replant and care for said shade trees,
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 may be en-
forced by a suit in equity before any court having jurisdic-
tion as other liens against real estate are enforced. The
amounts as assessed against any land or lot shall be a debt
against the owner of such land or lot, which may be collected as
other debts are collected, in any court having jurisdiction, and
shall be due and payable in ninety days from the completion
and acceptance of such work as certified to by the board of
directors, with six per cent interest thereon from the date of
such record acceptance. And in ascertaining the amount to
be assessed against any corner lot for the cost of laying any
such sidewalk and planting trees in front or alongside thereof,
the board may assess the total cost of laying such sidewalks,
and planting trees, in front or alongside said lot and extended
to the curb or gutter of the intersections of the avenues,
streets, roads or alleys at that point.

When such work is done by the city, and not let to contract,
the board shall certify such assessments to the treasurer of the
city for collection, who shall account for the same as directed
by the board or by ordinance; and the treasurer shall accept
payment, when tendered, of the amount of said assessment with
interest to the date of payment, and unless said assessment
shall have been paid within ninety days from the date of such
assessment, then a copy of such report shall be certified by the
city clerk to the county court of the county of Marion, who
is hereby required to record and index the same in the proper
trust book in the name of each person against whose property
assessments appear therein. If any such assessment shall not
be paid when due, the board of directors shall cause to be en-
forced the payment of said assessment and interest in all
respects as herein provided for the collection of taxes due the
city; and said assessments shall be a lien upon the property
liable therefor, the same as for taxes, which lien may be en-
forced in the same manner as provided for the sale of the
property for the non-payment of taxes and tax liens; and the
liens herein provided for shall have priority over all other liens
except those for taxes due the state and the county, and shall
be on a parity with taxes and assessments due the city. When such assessments shall have been paid in full, and a lien therefor shall be of record in the county clerk's office, the treasurer shall execute and deliver to the owner of said property a release of said lien, which may be recorded in the office of the county clerk as other releases or liens are recorded.

The board may, if it so elect, let said work to contract, and certificates may be issued for the amount of said assessments which may be sold to the contractor doing the work, or other person, in full of the total cost, in the same manner as provided for paving certificates, in this act; provided, the city in negotiating and selling such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of directors as expressed by resolution of record before such sale. Said certificates, to be signed by the mayor or clerk or other person or persons designated of record by the board, shall bear date as of the time when such work is accepted and certified by the board of directors, and shall be due and payable in ninety days from date thereof, with six per cent interest. When the board shall have received said work, it shall at the same time make said assessment upon written report; and at the end of ninety days from date thereof, upon the demand in writing filed with the city clerk, of the holder or holders of the unpaid certificates issued to cover said assessments, said clerk shall certify a copy of said report, only insofar as it relates to the owners against whom said exhibited certificates remain unpaid, to the clerk of the county court of Marion county, who shall record and index the same as other liens of the like kind are recorded and indexed, and the same shall be and remain a lien upon the real estate against which said assessments are made, as set out in said certified report and said lien may be enforced, in the name of the holders of such certificate in the same manner as set out in this act.

Before letting such work to contract, the board shall advertise the same once a week for two successive weeks in two newspapers of opposite politics published in the City of Fairmont, or in one paper in case publication cannot be had in two such papers, setting out the time and place for receiving proposals for such work and referring to the plans and specifications made thereof; and the city reserves the right whether stated in such notice or not, to refuse any and all bids for the work.
.106 On refusal of said papers to publish said notice at reasonable rates, the board may, by resolution, direct how such notice may be given. The fact that such contract shall be awarded for said work shall be prima facie proof that said notice was given as required herein. Such lien, as represented by certificates, may be released of record in the office of the county clerk in the same manner as paving liens represented by certificate, are released of record as provided for in this act.

.114 All such work, whether done by the city direct, or through contractors, shall be under the supervision of the street department of the city or some person designated for that purpose by the board of directors.

.118 If the owner or occupier of any such lot or land shall be required by the board to lay, or relay, clean or repair any such sidewalk between the street curb and the property line, and keep the same sodded and free from weeds or obstruction, and otherwise in good condition and repair, written or published notice shall be given to such owner or occupier in the manner provided by ordinance or resolution adopted by the board, and the neglect or refusal of such owner or occupier to do the work, in the manner and within the time required by the board, as set out or referred to in said notice, shall be an offense and may be punished as provided by ordinance; and after the expiration of the time set out in said notice for the doing of said work, and the same remains undone, the board may do, or cause to be done, said work and assess and collect the cost thereof in the manner, upon either plan, and to the full extent as set out in this section. The board of directors is authorized and empowered to require the owners and occupiers of any lot or tract of land to keep the same free from weeds and other vegetation which may be unsightly or noxious, and to that end, may pass suitable ordinances with penalties to be inflicted on the owners and occupiers of such lots who may fail to comply with the provisions of such ordinances; and in addition thereto, upon the failure of such owners and occupiers of said lots to comply therewith, the city may do the work necessary in keeping said lots or lands free from weeds and other vegetation which may be unsightly or noxious and charge the total costs thereof against the owner of such lots or lands, which amount or amounts shall be a debt against such owner, with which he is charged, with interest thereon, from the time of the completion of said work, and the expense shall
remain a lien upon said lots or lands, or any part thereof the same as taxes levied upon real estate in said city and which lien may be enforced by a suit in equity before any court having jurisdiction, as other liens against real estate are enforced, and in addition thereto, such costs or expense, with interest, may be collected from the owner, occupant, tenant, agent or assignee, by distress or sale in the same manner in which taxes levied against real estate are herein authorized to be collected. And the costs or expense, with interest thereon, for the cleaning of said lots or land of weeds and other noxious vegetation, as well as the costs or expense, with the interest thereon, for the laying of sidewalks, planting of trees, etc., as set out in section one hundred and fifty-five or elsewhere which may remain unpaid at the time of making out of tax tickets covering the taxes due in any year by such owner of said lots or lands, shall be placed on the tax ticket for that year along with the statement of other taxes due by such owner, and the treasurer shall collect such amounts at the time and in the same manner as the other taxes are collected by him from such owner, but without allowing any discount thereon, and upon failure to pay the same on or before the last day of that year there shall be added thereto the same interest penalties which are provided for the failure to pay other taxes assessed at such time against such owner; and the treasurer, upon the failure to pay said amounts, shall return the real estate, against which said amount is a lien, delinquent for the non-payment of taxes for such year the same as in the case of returning such lands delinquent for the non-payment of other taxes assessed against such owners and such real estate, and said real estate may be sold, at the time and in the manner, provided for in the case of delinquent lands for the non-payment of taxes; and these remedies, when applicable, are in addition to all other remedies, provided for in section one hundred and fifty-five or elsewhere.

Notice to owners and occupiers of lots or lands requiring them to clean said premises of weeds and other noxious vegetation, may be given in the same way and to the same effect as provided in section one hundred and fifty-five or elsewhere; and tenants and agents shall have the same rights and remedies against such owners as therein provided.

Sec. 113. For the purpose of creating a revolving fund by and with which to promote and expedite permanent street and
3 sewer improvements, the city is authorized and empowered to
4 levy and collect, for a period not longer than ten years includ-
5 ing the year one thousand nine hundred and twenty-five, a
6 special annual tax, in addition to all other taxes, during all or
7 any part of said period, not exceeding ten cents on each one
8 hundred dollar valuation, on all taxable property in said city,
9 and which levy shall also be in addition to that now permitted
10 by law. Such levy shall not be laid except by ordinance duly
11 adopted by the unanimous vote of all of the members of the
12 board of directors.
13 No part of said revolving fund shall be used for any purpose
14 other than to pay for permanent improvements of streets, ave-
15 nues, roads, alleys and public grounds and the construction of
16 sewers, and only then by the purchase of street or sewer im-
17 provement bonds provided for in this act or assessment certifi-
18 cates provided for in this act, and for which assessments against
19 real estate are made to cover the amount of such bonds or cer-
20 tificates as provided in this act; and when and as such bonds
21 or certificates so purchased out of this revolving fund shall be
22 paid, the amount thereof shall be and become a part of such
23 revolving fund, and thereby prevent material diminution of
24 the fund.
25 When said fund, or any considerable part thereof is not being
26 used or in contemplation for immediate use, the city shall keep
27 the same invested to the best advantage in securities of the kind
28 permitted by state law for the investment of sinking fund, or,
29 in the discretion of the board of directors, the same may be de-
30 posited, for a fixed time, at the highest rate of interest and to
31 the best protection of the city, in some bank or banks, or may
32 be directed by the directors to be deposited in the manner set
33 out in section one hundred and sixteen for the deposit of other
34 funds of the city.

Sec. 114. All taxes assessed upon the real estate within the
2 said city, shall remain a lien thereon from the time the same are
3 so assessed, which shall have priority over all other liens, except
4 for taxes due the state, county or district, and all taxes whether
5 assessed upon realty or personalty or otherwise may be enforced
6 and collected in the same manner and by the same remedies as
7 is now or may hereafter be provided by law for the enforcement
8 of liens and levies for state and county taxes, or in such manner
9 as the board of directors may by ordinance prescribe. And in
10 levying taxes and collection thereof, and the return of property
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11 delinquent for non-payment of taxes, the duties of the city clerk
12 shall be similar to the duties of the county clerks of the state in
13 that behalf; the duties of the treasurer in the collection of taxes,
14 licenses and money due the city and accounting for the same
15 and the return of property delinquent for the non-payment of
16 taxes, shall be similar to the duties of the sheriffs of the state;
17 except the board of directors may make such regulations and
18 ordinances prescribing the duties of the city clerk and the city
19 treasurer and their manner of performance as the board may
deeרום necessary. And the board shall, through itself and such
20 officers and employees as it may appoint or employ under such
21 regulations and ordinances as it may enact (not contrary to the
22 laws of this state), have such authority and power as may be
23 necessary for the levying and collection of taxes, tithables,
24 fines, licenses, sewer and paving assessments owing the city with
25 power and authority to enforce the collection of such fines by
26 imprisonment in the city or county jail.

Sec. 115. (a) The board of directors of the City of Fair-
2 mont may order and cause any avenue, street, road or alley
3 therein to be graded, or curbed or recurbed with stone, con-
4 crete or other suitable material, or paved or repaved, between
5 curbs, with brick, wooden blocks, asphalt or other suitable ma-
6 terials, or to be graded and curbed or recurbed and paved or
7 repaved as aforesaid or to be macadamized or to be otherwise
8 permanently improved or repaired, under such supervision as
9 may be directed by ordinance or resolution, upon the best bid
10 to be obtained by advertising for proposals therefor, except the
11 city may do the work without letting it to contract as herein-
12 after provided in (d) of this section; and may purchase or
13 condemn land for opening or widening avenues, streets, roads
14 and alleys. The entire cost, or any part thereof, designated
15 by the board of directors, of such grading, curbing and paving
16 or macadamizing, or other permanent improvements, of any of
17 the avenues, streets, roads and alleys as aforesaid, from and
18 including the curb of either side thereof to the middle thereof
19 and the cost, or any part thereof, of purchasing or condemn-
20 ing land as aforesaid for street purposes, may be assessed to
21 and required to be paid by the owners of the land, lots or
22 fractional parts of the lots, fronting or bounding on such
23 avenue, street, road or alley so improved, except as otherwise
24 provided in (c) and (g) of this section.
Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved, opened, widened, or improved in such proportion to the total cost (less the portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof opened, widened, paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley (not including opening or widening), shall not include any portion or amount paid for the paving or improvement of intersections of avenues, streets, roads or alley, unless the work be done, and the payment made therefor, as especially provided in (c) and (g) of this section.

(c) Provided, the board of directors of Fairmont may order and cause any of the work to be done, and improvements made, set out in (a) of this section and in addition to the assessment provided for in (a) of this section, may assess proportionately the property abutting or abounding on such avenue, street, road or alley so improved with the total cost of the paving, grading and curbing or macadamizing or other permanent improvements of the intersections of the avenue, streets, roads or alleys so paved or otherwise permanently improved.

Provided, further, that if the said directors propose, order and cause such improvements to be made under this clause of this section they shall first enact an ordinance or resolution setting forth the work and improvement to be done, the extent of said improvement and manner of paying for the same, which ordinance or resolution shall be published once a week for two consecutive weeks in two newspapers of opposite politics, published and of general circulation in said city. In such publication the directors shall set a time of at least ten days from the date of the first publication in which objection and protest may be made against the proposed improvement as aforesaid by the owners of the property against which said assessment is proposed to be made, and if, at or before such time so set by the directors, the bona fide owners or more than three-fifths in lineal feet of the property abutting upon the avenue, street, road or alley proposed to be improved as aforesaid, shall file separately or jointly their written protest setting forth the fact, under oath, that they are the bona fide
owners of said property, with the board of directors, objecting to and protesting against the work to be done and the improvement to be made under this clause in this section, the directors shall proceed no further hereunder and shall make note of the discontinuance of such proposed work and improvement under this clause of this section in their minute book. If the owners of more than three-fifths of said property do not file objection or protest as herein provided, the board of directors may immediately, by ordinance or resolution, order and direct such work to be done, improvement made and the assessments levied against said property in manner set out in this section, and the other sections of this act. The publication of the ordinance herein provided for shall be sufficient if the title to the same is published, with a statement of the purposes of the ordinance setting out between what points the improvement is proposed to be made, and the method under which payment for the same is to be made, and stating the time at which objections may be heard.

