

190

ENROLLED BILL

House Bill No. 190

(By Mr. McGuire)

Passed February 11, 1931

In Effect from Passage

Originated in the..... House..... Takes effect..... From..... Passage.
R. A. [Signature]..... *[Signature]*.....
Clerk..... Clerk of the House of Delegates.

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[Signature]..... Chairman House Committee.
[Signature]..... Chairman Senate Committee.

ENROLLED BILL

(H. B. No. 190)

[Passed February 11, 1931; in effect from passage.]

AN ACT to amend and re-enact chapter fourteen of the acts of the legislature, passed February twenty-first, one thousand eight hundred eighty-seven, entitled an act to create a municipal corporation of the city of Wellsburg, in the county of Brooke and to grant a charter thereto, to amend a charter of the city of Wellsburg and all acts of the legislature amendatory thereon.

Be it enacted by the Legislature of West Virginia:

That chapter fourteen of the acts of one thousand eight hundred eighty-seven, and all acts of the legislature amendatory thereof, be amended and re-enacted so as to read as follows:

Section 1. The inhabitants of the portion of the county of
2 Brooke, in the state of West Virginia, within the limits of the
3 city of Wellsburg as they now are, or as they may hereafter be,
4 shall be and continue a body politic and corporate, by the name
5 and style of "City of Wellsburg," and as such, and by that
6 name, shall have perpetual succession and may contract and be

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7 contracted with, sue and be sued, plead or be impleaded, answer
8 and be answered unto, and may purchase, acquire by condem-
9 nation proceedings for public use, take, receive, hold and use
10 goods and chattels, lands and tenements and choses in action,
11 or any interest, right or estate, therein either for the proper
12 use of said city, or in trust for the benefit of any person or as-
13 sociation therein; and the same may grant, sell, convey, trans-
14 fer and assign, let, pledge, mortgage, charge and encumber, in
15 any case and in any manner in which it would be lawful for
16 private individuals so to do, except where its power may be
17 limited by law; and may have and use a common seal, and alter
18 and renew the same at pleasure; and generally have all the
19 rights, franchises, capacities and powers appertaining to mu-
20 nicipal corporations in this state.

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

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28 All lawful contracts with and all lawful rights, claims and de-
29 mands against the city of Wellsburg, at the time this charter
30 takes effect, shall be good in law against the said city under
31 this charter.

Sec. 2. The boundaries of the city of Wellsburg shall be as
2 follows: Beginning at the mouth of Buffalo creek and extend-
3 ing eastwardly along the center line of the meandering of said
4 creek to a point where the county bridge now crosses the said
5 creek a short distance east of the P. W. & Ky. R. R. bridge and
6 the bridge of the Pan Handle Traction Company; thence in
7 an easterly direction to the east side of the Wellsburg and
8 Bethany Turnpike; thence northerly along the east side of the
9 Wellsburg and Bethany Turnpike to the east line of the Pan
10 Handle Traction Company; thence following the east line of
11 the Pan Handle Traction Company in a northeasterly direction
12 until it strikes a line running parallel to Commerce street and
13 fifty feet distant westwardly therefrom; thence in a southerly
14 direction along a line parallel to Commerce street and fifty feet
15 distant westwardly therefrom to the south line as shown on the
16 Tyers plat, recorded in deed book thirty-nine at page five hun-
17 dred forty-five of the records of Brooke county; thence in a

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18 straight line in an easterly direction to the line of the lands of
 19 F. A. Chapman; thence in a northerly direction along the west
 20 line of the lands owned by F. A. Chapman and the lands owned
 21 by S. H. Hubbard and Dorrie Hubbard to a corner at the join-
 22 ing of the lands of S. H. Hubbard and Dorrie Hubbard with those
 23 of Josephine Du Pont Leonard and of the J. F. Cree Estate;
 24 thence in a northerly direction in a straight line across the lands
 25 of J. F. Cree, now deceased, to the southeast corner of lot fifty-
 26 four of the plan of lots platted and recorded by I. H. Duvall;
 27 thence in a northerly direction in a straight line to the north-
 28 east corner of lot fifty-two of said plan of lots; thence in a north-
 29 east direction in a straight line to the southeast corner of the
 30 lands of H. W. Paull; thence in a northerly direction along
 31 east boundary line of the property of said H. W. Paull of the
 32 property of Elizabeth P. Jacobs, of the property of Thomas
 33 Boyd, deceased, of the property of W. H. Tarr, deceased, and
 34 the property of Miss Lou Tarr, deceased; of the property of
 35 G. L. and S. R. Caldwell, of the property of A. P. Oxtoby, of the
 36 property platted into lots by Fred L. Hall, of the property of
 37 Edward Rithner and of the property of the Brooke Cemetery
 38 Company; thence from the northeast corner of the said ceme-

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39 tery property in a northwesterly direction in a straight line
40 to a point in a ravine situate at the foot of what is known as
41 Gilchrist Hill and four hundred feet east of the Ohio river;
42 thence in a westwardly direction following the meandering of
43 said run or ravine to the east shore of the Ohio river; thence
44 on a direct line to the west shore of said river; thence extend-
45 ing along the west shore of said river in a southerly direction
46 to a point opposite the mouth of Buffalo creek; thence from
47 said point to the mouth of said Buffalo creek, the place of be-
48 ginning, including all the land and water between the boundary
49 lines aforesaid.

50 The boundaries of the city of Wellsburg shall also extend
51 to and include the tract of land conveyed to the city by I. H.
52 Duval and wife, by deed dated March twenty-ninth, one thou-
53 sand eight hundred eighty-six, recorded in deed book number
54 twenty-six, page four hundred sixty-six, of the records of
55 Brooke county, which said tract contains the reservoir of the
56 city water works.

Sec. 3. The officers of the city shall be a mayor, two council-
2 men from each ward, city collector and treasurer, city clerk and
3 chief of police. The mayor, members of council, city collector

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4 and treasurer, city clerk and chief of police, of said city shall
5 be elected by the voters of said city as hereafter provided. The
6 other officers shall be appointed by the council. *Provided fur-*
7 *ther:* That the chief of police or other elective officer may desig-
8 nate and nominate such assistants as are herein provided for,
9 who shall be appointed by said council unless good cause be
10 shown for the rejection of such nomination or nominations.

Sec. 4. The mayor shall be the chief executive officer of said
2 city; he shall take care that the provisions of this act, and the
3 orders, by-laws, ordinances, acts and resolutions of the council
4 of said city are faithfully executed; he shall have authority to
5 convene council in special session whenever he may deem it
6 advisable to do so, and shall be ex-officio a justice and con-
7 servator of the peace within said city, and shall within the same
8 have, possess and exercise all the powers and perform all the
9 duties vested by law in a justice of the peace, except that he shall
10 have no jurisdiction in civil cases or causes of action arising out
11 of the corporate limits of the city; he shall have the same powers
12 to issue attachments in civil cases as a justice of this county
13 has, although the cause of action may have arisen out of the city;
14 but in such cases he shall have no power to try the same, but

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15 such attachment shall be returnable to and be heard by some
16 justice of his county; any warrant or other process issued by
17 him may be executed any place within the county of