(d) The city itself, after any work or improvement is finally ordered to be done or made in manner and form provided in this act, may, at its election, do such work and make such improvement, and collect the cost thereof, in the manner set out in this act. The decision of the city to do such work, or make such improvement, may be without notice or after the publication of the notice to contractors mentioned in this section, or after the rejection of all bids for doing the same.

(e) The cost of grading, curbing and paving, or otherwise improving the intersections, or parts of intersections, of avenues, streets, roads or alleys, on the plans adopted by the board of directors for such work, shall be paid by the city, except as otherwise provided in (c) and (g) of this section.

(f) And if any such avenue, street, road, or alley be occupied by street car track, or tracks of other railroads, the cost of said improvements of the space between the rails and two additional feet outside of each rail shall be assessed to and borne and paid entirely by the person or company owning or operating such street car or other railway line, unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act.

(g) Provided, the board of directors, if they so elect, may order and cause any avenue, street, road or alley, including intersections, public park or public place, to be widened, graded
108 or changed in grade, and curbed or recurbed, and paved or re-
109 paved, with brick, concrete, asphalt or any other suitable ma-
110 terials, or macadamized or otherwise permanently improved,
111 including the construction of retaining walls, sewers, drains,
112 water pipes, water dams and water courses in connection there-
113 with and may purchase land, or condemn land for any public
114 avenue, street, road or alley, or part thereof, or park or other
115 public purpose, and the board may assess all or any part of the
116 entire cost of such improvements (or taking of land or both)
117 upon the abutting, adjacent, contiguous and other lots or land
118 especially benefited by such improvement in the proportion in
119 which such lot or land is especially benefited by the improve-
120 ment. The board of directors, when they decide to order the
121 improvements under this plan, shall, by ordinance or resolu-
122 tion, before doing the same, fix the approximate total amount
123 of the special benefits to be derived from such improvements
124 to the abutting, adjacent, contiguous and other specially bene-
125 fited land or lots so assessed and setting out the names of the
126 owners, the approximate amount of the special benefits to the
127 lot or land of each owner and the approximate amount of the
128 total cost of the proposed improvements, the board may in
129 fixing such assessments take into consideration the assessed
130 value of the lots or land as fixed for the last assessment year
131 for state and county purposes.

Provided, further, that if the said directors propose to order
133 and cause such improvements to be made under this clause of
134 this section, they shall first enact an ordinance or resolution
135 setting forth the work and improvements proposed to be done,
136 the extent of said improvements and manner of paying for the
137 same, which ordinance or resolution shall be published once a
138 week for two consecutive weeks in two newspapers of opposite
139 politics published and of general circulation in said city, in
140 which publication the directors shall set a time of at least ten
141 days from the date of the first publication in which objection
142 may be made against the proposed improvement as aforesaid
143 by the owners of the property against which said assessment is
144 proposed to be made.

The publication of the ordinance herein provided for shall
146 be sufficient if the title to the same is published with a state-
147 ment of the purposes of the ordinance setting out at what
148 place the improvement is proposed to be made, and the method
under which payment for the same is to be made, the lots and
land with the names of the owners of record thereof and the
approximate amounts to be assessed against each lot, and the
owner thereof, and stating the time at which objections may be
filed.

(h) When the board of directors shall deem it expedient
and proper to cause any avenue, street, road or alley, or any
portion thereof, in such city, to be graded, or graded and
paved, curbed or macadamized, or otherwise permanently im-
proved, or land to be acquired or taken for street purposes, as
provided in (a) of this section, or shall deem it expedient
and proper to cause the construction of any public sewer in or
under such avenue, street, road or alley or land or easement
therein to be acquired or taken therefor, or elsewhere, or cause
any other permanent improvements to be undertaken, contem-
plated by this or any other section, or sections, they shall, by
ordinance or resolution, order the work done, stating the
method of payment thereof, and, if it be let to contract, notice
shall be in the following manner, to-wit:

(i) The notice for the bids or proposals for doing such
work and making such improvements, as amended by this act,
shall be published for at least fifteen days in two newspapers
of opposite politics, or in one newspaper, if two such news-
papers be not published in the city. If the publication of the
notice cannot be procured in any newspaper in said city at
reasonable rates, then said notice may be given in the manner
directed by the board. Said notice shall state, when, where
and how the bids or proposals shall be made; and whether so
stated in the notice or not, the city may reject any and all bids
for such proposed work. Before advertising for bids on the
work, the city shall approve and adopt plans and specifications
therefor, and the advertisement for bids, and the contract
awarded thereon, shall refer to such plans and specifications.
The fact that such contract shall be let for said work shall be
prima facie proof that the notice mentioned above was given
as required herein.

(j) The cost of said paving, macadamizing or otherwise
permanent improvement may be paid in either one of the two
ways provided for in this act (to be specified by ordinance by
the board of directors).

(k) If the abutting land on any such avenue, street, road
or alley sought to be improved as aforesaid, or in which a
191 sewer is ordered laid, is not laid off into lots by a map of rec-
192 ord, the board of directors may, for the purpose of making the
193 assessments provided for in this section and other sections
194 herein, lay off said land into lots of such sizes as the board
195 deems advisable for the purpose of laying the proper assess-
196 ment against such land.

Sec. 116. Said City of Fairmont is hereby authorized to
2 issue its bonds for the purpose of providing for the costs of
3 grading, paving and curbing, or macadamizing, or otherwise
4 permanently improving the avenues, streets, roads and alleys
5 of said city, or acquiring ground for opening public avenues,
6 streets, roads, alleys or parks, or constructing main and lat-
7 eral sewers, or both in anticipation of special assessments to be
8 made upon the property abutting upon the avenues, streets,
9 roads and alleys so improved or benefited. Said bonds may
10 be in such an amount as shall be sufficient to pay the entire
11 costs and expenses of said improvements for which such special
12 assessment are to be levied; and said city is authorized to sell
13 said bonds, but not below the par value thereof. The amount
14 for which said bonds are to be issued may be made of five
15 bonds, payable in two, four, six, eight and ten years, respec-
16 tively, from the date of their issue, and shall bear interest not
17 to exceed six per cent per annum, payable annually; or may
18 be of four bonds, payable in one, two, three and four years,
19 respectively, from the date of their issue, and shall bear inter-
20 est not to exceed six per cent per annum, payable annually,
21 and the date of said four year bonds, when issued, shall con-
22 form, as near as can be, to the date of assessment laid against
23 real estate for the purpose of procuring revenue to retire said
24 bonds; provided, the city shall have the right to redeem and
25 pay off, at any interest paying period, all or any number of
26 said undue bonds of the said four year issue of bonds pro-
27 vided for in this section. In the issuance and sale of said
28 bonds the said city shall be governed by the restriction and lim-
29 itations of the constitution of this state, and the restriction
30 and limitations of the state laws of this state relating to the
31 issuance and sales of bonds, so far as such state laws are not
32 in conflict with the provisions of this act; and the assessments
33 as provided for and required to be paid herein shall be ap-
34 plied to the liquidation of said bonds and interest thereon, and
35 if, by reason of the penalties collected with the delinquent
36 assessments there be any balance after the payment of the
bonds and all accrued interest and costs, it shall be turned into the city treasury to the credit of the interest and sinking fund of the city.

(b) And it shall be the duty of the board of directors to immediately certify such assessments to the treasurer for collection, as herein provided; and for the purpose of facilitating the collection of such assessments against the properties herein, the board of directors may issue assessment certificates, with the interest coupons attached thereto, to be delivered to and charged against the city treasurer who shall collect the same, and as such certificates and coupons are paid he shall deliver the cancelled certificates to the party paying the same. A copy of the said order shall be certified by the city clerk to the clerk of the county court of the county, who is hereby required to record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein.

(c) The amounts so assessed against said lots and owners thereof, respectively, if assessed for the liquidation of the five bonds payable in two, four, six, eight and ten years, respectively, after date, shall be paid in ten payments as follows: that is to say, one-tenth of said amount, together with the interest on the whole assessment for one year, shall be paid into the treasury of the city before the first day of the following January; and a like one-tenth part, together with the interest on the whole amount remaining unpaid, shall be paid before the first day of January of each succeeding year thereafter, until all shall have been paid; and the amount so assessed against said lots and owners thereof, respectively, if for the liquidation of the four bonds payable in one, two, three and four years, respectively, after date, shall be paid in five payments, as follows: that is to say, one-fifth of said amount, with interest, shall be paid in thirty days from date of assessment; and one-fifth of said amount, together with interest on the whole unpaid assessment, shall be paid into the treasury of the city before one year from date of such assessment; and a like one-fifth part together with the interest on the whole amount remaining unpaid, before two years from the date of such assessment, and a like amount in each succeeding year thereafter, until all shall have been paid. All of said installments shall bear interest at six per centum per annum, payable annually from the date of assessment. Provided, how-
ever, that the owner of any land, so assessed for the cost of any
of the permanent improvements herein mentioned, shall have
the right at any time to anticipate and pay the whole of such
undue assessment and interest thereon until the day on which
the next undue assessment shall become due, and have the lien
against the property so assessed released as hereinafter pro-
vided.

(d) If any assessment shall not be paid when due, then a
penalty of four per cent per annum shall be added and col-
lected on the amount of such assessment after it is due until
its payment, and such four per cent penalty shall be in addi-
tion to the six per cent interest which the assessment carries,
and shall be a lien the same as the assessment, and the board
of directors shall cause to be enforced the payment of said
assessment and interest and penalty in all respects as herein
provided for the collection of taxes due the city; and said
assessments shall be a lien upon the property liable therefor
the same as for taxes, which lien may be enforced in the same
manner as provided for the sale of property for the payment
of taxes and tax liens; and the liens herein provided for shall
have priority over all other liens except those for taxes due
the state and county, and shall be on a parity with taxes and
assessments due the city.

(e) When all of said assessments shall be paid in full to
the treasurer, he shall deliver to the owner of said property a
release of the lien therefor, which may be recorded in the office
of the clerk of the county court as other releases of liens are
recorded.

Under this plan for the payment of the cost of such perma-
ent improvements of avenues, streets, roads and alleys, and
the construction of sewers, the contractor (if the work is let
to contract) shall look only to the city for the payment of the
work, and in no sense to the abutting land owners.

(f) If the abutting land on any such avenue, street, road or
alley sought to be improved as aforesaid, or in which a sewer is
ordered laid, is not laid off into lots by a map of record, the
board of directors may, for the purpose of making the assess-
ments provided for in this section and other sections herein,
lay off said land into lots of such size as the board deems ad-
visable for the purpose of laying the proper assessment against
such land.
Sec. 117. The board of directors may contract for such paving (including grading and curbing), or other said improvements, to be done as aforesaid, and may acquire or take land for street and park purposes, as aforesaid, and may, if the board so elect stipulate that the cost thereof, in whole or in part, shall be paid in installments by the abutting property owners, as provided in (a) and (c) of section one hundred and fifteen, or specially benefited property owners, as provided in (g) of said section, in five equal or nearly equal installments (making four in terms of dollars only and when practicable in multiples of ten, the cents and odd amounts to be covered by the first installment), except as hereinafter provided in this section, to be evidenced by a certificate issued therefor against each separate lot or tract of land, setting out the total amount of such assessment against the same, payable in five installments except as hereinafter provided, as follows: The first in thirty days after date of certificate, the second on the first day of May of the year following the year in which the certificate is issued, and the remaining three on the first day of May of the three following years respectively. The date of certificate in case of permanent improvement of streets or other roadways shall be the day on which the city received said work from the contractor, and it shall bear interest at the rate not to exceed six per cent per annum, payable on the due date of each principal installment, which certificates are to be signed in person by the mayor and clerk, or other person or persons designated of record by the board. Said certificates shall bear coupons designated "principal installment coupons," representing the respective amounts of the installments to be paid under the same, and which coupons shall be due and payable on the dates provided for the payment of the installments in this section, and said certificate shall also bear interest coupons representing the interest to be paid on said assessment and which said interest coupons shall be due and payable at the same time the principal installment coupons are due and payable. Upon the due date of any principal installment coupons excepting the first, the accrued interest on so much of said assessment as remains unpaid shall be due and payable and shall be represented by interest coupons as hereinabove set out. The interest on the first principal installment coupon shall be paid when the said principal installment coupon is paid. Both the principal installment and
33 interest coupons shall be signed by the mayor and clerk, or
34 other person or persons designated, of record by the board,
35 either in person or by stamp bearing a facsimile of the written
36 name of person signing or lithographed in facsimile on said
37 principal installment and interest coupons.
38 The certificates herein provided for may be sold either to
39 the contractor doing the paving or other improvements, or to
40 any other person, and which shall cover the entire cost of such
41 work provided for in the ordinance or resolution, including the
42 cost of acquiring or taking land for street or park purposes, the
43 cost of surveys, notices and other things pertaining thereto;
44 provided, when the entire amount to be assessed against any lot
45 or piece of ground under the provisions of this section does not
46 exceed fifty dollars, then such amount shall be covered by only
47 one set of said coupons, payable in thirty days after date of its
48 issue; if over fifty and not more than one hundred dollars, then
49 such amount shall be covered by only two principal install-
50 ment and interest coupons, payable in thirty days after date of
50-a certificate and on the first day of May of the year succeeding
50-b the year in which the certificate was issued, respectively; if
50-c over one hundred and not more than one hundred and fifty
50-d dollars, then such amount shall be covered by only three prin-
50-e cipal installment and interest coupons, payable in thirty days
50-f from date of certificate and on the first day of May of the
50-g year succeeding the year in which the certificate was issued,
50-h and on the first day of May in one year thereafter, respec-
50-i tively; if over one hundred and fifty dollars and not more
50-j than two hundred dollars, then such amount shall be covered
50-k by only four principal installment and interest coupons pay-
50-l able in thirty days after date of certificate and on the first
50-m day of May of the year succeeding the year in which the
50-n certificate was issued, and on the first day of May in one and
50-o two years thereafter, respectively; if more than two hundred
50-p dollars, then such amount shall be covered by five principal
50-q installment and interest coupons payable in thirty days after
50-r date of certificate and on the first day of May of the year
50-s succeeding the year in which the certificate was issued and
50-t on the first day of May in one, two and three years there-
50-u after, respectively; provided, further, the city in
51-60 negotiating and selling such certificates, shall not be
61 held as guarantor or in any way liable for payment thereof,
62 except upon the direct action of the board of directors as ex-
63 pressed by resolution of record. And the certificate and cou-
64 pons covering the amount of the assessment and interest shall
65 be paid by the owner of the land, lot or fractional part thereof,
66 so assessed for the cost of said improvement on such avenue,
67 street, road or alley so paved or improved, or land acquired
68 or taken, as aforesaid. The amount specified in said assess-
69 ment certificates shall be a lien in the hands of the holder
70 thereof upon the lands, lots or parts thereof so assessed, and
71 shall also be a debt against the owner of such real estate, and
72 said amount shall draw interest from the date of said certifi-
73 cates, payable on the due date of each principal installment
74 coupon; and the payment of the debt may be enforced as pro-
75 vided by law for the collection of other debts or such lien may
76 be enforced in the name of the holder of such certificate in
77 manner provided by law for the enforcement of other liens
77-a against real estate, and accrued interest shall be a lien the
77-b same as amount set out in assessment certificate.
78 After a contract has been made by the board to pave or
79 otherwise permanently improve any public road, avenue,
80 street or alley in said city under this act, and the paving or
81 other permanent improvement, or stipulated part thereof, has
82 been completed, or the cost of acquiring or taking land as
83 aforesaid, has been ascertained, the board shall assess the
84 amount each lot shall bear and shall make a written report,
85 stating the number of lots and the blocks or tracts of land, when
86 not laid off into lots, the names of the owners of such lots or
87 land when known. and the amount assessed thereon; and when
88 the said board approves said report, or modifies it and then ap-
89 proves it, a copy of said report, so adopted by the board, when
90 certified to by the city clerk of said city, shall be recorded in the
91 clerk's office of the county court of Marion county, in a trust
92 deed book and shall be a continuing tax lien upon the lot or
93 ground against which the assessment is made until the certifi-
94 cates as aforesaid are paid, except as otherwise provided in this
95 act, and the clerk shall index the same in the name of each lot
96 or land owner mentioned therein. Provided, any property own-
97 er shall have the right to pay the whole amount of any such as-
98 sessment against his property as soon as the same shall have
99 been ascertained, but before the day on which the city enters
100 such assessments of record after the two weeks’ notice provided
101 in section one hundred and twenty-two; and such payment shall
be made to the city clerk, who shall give the proper receipt therefor, and such assessment, so paid, shall not be included in the report to be recorded in the office of the county clerk as set out in this section; and the amount so paid to the clerk shall forthwith be paid to the contractor or other person entitled thereto, which shall operate as full discharge of the amount of such indebtedness of such property owner. The certificates and principal installment and interest coupons herein provided for may be made in the following form or to the same effect:

No. ........... STATE OF WEST VIRGINIA $ ...........
(State Coat of Arms)
CITY OF FAIRMONT
PAVING ASSESSMENT CERTIFICATE
This certifies that ...................................
as the owner of a lot, piece or parcel of real estate, situate in the City of Fairmont, known and designated as Lot No. ........... in Block No. ..........., has been duly assessed the sum of .................................. dollars, with interest from this date at the rate of six per centum per annum, payable on the due date of each principal installment coupon as hereinafter set out, which assessment has been made to pay the cost of the public improvement hereinafter recited. This certificate is one of a series issued pursuant to the provisions of the charter of the City of Fairmont, West Virginia, and the laws of the state of West Virginia, to pay the cost of grading, curbing and paving ................................... from ................................... to ................................... in the City of Fairmont, West Virginia.
The charter of the City of Fairmont, West Virginia, requires assessments for such improvements to be made payable in installments as follows:
(a) If not more than fifty dollars in one installment, due in thirty days after date of certificate.
(b) If more than fifty dollars and not more than one hundred dollars, in two installments, due in thirty days and on the first day of May of the year succeeding the year in which the certificate was issued.
(c) If more than one hundred dollars and not more than one hundred and fifty dollars, in three installments, due in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May one year thereafter.
If more than one hundred fifty dollars and not more than two hundred dollars, in four installments, due in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one and two years thereafter, respectively.

(e) If more than two hundred dollars, in five installments, due in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one, two and three years thereafter, respectively.

Said assessments to draw interest at the rate of six per centum per annum, payable on the due date of each principal installment.

Installments of this certificate, therefore, are evidenced by principal installment coupons hereunto attached, which show the amounts of such installments, the due date thereof, and are signed by the mayor and the clerk of the City of Fairmont, West Virginia.

The interest on this certificate and the installments thereof are evidenced by interest coupons hereunto attached, which show the amount of such interest, the due date thereof, and are signed by the mayor and clerk of the City of Fairmont, West Virginia.

Upon the due date of any principal installment coupon, excepting the first, the accrued interest on so much of said assessments as remains unpaid, shall be due and payable in accordance with, and as evidenced by interest coupons hereto attached. The interest on the first principal installment coupon shall be paid when the said principal installment coupon is paid.

The said several principal installment and interest coupons respectively, are payable at the office of the treasurer of the City of Fairmont.

The amount of the assessment represented by this certificate and principal installment coupons attached has been duly levied, equalized and confirmed, and along with accrued interest is a lien upon the real estate herein mentioned, and is also a debt against the owner of said real estate and the holder or bearer of this certificate may enforce the debt evidenced thereby, as provided by law.

It is hereby certified and recited that all the acts, conditions and things required to be done precedent to and in the letting
176 of the contract for said improvement, the equalization and
177 making of said assessment, and the issuing of this certificate,
178 have been done and performed in regular and due manner and
179 form, as required by the charter of the City of Fairmont,
180 West Virginia, and the constitution and laws of the state of
181 West Virginia.

182 In testimony whereof, the City of Fairmont, a municipal
183 corporation created and existing under the laws of the state
184 of West Virginia, has caused this certificate to be signed by
185 its mayor and clerk, and the principal installment and inter-
186 est coupons, respectively, hereunto attached, to be signed by
187 its mayor and clerk this.........day of...............,
188 19......

189 .................................................................
190 Clerk. Mayor.

191 No......... PRINCIPAL INSTALLMENT COUPON $ .............

192 On the.........day of................., 19......

193 there will be due and payable to the bearer hereof, from
194 .................................................. the sum of

195 dollars, being the........................ installment on certificate

196 No........., of the City of Fairmont, West Virginia, for the
197 curbing, grading and paving of

198 from....to.............................

199 .................................................................
200 Clerk. Mayor.

201 No......... INTEREST COUPON $ .............

202 On the.........day of................., 19......

203 there will be due and payable to the bearer hereof, from
204 .................................................. the sum of

205 dollars, representing interest at six per centum from
206 ................................................................. of certificate

207 No......... on installment No......... of the City of
208 Fairmont, West Virginia, for curbing, grading and paving of
209 from......to.............................

210 .................................................................
211 Clerk. Mayor.

Sec. 118. The board of directors of said city is authorized
2 and empowered to order and cause to be constructed, in said
3 city, or part within and part outside of the limits of said city,
4 a public sewer or sewers, either main or lateral, or both, by
5 contract or direct by the city, for the benefit of said city or any
6 part thereof, and to purchase land or easement therein or to
7 condemn land or easement therein, for such sewer; and when
8 the board shall order and complete the construction of any
9 such sewer or any part thereof in said city, the owners of the
10 property abutting thereon or abutting upon an avenue, street,
11 road, or alley in which such sewer shall be constructed, or
12 abutting on any land or easement therein specially procured
13 for the purpose of the construction of a sewer therein, may
14 be charged with all or any part of the cost thereof, including
15 the cost of such sewer at and across intersections of avenues,
16 streets, roads and alleys adjacent thereto. If said work is let
17 to contract the provisions of (i) of section one hundred and
18 fifteen shall apply.
19 When said sewer is completed in any one block, or between
20 two designated points, the board of directors shall cause a re-
21 port to be made in writing setting forth the total cost of such
22 sewer and a description of the lots or lands as to location,
23 frontage and ownership liable therefor, including the cost of
24 acquiring or taking land or easement therin for such purpose
25 and cost of surveys, notices, etc., therefor, together with the
26 amount chargeable against each lot or piece of land and the
27 owner thereof. If any lot fronts on two streets, or on a street
28 (or road) and alley, in which a sewer is constructed, it may be
29 assessed on both said streets, or street and road, or street (or
30 road) and alley. Said board shall enter an order upon its rec-
31 ords setting forth the location and owner of each lot or piece
32 of land, and the amounts of said sewer assessments there
33 against, calculated in the same way as provided for street pav-
34 ing in (c) of section one hundred and fifteen herein. The city
35 clerk shall file a certified copy of said order with the clerk of
36 the county court of Marion county, who shall record the same
37 in the proper trust deed book, and index the same in the name of
37-a each owner, and any lot or land thus charged with said as-
37-b sessment. The entry of such order shall constitute and be
38 an assessment for such proportionate amounts so fixed therein
39 against respective lots and land and the owners thereof; and
40 said board shall thereupon certify the same to the treasurer
41 for collection; and for the purpose of facilitating the collec-
42 tion of such assessments against the properties as hereinbefore
43 set out, the board of directors may issue assessment certificates,
44 with principal installment and interest coupons attached there-
to, in form and manner provided for street improvement cer-
ificates and coupons in section one hundred and seventeen,
to be delivered to and charged against the city treasurer, who
shall collect the same, and as such coupons and certificates are
paid he shall deliver the cancelled coupons and certificates to
the party paying the same;

Provided, the board of directors, if they so elect, may, after
passage and publication of ordinance or resolution, as provided
in (g) of section one hundred and fifteen, order and cause
the construction of any such sewer, and may acquire or take
land or easement therein, either in or outside said city, or both,
for said sewer purposes, and assess all or any part of the cost
thereof upon and against the abutting, adjacent, contiguous,
and other lots of land specially benefited by the construction
of such sewer, as provided in (g) of section one hundred and
fifteen, and said assessments along with accrued
interest thereon shall be a lien upon such lots or
land, and a debt against the owners thereof for the amount so
charged against them respectively, which debt may be collected
as provided by law for the collection of other debts of like
kind, and which lien may be enforced in the same manner as
provided for the enforcement of paving liens in this act; and
the city shall have exclusive ownership and control of that
part of any such sewer constructed outside of said city, unless
otherwise provided by some ordinance of the city.

The amounts so assessed against said abutting lots or land,
or lots or lands specially benefited, and which shall be a lien
there against, shall be collected in the manner provided in this
act for the collection of paving liens.

Said assessments shall be divided into five installments, each
for one-fifth of the amount thereof, as near as practicable
(making four in terms of dollars only, and when practicable,
in multiples of ten, the cents and odd amounts to be covered
by the first installment), the first due and payable in thirty
days, the second on the first day of May of the year succeeding
the year in which said certificates were issued and
a like amount on the first day of May for each
succeeding year thereafter from the time of receiving
said sewer (except as hereinafter provided in this section), all
bearing interest at six per centum per annum from such date,
interest payable on the due date of each principal install-
and the board of directors may issue sewer certificates, and principal installment and interest coupons thereon as of such date, as provided in section one hundred and seventeen of this act for street improvement assessments, as further evidence of said indebtedness and lien therefor, and said certificates may be sold or negotiated, at not less than par and without any kind of discount to the contractors doing such work, or other person, if the board deem it expedient; provided, the city, in negotiating and selling such certificates, shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of directors as expressed by resolution of record. But the owner of the land or lot so assessed may, at any time, anticipate and pay such assessment or certificates with interest thereon until the day on which the next undue assessment shall become due. And if such assessment shall not exceed fifty dollars, then such amount shall be covered by only one set of said coupons, payable thirty days after date of its issue of certificate. If over fifty dollars and not more than one hundred dollars, then such amount shall be covered by only two principal installments and interest coupons, each, payable in thirty days and on the first day of May of the year succeeding the year in which the certificate was issued, respectively; if over one hundred dollars and not more than one hundred and fifty dollars, then such amount shall be covered by only three principal installments and interest coupons, each, payable in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May one year thereafter respectively; if over one hundred and fifty dollars and not more than two hundred dollars then such amount shall be covered by only four principal installments and interest coupons, each payable in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one and two years thereafter respectively; and if more than two hundred dollars, then such amount shall be covered by five principal installment and interest coupons payable in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one, two and three years thereafter, respectively; and the term equal amounts herein shall mean as nearly equal as practicable, that is, four
installments being expressed in terms of dollars only, and, 
c when practicable, in multiples of ten, the cents and odd 
d amounts being covered by the first installment.

e All assessments along with accrued interest thereon, made 
under this section shall constitute and be a lien upon 
said lots or lands, respectively, which shall have 
priority over all other liens except for state, county and 
municipal taxes.

The certificates and principal installment and interest cou-
pons provided for in this section may be made and issued in 
form or to the same effect as provided for certificates and 
principal and interest coupons for street improvements in sec-
tion one hundred and seventeen.

If two newspapers of opposite politics are not published in 
the city at the time of the passage of any of the ordinances 
provided in this act to be published, then the same may be 
published in one newspaper of general circulation in the city, 
as provided by this act, and if the publication of the ordinance 
cannot be procured in any newspaper in said city at reason-
able rates or for any other cause, then the same may be posted 
for the period provided in this act for publication, at the front 
door of the city building, and such posting shall be equivalent 
to publication as herein provided.

All certificates, principal installment and interest coupons 
provided for in this act shall be made payable at the office of 
the treasurer of the City of Fairmont.

Sec. 119. In addition to the provisions for the release of said 
2 assessment liens, either for street paving or other permanent 
3 street improvements, or construction of sewers, as elsewhere set 
4 out in this act, on the presentation by the land or lot owner of 
5 any of the certificates issues as aforesaid against him or his 
6 predecessor in the title to such lot or land, the clerk of the 
7 county court shall mark upon the margin of the trust deed book 
8 at which said certified report is recorded, that the lien is re-
9 leased to the land or lot mentioned in such certificate to the ex-
tent of the amount of the certificates thus exhibited; and the 
county clerk shall thereupon write across the face of said cer-
tificates the date of their production to him for the release of 
lien, and shall sign his name thereto in his official capacity, for 
which he shall receive in advance a fee of twenty-five cents for 
each certificate so marked, from the person demanding the re-
lease of the lien aforesaid; but if more than one of the serial cer-
17 certificates against the land or lot or lots shall be produced at the same time, the fee of the county clerk shall not exceed twenty-five cents for the release of the liens as to all of the certificates thus produced and relating to the same real estate.

21 Provided, that the owner of any lot or land against which any paving or sewer certificate is an unreleased lien of record shall make and produce to the county clerk, or some person for such owner shall make and produce an affidavit setting out therein such certificate (or certificates) has been paid in full, and after diligent search, cannot be found, said county clerk shall upon the payment of a fee of twenty-five cents, file and preserve said affidavit as a public document and shall forthwith note the release of said lien to the extent of said lost certificate (of certificates) and the lots or land against which it is a lien upon the margin of the trust deed book, as aforesaid, and noting therewith the filing of said affidavit, which shall operate as a release of such lien to the extent of such marginal notation. If the affidavit so filed be false, the person making oath and subscribing thereto shall be guilty of a felony and upon conviction thereof shall be fined not to exceed one thousand dollars, or sentenced to be confined in the penitentiary for a term of not more than two years, or both, in the discretion of the court passing sentence.

40 Provided further, that any paving or sewer lien, which may be created in consequence of the provisions of this act, the last payment of which is not yet due, shall not, under any circumstances, be a lien against the lot or land or fractional part of the lot or land, against which it may have been assessed and made a lien for a longer period than two years after the last assessment or certificate of the same date and group, representing such lien, shall have become due and payable, unless some suit or action, at the termination of said two years period, shall be pending for the enforcement of the lien, or unless the amount of the lien or some part thereof is in some way involved in a suit or action pending at the end of said two year period. All of the assessment certificates, which may be issued under the provisions of this act, shall be made payable at the office of the treasurer, who shall receive payments thereon when due, if tendered to him, and interest thereon from the date of such payments shall cease. The treasurer shall keep a separate and special account of all said sums of money received by him, and
he shall hold said money in trust for the person who thereafter delivers to the treasurer for cancellation any and all certificates on which the treasurer has received full payment as aforesaid; but the owner of said certificate shall not be entitled to interest on said sum after the date of payment thereof to the treasurer.

When the whole amount of any such assessment lien shall have been paid to the treasurer as aforesaid, or the treasurer shall be convinced that all of the paving or sewer certificates against any land, lot or fractional part of lot, shall have been paid in full, he shall when demanded, execute a release of said lien in the manner hereinbefore provided for the release of paving liens. If the city shall have no person for treasurer, the clerk, unless some other person is designated by ordinance or resolution, which the board is hereby authorized to enact, shall perform the duties herein required to be performed by the treasurer.

Sec. 120. It shall be lawful for said City of Fairmont to issue and sell its bonds, as provided in this act for the sale of other paving and sewer bonds, to pay the city's part of the cost of construction of said sewers and for the paving or other permanent improvements of streets and alleys, as required by this act; and said city may levy taxes, in addition to all other taxes, authorized by law, to pay such bonds and interest thereon; provided, that the total indebtedness of the city for all purposes shall not exceed five per centum of the total value of all taxable property therein.

It is expressly provided that no bonds shall be issued under the provisions of this act, unless and until the question of issuing said bonds shall have first been submitted to a vote of the people of said city and shall have received three-fifths of all votes cast at said election for and against the same. The board of directors of said city may provide by ordinance for submitting to the people at any regular election, or special election called for that purpose, the question whether or not said city shall be authorized to issue bonds for the purpose specified in this act; but the ordinance relating to the issuance of said bonds, and the submission of the same to the vote of the people, need not specify in detail the location of the improvements contemplated to be paid for out of, and works to be constructed with, the proceeds of sale of said aggregated issue authorized thereby; and if at such election the people by their vote thereon shall authorize the issuance of said bonds, said board of directors may
order the sale of same, as needed for said improvements, and works, dealing with all the requirements set forth in this act; and notwithstanding any other provision of law it shall be sufficient description of the purpose for which said election is held for the ordinance calling the same, or submitting said question to a vote at any general election, if it shall recite that it authorized the board of directors to issue bonds for the purpose of grading, paving, curbing, sewering, or otherwise permanently improving the streets, roads, and alleys of said city.

The provisions of state law concerning bond elections shall, so far as they are not in conflict with the provisions of this act, apply to the bond election herein provided for.

Sec. 121. In setting forth the lots and land abutting upon the improvement it shall be sufficient to describe them as the lots and lands abounding and abutting upon said improvements, between and including the termini of said improvements, or by the description by which they are described on the land books of the county, and this rule of description shall apply in all proceedings in which lots or lands are to be charged with special assessments.

Sec. 122. When work shall have been completed on any avenue, street, road or alley or part thereof as provided in section one hundred and twelve or one hundred and fifteen, or the construction of any sewer or other work shall have been completed on any avenue, street, road, or alley, or part thereof, or elsewhere, as provided in section one hundred and eighteen, and said assessments there against shall have been calculated as provided in this act, the board of directors shall give notice, by publication at least once a week for two successive weeks in two newspapers of opposite politics published in said city, or in one newspaper if two such papers be not published therein, that an assessment under this act is about to be made against the property so assessed and the owners thereof, mentioning the kind of work and the location thereof; and the owners of said property shall have a right to appear before said board, either in person or by attorney or agent, at any regular or special meeting called for that purpose within two weeks of the first publication thereof, and move the board to correct any apportionment of the assessment excessive or improperly made; and the board shall have the power to make any such corrections before it enters the same, as corrected, upon its records.
22 If the publication in the newspapers aforesaid cannot be had at reasonable rates, or for any other cause, the notice may be given in some other manner designated of record by the board. The fact that said assessments shall have been entered of record, as provided by this act, shall be prima facie proof that the notice mentioned herein was given as prescribed in this section.

Sec. 144. The board of directors may adopt by-laws and ordinances, which, when adopted, shall be printed in a book form, or it may be adopted as a whole after it is printed, and said code shall be the laws 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. No newspaper publication of such code or revision thereof need be made.

Sec. 144-a. This act shall not become effective unless and until it shall be submitted by the board of directors to a vote of the people of the city thereon and receive a majority of the votes cast at such election. Said board may call a special election for that purpose.

CHAPTER 32
(House Bill No. 497—By Mr. Dean, by request)

AN ACT to amend and re-enact sections twelve and fourteen of article eight of chapter seventy-eight of the acts of the legislature for the year one thousand nine hundred and thirteen relating to the charter of the City of Piedmont and the terms of its elective officers.

[Passed March 24, 1922. In effect from passage. Approved by the Governor.]

Be it enacted by the Legislature of West Virginia:

That sections twelve and fourteen of article eight of chapter seventy-eight of the acts of the legislature of West Virginia for the year one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows:

ARTICLE VIII.

Election of Officers

Section 12. On the second Monday in May, one thousand nine hundred and twenty-five, and on the same day every two
3 years thereafter, there shall be elected by the qualified voters of
4 the city a mayor, who shall hold office from the first day of June
5 succeeding in the year in which he is elected for a term of two
6 years and until his successor is elected and qualified.

Sec. 14. On the second Monday in May, one thousand nine
2 hundred and twenty-five, there shall be elected by the qualified
3 voters of the city in addition to the mayor as provided in section
4 twelve, three councilmen, the two councilmen receiving the
5 greater number of votes to hold office from the first day of
6 June, one thousand nine hundred and twenty-five until the first
7 day of June, one thousand nine hundred and twenty-nine, and
8 the one who is elected receiving the least number of votes shall
9 hold office from the first day of June, one thousand nine hundred
10 and twenty-five until the first day of June, one thousand nine
11 hundred and twenty-seven, or until their successors are elected
12 and qualified. Beginning with the first election held under this
13 amendment, which will be on the second Monday in May, one
14 thousand nine hundred and twenty-five, and every two years
15 thereafter, there shall be elected three councilmen and a mayor by
16 the qualified voters of the city, the two councilmen receiving the
17 highest or greater number of votes to hold office for a term of
18 four years, and the one receiving the least number of votes for a
19 term of two years, and the members of the council of the
20 city who were elected under section fourteen prior to this amend-
21 ment whose terms of office shall expire prior to the election to be
22 held on the second Monday in May, one thousand nine hundred
23 and twenty-seven, shall hold over until their successors are elect-
24 ed and qualified.

All acts and parts of acts in conflict with this act are hereby
repealed.

CHAPTER 33

(House Bill No. 581—By Mr. Read)

AN ACT to create and incorporate the municipal corporation
of the City of Avis, in the county of Summers and state of
West Virginia, and to grant a charter thereto, and defining
the powers of said city and the officers thereof and fixing the
corporate limits of said city.
Sec. 1. A body corporate.
2. Corporate limits.
4. Municipal authorities.
5. Council exercise corporate power.
7. Eligibility of officers.
8. Elections.
9. Who are voters.
10. Registration of voters.
11. Ballot; how elections held; results ascertained and declared; governed by state law.
12. Tie vote decided by council.
13. Contests determined by council.
15. Official bonds.
17. Oath.
18. Term.
19. Vacancies by ineligibility, how filled.
20. Mayor, powers and duties; compensation.
21. Recorder, powers and duties; compensation.
22. Quorum.
23. Record books.
25. Presiding officer has deciding vote.

Sec. 2. Meetings of council.
26. City funds, how paid out.
27. Corporate powers.
28. Police judge.
29. Taxation and levies.
30. Assessment and collection of taxes.
31. State laws applicable to delinquents.
32. Tax collector, duties; bond.
33. Assessor, duties.
34. Licenses.
35. Council has right to condemn for public utilities.
36. Bond Issues.
37. Indebtedness prohibited.
38. Maintain roads and bridges.
40. Streets and sidewalks.
41. Local improvements; plans; notice; payment; method; gas and water lines; voting places.
42. City attorney.
43. City depository.
44. Board of health.
45. Board of health.
46. Nuisances.
47. Connect with sewer system.
48. Franchises.
49. Inconsistent ordinances abrogated.

Be it enacted by the Legislature of West Virginia:

The City of Avis.

Section 1. That the inhabitants of so much of the county of Summers, in the state of West Virginia, included in the boundaries described in section two of this act, be and they are hereby created and are to remain and continue a municipal corporation by the name of the City of Avis, by which name they shall have perpetual succession and a common seal, and by which name they may sue and be sued, plead and be impleaded, contract and be contracted with, purchase and otherwise acquire and hold real estate and personal property needed in the discharge of the functions of government conferred by this charter.

Corporate Limits.

Sec. 2. The corporate limits of the city of Avis shall be as follows, that is to say: Beginning at a walnut stump near the pond of Greenbrier river in said county north seventy-five degrees, east ten poles to a cucumber tree corner to Eli Ballangee and with his line north twenty-four degrees west sixty-six poles to a buckeye below a cliff of steep rocks; thence north thirteen and one-half degrees, west two hundred and eighty-five poles to a stone corner to the Chesapeake and Ohio railway company; thence north eighty-one degrees, west one
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10 hundred and eighty-five poles to a station on the bank of New 11 river, a corner of Hinton and the county line; thence the same 12 comes across the river to the opposite bank seventy-five poles; 13 thence up said river to a station opposite the beginning; thence 14 north seventy-five degrees, east one hundred and seventy-five 15 poles to the place of beginning, containing two hundred and 16 forty-eight acres, more or less.

Boundaries of Wards.

Sec. 3. The said City of Avis shall be divided into wards, 2 which shall be bounded as shown in the first or original charter 3 of the City of Avis, as recorded in the records of the clerk of 4 the county court of Summers county, West Virginia, and refer- 5 ence is here made for a full description by metes and bounds.

Municipal Authorities.

Sec. 4. The municipal authorities of the said City of 2 Avis shall consist of a mayor, recorder and five councilmen, 3 who shall constitute the council of the said city and shall be 4 elected by the voters of said city as hereinafter prescribed. One 5 councilman shall be elected by the voters of each of the re- 6 spective wards and three councilmen shall be elected by the 7 voters at large.

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

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

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

Elections.

Sec. 8. On the first Tuesday in December, one thousand nine
hundred and twenty-five, and every two years thereafter, on the
first Tuesday in December, there shall be elected by the qual-
fied voters of said city, a mayor, recorder and three councilmen
and by the qualified voters of each of the two wards, one coun-
cilman. The term of office of said mayor, recorder and coun-
cilman shall be for the period of two years, commencing on the
first day of February next after their election and until their
successors shall be elected and qualified.

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

Sec. 10. All qualified voters within the City of Avis entitled
to vote in the municipal election held therein shall be regis-
tered in like manner as are the qualified voters in state and
county elections, and the state laws of the state of West Vir-
ginia in effect at the time of such registration shall in all things
apply thereto; except the fee for such registration shall be five
cents for each qualified voter so registered, and the powers con-
ferrred upon the county court by the laws in reference to the reg-
stration of voters are hereby conferred upon the council of
said City of Avis.

Sec. 11. In all elections by the people the mode of voting
shall be by ballot, but the voters shall be left free to vote an
open, sealed or secret ballot, as they may elect. The election in
said city shall be held and conducted and the result thereof cer-
tified, returned and finally determined under the laws in force
in this state relating to general elections, except the persons
conducting the elections shall, on the day after the election is
held deliver the ballots, tally sheets and poll books to the re-
corder and thereafter the council of said city shall meet within
five days (Sunday excepted) after said election and canvass the
returns of said election, and declare the result thereof, and in
t all respects comply with the requirements of the statute of the
state relating to elections. The corporate authorities of said
city shall perform all duties in relation to such elections re-
quired by general law of the county court and officers in effect
on the day of said election, and each succeeding election under
this charter. And the provisions of the code in effect on the
date of said election, concerning elections by the people, shall
govern such elections and be applicable thereto, and the penal-
ties therein prescribed for offenses relating to elections shall be
enforced against the offenders of such corporate elections; and
the said act shall have the same force and effect as if it were
specially applicable in such corporate elections and was by this
act re-enacted in extenso; except as above modified as to the
time in which the returns of the election and canvass thereto
shall be made.

Sec. 12. Whenever two or more persons receive an equal
number of votes for mayor, recorder or councilman, such tie
shall be decided by the council in existence at the time the elec-
tion is held; provided, that the council in office at the time of
the institution of such contest proceeding shall hold over and
remain in office for the purpose of passing upon and deciding
such contest, and for such purpose only; and nothing herein
provided shall be construed to interfere with the duties, power
and authority of the new or incoming council.

Sec. 13. All contested elections shall be heard and deter-
mined by the council in existence at the time the election is held,
and the contest shall be made and conducted in the manner as
provided for in contests for county and district officers, and the
council by their proceeding in such cases shall, as nearly as
practicable, conform with like proceedings of the county court
in such cases.

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

Appointive Officers; Duties of Officers

Sec. 15. The council shall also have authority to provide by 
2 ordinance for the appointment of such other officers as shall be 
3 necessary and proper, to carry in full force and authority the 
4 power, capacity, jurisdiction and duties of said city, which are 
5 or shall be vested therein or in the council, or in the mayor, or 
6 any other officer or body of officers, thereof, and to grant to the 
7 officers so appointed the power necessary or proper for the pur- 
8 pose mentioned above. The council, by ordinance, shall define 
9 the duties of all officers so appointed, and may provide them a 
10 reasonable salary, which shall be payable out of the city treas- 
11 ury which salary shall not be increased or diminished during 
12 their term of office, and shall require and take from all of them 
13 whose duty shall be to receive its funds, assets or property, or 
14 have charge of the same, such bonds, obligations, or other writ- 
15 ing as they shall deem necessary or proper to insure the faith- 
16 ful performance of their several duties. All officers elected may 
17 be removed by the council from office for intemperance, gross 
18 immorality, gambling, malfeasance or misfeasance in office, or 
19 inability or neglect to perform the duties of their respective 
20 offices. Any appointed officer who holds his office at the pleas- 
21 ure of the council, may be removed from his office for cause, 
22 after due notice. The chief of police and any other police officer 
23 appointed by said council, shall have all power, rights and privi-
24 leges within the corporate limits of said city in regard to the 
25 arrest of persons, the collection of claims and the execution and 
26 return of process that can be legally exercised by a constable of 
27 a district within this state; and may without having any war- 
28 rant or other process therefor, arrest any person who commits 
29 any offense against the laws of this state or infraction of the 
30 ordinances of said city, in his presence. The chief of police 
31 shall be ex-officio the keeper of the city jail, and have charge of 
32 the city prisoners confined therein, and may confine any person 
33 arrested by him in the city jail until such time as the charge 
34 against such person can be inquired into by the mayor. Any 
35 person fined by the mayor, for infraction of any of the ordi- 
36 nances of the city, may pay such fine to either the mayor, re- 
37 corder, or chief of police; and the said chief of police and his
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38 sureties shall be liable for all fines, penalties and forfeitures that
39 a constable of a district is liable for in the same court that the
40 said fine, penalties and forfeitures are now recovered against a
41 district constable. The chief of police shall also be ex-officio
42 tax collector of the said city. For his services as chief of police
43 and tax collector, the said chief of police shall receive such sum
44 of money per month as the council may fix, payable out of the
45 city treasury. The chief of police shall be appointed to his office
46 by the council. It shall be his duty as tax collector to collect
47 the city taxes, licenses, levies, assessments and other city claims
48 as are placed in his hands for collection by the council, and he
49 may constrain and sell therefor in like manner as a sheriff may
50 constrain and sell for state taxes; and he shall, in all other re-
51 spects, have the same powers as a sheriff to enforce the payment
52 and collection thereof.

Official Bonds

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

Oath of Office

Sec. 17. The mayor, recorder and councilmen, and all other
2 officers provided for in this act, shall each, before entering upon
3 the duties of their offices, and within fifteen days after receiv-
4 ing their certificate of election or appointment, take the oath or
5 affirmation prescribed by law for all officers in this state, and
6 make oath or affirmation that they will truly, faithfully and
7 impartially to the best of their ability, discharge the duties of
8 their respective offices so long as they may continue therein.
9 Said oath or affirmation may be taken before any person author-
10 ized to administer oaths under the laws in force at the time the
term of office

sec. 18. the mayor, recorder and councilmen, shall enter upon the duties of their offices upon the first day of february next after their election and continue for the period of two years and all appointed officers shall enter upon their duties as soon as they have qualified; and all officers, both elected and appointed, shall remain in office until their successors are elected or appointed and qualified, or until removed therefrom in the manner prescribed by law.

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

the mayor

sec. 20. the mayor of the said city shall be chairman of its council, shall preside at the meetings of the council, and shall also be a conservator of the peace within the said city. he shall especially see that the orders, by-laws, ordinances, acts and resolutions of the council are faithfully executed. he shall be ex-officio justice of the peace within the said city and shall, within the same, have, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace, except he shall have no jurisdiction in civil causes of action arising out of the corporate limits of the city, unless the defendant resides or is found therein and process therein served upon him. he shall have the same power to issue attachments in civil suits as a justice of the peace of his county; but in such case, he shall have no power to try the same, but such attachments shall be made returnable and heard before a justice of the peace of his county. any warrant issued by him, or other process, may be executed at any place in said county. he shall have control of the police of said city and may appoint special police officers, whenever he may deem it necessary, and may suspend any police officer of the city until the next regular meeting of the council. and it shall be his duty especially to see that the peace and good order of the city
are preserved, and that persons and property therein are pro-
tected, and to this end he may arrest or cause the arrest and
detention of all violators of the laws of this state and ordinances
of the city, before issuing his warrant therefor, if the offense
is committed in his presence. He shall have power to issue his
warrant for the arrest and apprehension of all persons violat-
ing the ordinances of the city, and shall have power to try the
same and impose upon such violators of the ordinances of said
city such fines and penalties as are prescribed by the ordinances
thereof. He shall have the power to issue executions for all
fines, penalties and costs imposed by him, or he may require
the immediate payment thereof, and in default of such pay-
ment, he may commit the party in default to the jail of said
county, or other place of imprisonment used by such corpora-
tion, if there be one, until the fine or penalty and the costs
be paid. And in all cases where a person is sentenced to im-
prisonment or to the payment of a fine of ten dollars or more
(and in no case shall a judgment for a fine be for less than
ten dollars, if the defendant, his agent or attorney object to
a less fine being imposed) such person shall be allowed an
appeal from such decision to the criminal court of the county
of Summers, upon the execution of an appeal bond with a
security deemed sufficient by said mayor to cover the fine and
costs, and the cost in the criminal court in case said judgment
be affirmed, with condition that the person proposing to appeal,
shall make his personal appearance before the criminal court
of Summers county and will perform and satisfy any judg-
ment which may be rendered against him by the criminal
court on such appeal. If such appeal be taken, the warrant
of arrest, if any, a transcript of the judgment, the appeal bond
and other papers in the case shall forthwith be delivered by
the said mayor to the clerk of said court, and the said court
shall proceed to try the case as upon an indictment or pre-
sentment and render such judgment, including costs, as the law
and evidence may require. The expense of maintaining any
person committed to jail as hereinbefore set forth by the
mayor, except it be to answer an indictment shall be paid by
the said city and taxed as costs against the defendant. He
shall from time to time recommend to the council such measures
as he may deem useful and needful for the welfare of the city.
For his services as mayor, he shall receive the sum of two
hundred dollars per year, or such other sum as the council may fix to be paid out of the city treasury in monthly installments and such fees as may be collected in the trial of cases by him as such mayor and *ex-officio* justice of the peace.

**The Recorder**

Sec. 21. The recorder shall keep an accurate record of all the proceedings of the council, and shall have charge of and preserve the records of the city. In case of the absence of the mayor from the city, or his inability to act from any cause, or during any vacancy in the office of mayor, the recorder shall perform such duties of the mayor as pertain to the office of mayor, and to that end in addition to the other powers herein conferred upon him, the recorder is hereby vested with all the powers necessary for the performance of the duties of the mayor, while acting as such, including the authority of the mayor, pertaining to civil suits. The recorder shall be *ex-officio* assessor of said city, and shall perform such duties as are imposed by law. He shall be paid a salary of two hundred dollars per year, or such other sum as the council may fix, payable in equal monthly installments, for his services as recorder and assessor, to be paid out of the city treasury.

**Quorum**

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

**Record Books**

Sec. 23. The council shall cause to be kept by the recorder in a well bound book to be called the minute book, an accurate record of all its proceedings, ordinances, acts, orders and resolutions and in another to be called ordinance book, an accurate record of all general ordinances adopted by the council; both of which shall be accurately indexed and open to the inspection of anyone required to pay taxes in the city, or who may be otherwise interested therein. All oaths and bonds of officers in the city, and all papers of the council shall be endorsed, filed and securely kept by the recorder. The bond of officers shall be recorded in a well bound
12 book to be called record of bonds, the recorder shall perform
13 such other duties as by ordinance of the council may be pre-
14 scribed. The transcript of ordinances, acts, orders and reso-
15 lutions certified by the recorder under the seal of the city shall
16 be admissible in evidence in any court, or before any justice.

Sec. 24. At each meeting of the council the proceedings of
2 the last meeting shall be read and, if erroneous, corrected, and
3 signed by the presiding officer for the time being. Upon the
4 call of any member the ayes and noes on any question shall be
5 taken and recorded by the recorder in the minute book. The
6 call of the members for such vote shall be made alphabetically.

Tie Vote

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

Meetings of Council

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

Payment of City Funds

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

Sec. 28. The common council of said city shall have, and is hereby granted, power to have city surveyed; to lay out, open, vacate, straighten, broaden, change grade of, grade, re-grade, 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 benefitted thereby such parts 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 thereover; 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 any person or animal afflicted with contagious or infectious diseases 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 gambling, 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, un-
wholesome, 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 of every description.
and to ascertain their condition for health, cleanliness, or
safety; to regulate the building and maintenance of party
walls, partition fences or lines, fire walls, fire places, boilers,
smoke stacks and stove pipes; to provide for and regulate the
safe construction, inspection and repair of all public and
private buildings, bridges, basements, culverts, sewers or other
buildings or structures of any description; to take down and
remove, or make safe and secure, any and all buildings, walls,
structures or superstructures at the expense of the owners
thereof, that are, or may become, dangerous, or to require the
owners or their agents, to take down and remove them, or
put them in a safe condition, at their own expense; to reg-
ulate, restrain or prohibit the erection of wooden or other
buildings within the city; to regulate the height, construction
and inspection of all new buildings hereafter erected, and
the alteration and repair of any buildings already erected, or
hereafter erected in said city, and to require permits to be
obtained for such buildings and structures, and plans and
specifications thereof to be first submitted to the building in-
spector; to regulate the limit within which it shall be lawful
to erect any steps, porticos, bay windows, bow windows, show
windows, awnings, signs, columns, piers or other projection or
structural ornaments of any kind for the houses or buildings
fronting on any street of said city; to establish fire limits and
to provide the kind of buildings and structures that may be
erected therein, and to enforce all needful rules and regu-
lations to guard against fire and danger therefrom; to require,
regulate and control the construction of fire escapes, for any
buildings or other structures in said city; to control the
opening and construction of ditches, drains, sewers, cesspools,
and gutters, and to deepen, widen and clear the same of stag-
nant water or filth, and to prevent obstruction therein, and
to fill, close or abolish the same, and to determine at whose
expense the same shall be done; and to build and maintain
fire station houses, crematories, jails, lockups and other
buildings, police stations and police courts, and to regulate
79 the management thereof; to acquire, establish, lay off, ap-
propriate, regulate, maintain, control public grounds, squares
and parks, hospitals, market houses, city buildings, libraries
and other educational or charitable institutions, either within
or without the city limits; and when the council determines that
any real estate in or out of the city is necessary to be ac-
quired by said city for any such purpose, or for any public
purpose, or is necessary in the exercise of its powers herein
granted, the power of eminent domain is hereby conferred
upon said city, and it shall have the right to institute con-
demnation proceedings against the owner thereof in the same
manner, to the same extent and upon the same conditions, as
such power is conferred upon public corporations by chapter:
forty-two of the code of West Virginia, of the edition of one
thousand nine hundred and six, and as now, or may hereafter
be amended; to purchase, sell, lease, or contract for, and
take care of, all public buildings and structures and
real estate deemed proper for the use of said city; and for
the protection of the public, to cause the removal of unsafe
walls, structures or buildings and the filling of excavations;
to prevent injury or annoyance to the business of individ-
uals from anything dangerous, offensive or unwholesome; to
abate or cause to be abated, all nuisances, and to that end
thereabout to summon witnesses, to hear testimony; to
regulate or prohibit the keeping of gunpowder and other
combustible or dangerous articles; to regulate, restrain or
prohibit the use of firecrackers or other explosives or fire-
works, and all noises or performances which may be danger-
ous or annoying to persons, or tend to frighten horses or
other animals; to provide and maintain proper places for
the burial of the dead, in or out of the city, and to regulate
interments therein upon such terms and conditions as to price
and otherwise as may be determined; to provide for shade
and ornamental trees, shrubbery, grass, flowers and other
ornamentation, and the protection of the same; to provide for
the poor of the city, and to that end may contract with the
proper authorities of Summers county to keep and maintain
the poor, or any number thereof, upon terms to be agreed
upon; provided, however, that the said City of Avis shall not
keep or maintain the paupers of said city until such time as
the county court of Summers county shall relieve the said City of Avis from the payment of all taxes for the support of the paupers residing outside of the corporate limits of said city; to make suitable and proper regulations in regard to the use of the streets, public places, sidewalks and alleys by street cars, foot passengers, animals, vehicles, motors, automobiles, traction engines, railroad engines and cars, to regulate the running and operation of the same so as to prevent obstruction thereon, encroachments thereon, or injury, inconvenience or annoyance to the public; to prohibit prize fighting, cock and dog fighting, to license, tax, regulate or prohibit theaters, moving pictures, circuses, the exhibition of showmen and shows of any kind, and the exhibition of natural or artificial curiosities, caravans, menageries and musical exhibitions and performances and other things or business on which the state does, or may, exact a license tax; to organize and maintain paid fire companies and departments and to provide necessary apparatus, engines and implements for the same, and to regulate all matters pertaining to the prevention and extinguishment of fires; and to make proper regulations for guarding against danger and damage from fires, water or other element, to regulate and control the kind and manner of plumbing and electric wiring, airships, balloons, wireless stations and other appliances, for the protection of the health and safety of said city, to levy taxes on persons, property and licenses, to license and tax dogs and other animals, and regulate, restrain and prohibit them, and all other animals and fowls running at large and as one means of prevention to provide for impounding thereof, and upon failure of the owner to reclaim such fowls and animals to make such sale thereof at the expense of the owner; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business for its own regulation and government; to promote the general welfare of the city, and to protect the persons and property of the citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city, and placing of signs, billboards, posters and advertisements in or through the streets, alleys and public places; to have the sole and exclusive right to grant, refuse or revoke any and all
159 licenses for the carrying on of any business within said city
160 on which the state exacts, or may exact, a license tax; to es-161 tablish and regulate markets and to prescribe the time for
162 holding the same, and what shall be sold in such market, and
163 to let stalls or apartments and regulate the same, and to ac-
164 quire and hold property for market purposes; to regulate the
165 placing of signs, billboards, posters and advertisements in,
166 or over the streets, alleys, sidewalks and public grounds of
167 said city; to preserve and protect the peace, order and safety
168 and health of the city and its inhabitants including the right
169 to regulate the sale and use of cocaine, morphine, opium
170 and poisonous or dangerous drugs; to prohibit the carrying
171 of concealed or dangerous weapons within the corporate lim-
172 its of said city; to punish drunkenness; to prevent gambling;
173 to prohibit anything against good morals and common de-
174 cency, and fix punishment therefor; to prevent the desecra-
175 tion of the Sabbath day; to prohibit profane swearing; to
176 prohibit the illegal sale of intoxicating drinks, mixtures or
177 preparations; to appoint and fix the place of holding city
178 elections; to erect, own, lease and authorize or prohibit the
179 erection of gas works, electric light works or water works, in
180 or near the city, and to operate or to regulate the operation
181 of the same, and sell the products or services thereof, and
182 to do any and all things necessary and incidental to the
183 conduct of such business; to provide for the purity of water,
184 milk, meats and provisions offered for sale in said city, and to
185 that end provide for a system of inspecting same and making
186 and enforcing rules for the regulation of their sale, and to pro-
187 hibit the sale of unwholesome or tainted milk, meats, fish,
188 fruits, vegetables, or the sale of milk containing water or other
189 things not constituting a part of pure milk; to provide for in-
190-198 specting dairies and slaughter houses, whether in or outside
199 of the city, where the milk and meat therefrom are offered
200 for sale within said city, and to prohibit the sale of any article
201 deemed unwholesome, and to condemn the same or destroy
202 or abate it as a nuisance; to provide for the regulation of
203 public processions so as to prevent interference with pub-
204 lic traffic, and to promote the good order of the city; to
205 prescribe and enforce ordinances and rules for the purpose
206 of protecting the health, property, lives, decency, morality,
and to protect places of divine worship in and about the premises where held, and to punish violations of all ordinances even if the offense under and against the same shall also constitute offense under the laws of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of the payment of fines, penalties or costs under this act, who are otherwise unable, or fail, to discharge the same, by putting them to work for the benefit of the city, upon the streets or other places in or out of the city provided by said city, and to use such means to prevent their escape while at work as the council may deem expedient; and the council may fix a reasonable rate per day as wages to be allowed such person until the fine and costs against him are thereby discharged; to compel the attendance at public meetings of the members of the council; to have and exercise such additional rights, privileges and powers as are granted to municipalities by chapter forty-seven of the code of West Virginia, as amended. For all such purposes, except that of taxation, and for purposes otherwise limited by this act, the council shall have jurisdiction, when necessary, for one mile beyond the corporate limits of said city; to grant and regulate all franchises in, upon, under and over the streets, alleys and public ways of said city, under such restrictions as are contained herein or shall be provided by ordinance, but no exclusive franchise shall be granted by said council to any individual or corporation, nor shall any franchise be granted for a longer period than fifty years; to regulate licenses and restrict the use of motor buses, automobiles, carriages, drays and wagons upon the streets, alleys and public grounds of said city when same are being used for hire and reward.

And the council shall have the right to establish, construct, and maintain public markets on the grounds which do, or shall, belong to said city, or which it shall acquire, by purchase, or otherwise, and to sell, lease, repair, alter or remove any public markets or buildings which have been, or shall be, so constructed, and to preserve and protect the peace and good order at the said markets, and regulate the manner in which they shall be used.
To carry into effect these enumerated powers and all other powers conferred upon said city expressly or by implication in this and other acts of the legislature, the council of said city shall have the power, in the manner herein prescribed to adopt and enforce all needful orders, rules and ordinances not contrary to the laws and constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment in the city lock-up, jail or station-house, and to work prisoners found guilty as the council may prescribe, and market the products of such labor, and with the consent of the county court of Summers county entered of record shall have the right to use the jail of said county for any purposes necessary to the administration of its affairs.

The council shall have the authority to pass all ordinances not repugnant to the constitution and laws of the United States and of this state, which shall be necessary and proper to carry into full effect the power, authority, capacity and jurisdiction which is or shall be granted to or vested in the said city, or in the council or in any officer or body of officers of said city, and to enforce any and all of the ordinances by reasonable fines and penalties, and upon the failure to pay any fine or penalty imposed, may compel the offender to labor without compensation at and upon any of the public works or improvements undertaken, or to be undertaken, by said city, or to labor at any work which the said council may lawfully employ labor upon, at such reasonable rates per diem as the council may fix, until any fines, or fines and costs upon any offender of said city have been fully paid and discharged after deducting reasonable charges of support while in the custody of the officers of the city; provided, that upon conviction and imposition of penalty under such ordinance, no further prosecution shall be had in any of the courts of the state for the same offense. And in all cases where a fine is imposed for an amount exceeding ten dollars and costs, or a person be imprisoned or be compelled to labor as aforesaid for a greater term than ten days, an appeal may be taken from such decision upon the terms and conditions as appeals are taken from the judgment of a justice of this state. Such fines and penalties shall be imposed and
286 recovered, and such imprisonment inflicted and enforced by
287 and under the judgment of the mayor of said city; or in
288 case of his absence or inability to act, then any member of
289 the council, to be appointed by the council for that purpose;
290 and for his services in trying such cases, whether civil, crim-
291 inal or infractions against ordinances, the mayor shall be
292 entitled to charge and collect such fees as are paid to jus-
293 tices of the peace for similar services. And in all such cases
294 the chief of police, or other officer performing the service
295 shall be entitled to receive such fees as are paid to con-
296 stables for similar services; provided, further, that the fee
297 for making any arrest shall be one dollar, whether such of-
298 ficer be the chief of police or other officer. In addition to
299 the powers above enumerated, the said city council shall have
300 the power to build, construct, maintain and operate a suf-
301 ficient sewerage system and water works, as may be neces-
302 sary for the proper supply of water to the inhabitants of
303 said city, for public and private use, and said city shall
304 have the power to purchase or condemn any water works
305 now in the said city, or hereafter placed therein by any
306 party other than the said city, wherever the council of said
307 city shall deem proper, and such order shall have been rati-
308 fied by a vote of the qualified voters of said city, at an elec-
309 tion called for that purpose, with due notice, and at least
310 two-thirds of the votes cast at said election shall vote for
311 the ratification of said council to purchase or condemn said
312 water works; and the said city shall have the power to en-
313 large the said water works, if so purchased or condemned, by
314 putting additional reservoirs either within or out of said
315 city; and the said city shall have the right, if its council
316 shall deem proper, and the order of said council be rati-
317 fied by a vote as aforesaid, to build, construct, maintain, and
318 to operate such water works in the said city as may be deemed
319 proper without the purchase or acquisition of any water
320 works then in said city and said city shall have the right to
321 lay pipes and mains for the proper distribution of said
322 water, either in or out of said city, as shall be necessary for
323 the proper distribution of same, and for that purpose may ac-
324 quire by lease, purchase or condemnation all such lands as
325 shall be necessary, either within or without the said city, or
they may contract for such work to be done, in either event
to supply an adequate supply of pure, healthful water for
said city, and do all things necessary to supply said city and
inhabitants thereof with water as aforesaid; and the said
city may acquire by purchase or condemnation any electric
light plant now in said city or hereinafter placed therein by
any party other than said city, and shall have the right to
build, construct, maintain and operate such plant for the
furnishing of electricity for said city, and for the inhab-
itants thereof, but no electric light plant shall be purchased,
condemned, or built or operated unless voted on by the qual-
ified voters of the said city at an election called and held
as aforesaid, and the same be ratified by a two-thirds vote
of all votes cast at said election.

**Police Docket**

Sec. 29. A well-bound book indexed, to be denominated
the police docket, shall be kept in the office of the mayor, in
which shall be noted each case brought before or tried by
him, together with the proceedings therein, including a state-
ment of the complaint, the warrant or summons, the return.
the fact of appearance or non-appearance, the defense, the
hearing, the judgment, the costs and in case the judgment be
one of conviction the action taken to enforce same. The rec-
ord of each case shall be signed by the mayor, and the orig-
inal papers thereof, if no appeal be taken, shall be kept to-
gather and preserved in his office.

**Taxation**

Sec. 30. The council shall be governed in all respects in
laying the annual levy or any additional levy or special levy
by chapter nine of the acts of the extraordinary session of
the legislature of West Virginia of one thousand nine hundred
and eight, and by chapter eighty-five of the acts of the legis-
lature of one thousand nine hundred and fifteen as the same
is amendatory of certain sections of the said chapter nine of
the said acts of one thousand nine hundred and eight, except
that they may include a poll tax of not exceeding one dollar
each year upon each able bodied man therein, who is above
the age of twenty-one years and not over fifty years of age, which
poll tax shall be used exclusively for opening, improving and maintaining roads, streets and alleys of the city, and shall designate the same as the street taxes; and the said council may also impose such license tax upon dogs and other animals as they may deem proper, and collect the same from the owners of such animals, as other taxes are collected, and prescribe such rules, regulations and penalties governing the payment of such tax on animals as they may deem reasonable. And the general annual levy upon the taxable property within the corporate limits of said city shall not exceed the sum of fifty cents upon each one hundred dollars of valuation. But in addition to said levies above mentioned, and in addition to any levies provided by the general law, with which these are not meant to conflict, the council of said city, beginning with the year of one thousand nine hundred and twenty-five are empowered to and shall lay a special annual levy of not to exceed thirty cents on each one hundred dollars valuation of the property in said city for the purpose of creating a sinking fund with which to pay off the principal of the present outstanding bonded indebtedness of said city when the same becomes due and for the purpose of paying annually, when due, the interest coupons of the said present outstanding bonded indebtedness of the said city, which said special levy shall be continued annually by the council for as many years as may be necessary to pay off said outstanding bonded indebtedness and the interest coupons that may become due thereon, but no longer.

Assessment and Collection of Taxes

Sec. 31. It shall be the duty of the assessor to make an assessment of the property within the city subject to taxation substantially in the manner and form in which assessments are made by the assessor of the county, and return the same to the council or or before the first day of August of each year, being governed by the law governing county assessors. He shall list the number of dogs and other animals subject to license tax in the city, and the names of the persons owning the same, which list shall be returned. In order to aid the assessor in ascertaining the property subject to taxation by said city, he shall have access to all books and public records of
12 Summers county, without expense to him or said city, and
13 he shall have the same power and be subject to the same
14 penalties in ascertaining and assessing the property and sub-
15 jects of taxation of said city as are granted and imposed on
16 the county assessors throughout the general state laws; and
17 the council shall have authority to prescribe by general ord-
18 inance such other rules and regulations as may be necessary to
19 enable and require such assessor to ascertain and properly
20 assess all property liable to be taxed by said city, so that such
21 assessment and taxation shall be uniform and equal, and the
22 council may enforce such rules and regulations by reason-
23 able fines to be imposed on any one failing to comply therewith.
24 When he shall complete his assessment book he shall deliver
25 the same when sworn to, to the city council.

Sec. 32. There shall be a lien on all real estate within the
2 said city for taxes assessed thereon, and for all fines and pen-
3 alties assessed against or imposed upon the owners thereof, by
4 the authorities of said city, including expenses of making,
5 maintaining and repairing, paving and macadamizing side-
6 walks, drains, gutters and streets from the time the same are
7 so assessed or imposed, which shall have priority over all other
8 liens except taxes due the United States and the lien for taxes
9 due the state, county and district, and such lien may be en-
10 forced by the council in the manner provided by law for the
11 enforcement of the lien for county taxes. And the laws of
12 the state of West Virginia in relation to delinquent taxes, and
13 the sale of property therefor, are hereby and in all respects
14 adopted as to all proceedings in relation to taxes for city pur-
15 poses delinquent in said city. And the powers and duties con-
16 ferred by the laws of said state upon county courts and their
17 clerks and sheriffs in regard to delinquent taxes and their
18 collection, are hereby in all things conferred upon said city
19 council, its recorder and other city officials whose duties are
20 of a similar nature as those of said county officials, in so far
21 as the same may be directed or by implication applicable in
22 the collection of delinquent taxes due said city.

Sec. 33. It shall be the duty of the city tax collector when
2 the extended copies of the assessor’s books are completed, to
3 receive a copy thereof, receipting to the council for same, and
4 it shall be his duty to collect from the parties the entire amount
5 of the taxes with which they are severally charged therein, 6 and may proceed to collect the same at any time after the 7 first day of October, and may enforce the payment thereof by 8 levy upon the personal property, and sale thereof, of the 9 person charged with taxes at any time after the first of Janu- 10 ary next, after said taxes are assessed. He may also allow 11 a discount of two and one-half per cent on all taxes paid on 12 or before the first day of December. Said taxes shall be a lien 13 upon the property upon which they are assessed, from and 14 after the time the assessor's books are completed, verified and 15 returned to the city council, and he shall write the word paid 16 opposite the name of each person who pays the taxes against 17 him, and shall also give to the person paying such taxes a 18 receipt therefor; provided, however, that said treasurer may 19 distraint at any time for any taxes assessed against a person 20 who is about to remove or who has removed from said city, 21 after such taxes are assessed, and the books returned as aforesaid. He shall also receive such other moneys of the city as 22 he is authorized by this act to receive, and also all moneys 23 ordered by the council to be paid to him, giving receipt there- 24 for to the parties paying the same, and shall keep an accurate, 25 itemized account of all moneys received by him. His books 26 shall, at all times, be open for the inspection of the mayor, 27 council, city recorder, and to any taxpayer in the city. He 28 shall also make up monthly statements of the money received 29 by him and the amount paid out by him and to whom, show- 30 ing the amounts in his hands from all sources, and shall post 31 the same in the mayor's office on the last day of each month. 32 He shall pay out the money in his hands upon the order of 33 the city council, upon orders signed by the mayor and re- 34 corder. He shall, on or before the expiration of the term of 35 office of the mayor, and at such other times as the council may 36 require, present to the council a full and complete statement 37 of all moneys with which he is chargeable, or that have been 38 received by him and not previously accounted for, and shall 39 at the same time, and in like manner, furnish a complete 40 statement, by separate items, of all disbursements made by 41 him during such period, with his vouchers evidencing the 42 same. He shall receive all taxes upon licenses and receipt to 43 the party paying the same, by endorsement upon the permit
45 granted by order of the council, or mayor as the case may be.
46 He shall, upon the expiration of his term of office, turn over to
47 the council all books and other property in his possession be-
48 longing to the city, except the money in his hands, which he
49 shall turn over to his successor, upon the order of the coun-
50 cil, as hereinbefore provided; and shall, before entering upon
51 the duties of his office, execute a bond with good security pay-
52 able to said city in a penalty of not less than ten thousand
53 dollars, conditioned that he will faithfully discharge the
54 duties of his office and account for and pay over as required
55 by law and the order, ordinances, rules and regulations of
56 the council of said city, all money which shall come into his
57 hands, which bonds shall be subject to the approval of the
58 council. He shall be chargeable with all the city taxes, levies
59 and assessments and money of the city which shall come into
60 his hands and shall account therefor.

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

Licenses

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

Sec. 36. The council shall have the right to institute and
2 prosecute proceedings in the name of the city for condemna-
3 tion of real estate for streets, alleys, roads, drains, sewers,
4 market grounds, city prison, city hall, water works, electric
5 light plant or other works, or purposes for public utility.
6 Such proceedings shall conform to the provisions of chap-
7 ter forty-two of the code of West Virginia, and the expenses
8 thereof shall be borne by the city, except in cases where it is
9 proper under said chapter to charge said expenses or any
10 part thereof against the defendant.

Bond Issues

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

Indebtedness Prohibited

Sec. 38. The council of the said city shall not, at any time,
2 or for any purpose, create any indebtedness against the said
3 city except as provided in the next preceding section, exceed-
ing the available assets of the said city for the current year, and if the said council shall create such indebtedness or issue orders on the city for an amount exceeding the amount of money collected for that year for said city from all sources, and the amount of money then in the treasury appropriated, the members of the said council shall be severally and jointly liable for the payment of the excess of such indebtedness or orders over the amount of money applicable thereto and the same may be recovered in any court having jurisdiction thereof. Any councilman violating the provisions of this section shall be deemed guilty of malfeasance in office and may be removed as such councilman in pursuance of section fifteen of this act. Provided, however, this shall not be applicable to such members who have voted against said excess; and, provided further, that the vote of each member of the council shall be recorded.

Maintain Roads and Streets

Sec. 39. The said city shall construct, conduct and maintain its own roads and streets, and by reason thereof shall not be required to pay any district or county road levies for the construction and maintenance of roads outside the city limits.

Ordinances

Sec. 40. All ordinances, by-laws, resolutions and rules of the City of Avis in force on the day preceding the passage of this act, which are not inconsistent herewith, shall be and remain in full force over the whole boundary of said City of Avis, as established by this act, until the same are amended or repealed by the council of said city, and the officers elected in one thousand nine hundred and twenty-five shall remain and continue in office in the positions as hereinbefore provided; and after this act takes effect, shall have jurisdiction over all the territory embraced in the boundary specified in this act, and shall perform all the duties of such respective offices under this act; but nothing in this act shall be construed or held, in any way, to affect or impair any of the bonds, obligations or indebtedness of the City of Avis issued or contracted prior to the passage of this act; but on the contrary, the said City of Avis shall be liable for all the bonds,
17 obligations and indebtedness of the City of Avis as though the
18 same had been created under this charter.

Streets and Sidewalks

Sec. 41. The council shall have power, without petition of
2 the owners of abutting property, to provide for the grading,
3 construction, maintenance and repair of sidewalks, drains and
4 gutters upon the streets of the city, and assess the expense of
5 the construction, maintenance and repair of the same upon the
6 property abutting thereon and the owners thereof, and collect
7 the same in the same manner as other taxes and levies are
8 collected, and shall have power, without petition of the own-
9 ers of abutting property, to grade, macadamize and pave the
10 streets of the said city, or any of them, and assess part of
11 the expense of grading, macadamizing and paving not to ex-
12 ceed one-third thereof upon abutting property on each side
13 thereof, and the owners thereof, and collect the same in the
14 same manner as other taxes and levies are collected; and such
15 assessments for sidewalks, drains, gutters, macadamizing and
16 paving shall be a lien upon such abutting property, the same
17 as other taxes and levies within said city upon the property
18 therein. Provided, that nothing herein shall be construed to
19 prevent the council from arranging for the construction of
20 any such improvement, by agreement with the abutting prop-
21 erty owners, if the council shall so desire and deem it advis-
22 able to do so.

Sec 42. The city council shall have power, upon the pe-
2 tition in writing of the owners of the greater amount of front-
3 age of the lots abutting on any street or alley or between any
4 two cross streets, or alleys, to provide for the construction,
5 reconstruction, repairing and maintenance of all local im-
6 provements including the grading, paving, sewer ing and oth-
7 erwise permanently improving of streets and alleys of the
8 city, and to provide for the assessment of the cost thereof,
9 including all incidental expenses and the cost of intersec-
10 tions of streets, with interest payable annually, against the
11 abutting or other specially benefitted properties, according
12 to their frontage, on either side of such street or alleys, and
13 against the owners thereof, upon the following conditions:
14 (a) Plan and Resolution: The city council, when deemed expedient by it, shall cause plans, specifications, profiles and estimates of the proposed improvements by grading, paving, curbing, sewering or otherwise locally improving any streets or alleys, to be made and filed in the office of the mayor, and shall by ordinance and resolution prescribe generally the location and character of the proposed improvement and refer to such plans, specifications, profiles and estimates.

22 (b) Notice and Hearing: The city council shall then cause notice thereof to be published once in some newspaper published in said city, fixing the date for a hearing thereon not less than one week after the adoption of such resolution. At the date stated in such resolution and notice, or any adjourned meeting, the city council shall hear objections to the proposed improvements and may correct, amend or modify such plans, specifications, profiles and estimates not extending to any other street or part of street, and may pass or adopt a resolution or ordinance providing for such improvement, by direct employment of labor or by contract with the lowest responsible bidder, and for the assessment of the cost thereof against the abutting or specially benefitted properties on each side of such street or alley.

35 (c) Assessment, Docketing and Payment: The city council shall, by resolution or ordinance, levy the assessment of the approved estimate of the cost of such improvement, including incidental expenses and intersections, upon the abutting or other specially benefitted properties and against the owners thereof, in proportion to the frontage of such properties, designating the same by numbers, names of owners or other convenient description; and shall also assess against any street car or other railway company the cost of the improvement of the space between the rails of its track or tracks and two feet additional outside of each rail (unless otherwise provided in the franchise therefor); and which assessments shall be liens upon the respective properties and upon the tracks and franchises of such company for the distance of the improvement thereon, and said liens shall have priority over all other liens except taxes due the state. The said assessment shall be payable fifteen days after the levying thereof, unless the owners of such properties may elect to pay the same in ten annual installments as hereinafter provided; and, within thirty days after the levying thereof the city recorder
(d) Collateral Bonds: The city council shall, at the option of the owner or owners of such properties, permit payment of one-tenth of the amount assessed against them, respectively, within said fifteen days, and issue and sell its notes and bonds, without vote of the electors of the city, in anticipation of the payment of such special assessments in annual installments as follows: One-tenth of such amount with interest on said one-tenth, at six per cent per annum, payable annually, in one year from the date of the levying of such assessment, and a like one-tenth, with interest as aforesaid, at the expiration of each succeeding year until the whole amount shall have been paid.

(e) Method of Improvement: The city council shall, after levying and collecting assessments and issuing its notes and bonds as aforesaid, proceed with such local improvements according to the said approved plans, specifications, profiles, and shall pay the cost thereof out of the special assessment fund accruing from such payment and the sale of its notes and bonds. Provided, that the assessments against any such street car or other railway company shall be deducted from the cost to be paid by the owners of the abutting lots.

(f) Rebates or Further Assessments: Upon the completion of any improvement, any excess above the actual cost of the improvement shall be refunded to the owners of the properties on the basis on which assessed, and in the event of a deficit in the assessment fund, the city council may by ordinance lay supplementary assessment on the basis of actual cost of the improvement which shall be made and col-
lected as provided in the case of the original assessments for
the improvement.

(g) Gas and Water Lines: The city council, before
making any such local improvements, shall compel any per-
son, firm or corporation having gas, water, telephone, street
car or other public utility equipment on, in or under such
street or alley under franchise therefor, to be moved, re-
newed, lowered or raised, and the gas or water lines or con-
nections to be extended from the mains to the abutting prop-
erties, as directed, within ten days after notice to do so; and
shall also cause the owner of properties abutting on said
street or alley to install sewer connections at their expense,
within ten days after notice to do so; and if the same be not
done within said time, the work may be done by the city and
the cost thereof, with a penalty of ten per cent of the cost
assessed against the owners of such franchise and against the
said properties, respectively, for which said connections are
made, which assessments shall be liens and may be collected
as other taxes.

(h) Damages and Improvements: Whenever any
street or alley of the city, or any part thereof, shall have been
graded, sewered or otherwise permanently improved by order
of the city council, pursuant to the authority conferred on
them by this section, by providing for an assessment of a
part of the cost thereof, as provided by this section, against
abutting property and the owners thereof, it shall not be
within the power of the said city council to thus charge the
said property or the owners thereof, with any part of the
cost of re-grading, re-paving, re-sewering or again perma-
ently improving such street or alley until after fifteen years
from the completion of such grading, paving, sewering or
otherwise permanently improving thereof. The city coun-
cil shall, by ordinance, provide for the protection, preserva-
tion and use of any such local improvements and shall pre-
scribe fines and penalties for damages or injuries thereto, for
which the person or company causing such injury shall be
liable; and no owner or owners of abutting properties shall
be compelled to pay subsequent special assessments for the
reconstruction, repair and maintenance of any curb, pave-
ment, sewer or other local improvements, so injured or dam-
aged by any other person or corporation in violation of such ordinance.

(i) The city council of the City of Avis shall provide places for voting in each ward in all municipal elections of the city, and appoint commissioners residing therein to hold and conduct the elections hereinbefore provided to be held: and shall pass all proper ordinances to give this act full force and effect. Provided, that the council may consolidate the voting places of two or more wards, if in its opinion no inconvenience is placed upon the voters in the respective wards.

Sec. 43. The city attorney shall be the legal advisor of the city and all its officers in all matters arising, and in which legal proceedings may be taken; he shall prosecute all suits, actions and proceedings instituted on behalf of the said city; and defend all suits and actions against said city, and when requested in writing, shall give his written opinion to the mayor or council or any standing committee thereof upon such legal questions as may be referred to him affecting the city’s interest; he shall perform such other duties as may be required. It shall be his duty to attend the sessions of the council when requested and prosecute all trials before the mayor and all appeals that are taken from such mayor to the criminal or circuit court, and for his services he shall receive such compensation as the council shall provide, and in addition thereto in all criminal prosecutions conducted by said city attorney, where there is a conviction of the defendant, there shall be taxed an attorney’s fee in favor of said city attorney, not less than five nor more than ten dollars, which said fee shall be taxed as a part of the costs of the case.

Sec. 44. The council shall designate some bank in which all moneys shall be deposited by the treasurer in its corporate name. The council of the City of Avis shall appoint a city treasurer, prescribe his duties and provide compensation not to exceed the sum of eighteen hundred dollars per year, payable in equal monthly installments.

Sec. 45. Each councilman of the said city shall receive from the city to be paid out of the city treasury the sum of forty dollars per year, payable in monthly installments, and there shall be deducted from the salary of the mayor, recorder
5 and councilmen two dollars for each time either of said officers
6 shall be absent from a regular meeting of said council, unless
7 such absence is caused by sickness or absence from the city.

Board of Health

Sec. 46. The council shall appoint a suitable person, who
2 shall be a practicing physician, as health commissioner, whose
3 term of office shall be one year and until his successor is ap-
4 pointed and qualified. The mayor, health commissioner and
5 city attorney are hereby constituted and shall be a city board of
6 health. The board of health shall do and perform all such
7 duties and exercise such powers as may be required or con-
8 ferred upon it by legal ordinance of said city. The board of
9 health shall have the power to summon witnesses, hear testi-
10 mony and to do any and all other things necessary and proper
11 in the performance of its duties under this act and under the
12 general laws of the state in such case made and provided.

Nuisances

Sec. 47. The council of said city shall have authority to
2 abate and remove all nuisances in said city. It may compel
3 the owners, agents, assignees, occupants, or tenants of any lot,
4 premises, property, building or structure upon or in which
5 any nuisance may be, to abate and remove the same by orders
6 therefor, and by ordinance provide a penalty for the violation
7 of such orders.
8 Said council may also by its own officers, appointees, and
9 employees abate and remove nuisances, including all obstruc-
10 tions on the streets and alleys of said city. It may by ordi-
11 nance regulate the location, construction, repair, use, empty-
12 ing, and cleaning of all water closets, privies, cess-pools, sinks,
13 plumbing, drains, yards, lots, areaways, stables and other
14 places where offensive, unsightly, unwholesome, objectionable,
15 or dangerous substances or liquids are, or may accumulate,
16 and provide suitable penalties for violations of such regula-
17 tions, which may be enforced against the owners, agents, as-
18 signee, occupant, or tenant of any premises or structure where
19 such violation may occur.
20 If the owner, agent, tenant, assignee, or occupant of any
21 such premises, lot, property, building or structure as is men-
22 tioned herein, fails to comply with the provisions of any such
ordinance and the regulations herein contained, the said coun-
cil may have said nuisance abated or the provisions of said
ordinance or ordinances carried out, after reasonable notice
to said owner, occupant, tenant, agent or assignee, of its inten-
tion so to do, and collect the expenses thereof, with one per
centum per month interest added from the date of said notice,
from the said owner, occupant, tenant, agent or assignee, by
distress or sale, in the same manner in which taxes levied upon
real estate for the benefit of said city are herein authorized to
be collected, and the expense shall remain a lien upon said lot,
or part of lot, the same as taxes levied upon real estate in
said city; which lien may be enforced by a suit in equity
by any court having jurisdiction as other liens against real
estate are enforced. In case of non-resident owners of real
estate, such notice may be served upon any tenant, occupant,
assignee, or rental agent, or by publication thereof once a week
for not less than two consecutive weeks in some newspaper of
general circulation in said city.

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

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

Sec. 48. The council may require all owners, tenants or oc-
cupants of improved property which may be located upon or
near any street or alley along which may extend any sewer
or system of sewerage, which the said city may construct, own
or control, to connect with such sewer or system of sewerage,
all privies, ponds, water closets, cess-pools, drains or sinks lo-
cated upon their respective properties or premises so that their contents may be made to empty into such sewer or system of sewerage, and shall have the right to charge a reasonable amount for the right to connect to such sewer.

Franchises

Sec. 49. Franchises shall be granted by the council, allowing to persons or corporations, for a limited time, such occupancy of the streets as may be necessary for works of public utility and service such as steam railway tracks, street railway tracks, poles, and trolley wires, telephone and telegraph poles, wires and subways, and gas and steam pipe lines, water lines and pipes. But no such franchise shall hereafter be granted except under the following restrictions:

(a) No ordinance, granting any franchise for the use of the streets, alleys, or public grounds of the town or for any purpose of public utility above mentioned, or for any other purpose of like nature, shall be passed unless it shall have been first proposed in the council, and notice of the object, nature and extent of the franchise shall have been published at least thirty days by the applicant, in some newspaper of general circulation, in the City of Avis, before being acted upon, and shall have received a vote of the majority of the members of the council at a regular meeting after said publication. The votes thereon shall be taken by ayes and nays, and the same entered upon the journal.

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

(c) No grant of any such franchise shall be made without, at the time of making it, providing that the grantee shall indemnify the city against all damages caused by the construction of such work. All reasonable additional provisions and conditions may be made for the protection of the public from unnecessary damages or inconveniences by reason of such works and the operation thereof.

(d) No grant of a franchise or the extension of, or an addition to, any line of such work, over any additional street or territory of the city, shall be made for a period extending
36 beyond the time limit for the expiration of the franchise of 37 the principal work of which it is an extension; and if the 38 franchise of the principal company or work is one which was 39 granted before this act goes into effect, and not limited as to 40 time, the franchise granted for the extension or addition shall 41 nevertheless be made subject to the conditions hereof, includ- 42 ing a time limit of not exceeding fifty years. If a franchise 43 be secured from the city by an individual or by an independent 44 or new company, and the work constructed thereunder after- 45 wards becomes a part of it, or be operated as a part of a larger 46 work or the same kind whose franchise was previously obtained 47 and is limited to expire earlier, such later franchise shall, by 48 reason of such annexation, merger, or single operation, expire 49 simultaneously with such earlier franchise.

Sec. 50. All ordinances of the town of Avis, as they exist 2 at the time of the passage of this act, which are inconsistent 3 herewith, are hereby abrogated, and all acts and parts of acts 4 inconsistent with any of the provisions of this act are hereby 5 repealed.

CHAPTER 34

(House Bill No. 631—By Mr. Morris)

AN ACT to authorize the municipal corporation of the Town of 2 Harrisville, in the county of Ritchie, to vote upon, issue and 3 sell its bonds to an amount, including existing indebtedness, 4 in the aggregate not to exceed five percent of the value of the 5 taxable property therein to be ascertained by the last assess­ 6 ment for state and county purposes, the proceeds of the sale 7 of such bonds to be applied in the purchase or construction of 8 a water system, or for the purchase and construction of a ga, 9 plant for said town, or both.

[Passed April 21, 1925. In effect from passage. Became a law without the approval of the Governor.]

Sec. 1. Bond issue authorized for water system or gas plant. 2. Common council, powers of. 3. Act not restrictive of powers. 4

Be it enacted by the Legislature of West Virginia:

Section 1. That the municipal corporation of the Town of 2 Harrisville, in the county of Ritchie, be and is hereby author- 3 ized, in the manner provided by law, to vote, issue and sell its
4 bonds to an amount, including existing indebtedness, not to
5 exceed five per centum on the value of the taxable property
6 therein, to be ascertained by the last assessment for state and
7 county taxes. The proceeds from the sale of said bonds are
8 hereby authorized to be used for the purchase or construction
9 of a water system for said town, including mains, reservoirs,
10 and pumping stations, or for the purchase or construction of
11 a gas plant, including mains, regulators and other necessary
12 equipment and gas wells for the supply of gas in said town.

Sec. 2. The common council of said town shall have power
2 and authority to sell water provided by said water plant and
3 gas provided by said gas plant to the citizens of said town.
4 and to other persons at reasonable rates. Said council shall
5 have power to sell or lease said plants, but before doing so,
6 shall submit the question of said sale to a vote of the citizens of
7 said town at an election to be held in said town, after publish-
8 ing a notice of said election for one month in all of the news-
9 papers published in said town. A majority of the votes cast
10 at such election shall be sufficient to authorize such sale or
11 lease.

Sec. 3. This act shall not be deemed or construed as
2 restrictive of the powers of said municipality and its common
3 council and officers under general law but supplemental
4 thereto.

CHAPTER 35

(House Bill No. 682—By Mr. Radabaugh)

AN ACT to amend section fifty-six of chapter fifteen of the acts of
the legislature of West Virginia at its one thousand nine hun-
dred and nineteen session, fixing the date of the regular elec-
tion of city officers for the City of Buckhannon, providing
the manner of making nominations, calling said city election
and all special elections, the appointment of election officers
to hold all elections hereunder, to fix the term of office of the
mayor, city recorder, and councilmen hereafter to be elected
and empowering the mayor, city recorder, and councilmen to
adopt a seal, and to divide the City of Buckhannon into fire
districts and residence districts.
Sec. 56. Council a body corporate; nominations, how made; city and special elections; tenure; fire and residence districts.

Be it enacted by the Legislature of West Virginia:

That section fifty-six of chapter fifteen of the acts of the legislature of West Virginia at its one thousand nine hundred and nineteen session be amended and re-enacted by adding after the words "one year" in the one hundred and fifth line of said section fifty-six the following:

The mayor, city recorder, and councilmen shall be, and they are hereby, made a corporate body, and as such can sue and be sued, plead and be impleaded, and shall be called the city council of the City of Buckhannon, and authorized to employ a city seal. The said city council is hereby empowered to fix the terms of office of the members of said city council hereafter to be elected not to exceed a two-year term. If the term is hereafter fixed by said city council at two years, said city council shall also provide by proper ordinance that the mayor and a councilman from the first, third and fifth wards shall be elected at the first election after the adoption of said ordinance for a term of two years and that the city recorder and one councilman from the second and one from the fourth wards of the city for the term of one year, and at all subsequent elections all persons shall be elected for a term of two years. The general election shall be held on the second Tuesday in May of each year and special elections shall be held at such times as may be designated by the city council by resolution properly adopted and spread upon its records. A call for said general election and for all special elections shall be made by said city council at least thirty days before said city election is to be held, and notice thereof shall be published in two newspapers of general circulation published in said city for at least two weeks prior to said election. Said city council shall at least two weeks before the date of any general or special election appoint three commissioners and two poll clerks for each voting place to hold said election who shall have the same qualifications, perform similar duties and under the same penalties as is now provided by law for persons holding the general state elections, and said city council shall fix the compensation of said election officials. Candidates to be voted for at said general election may be
32 nominated either by convention called by resolution regularly
33 adopted by the said city council and held at least fifteen days
34 before said city election, or any candidate may be nominated
35 by a petition signed by at least two hundred legal voters of the
36 city and filed by the city recorder at least ten days previous to
37 the date fixed for holding said election.
38 All other acts and parts of acts coming within the purview of
39 this act and inconsistent with this act or in conflict herewith
40 are repealed, and all parts of said act not inconsistent or in
41 conflict with this act shall not be repealed or affected by this
42 amendment.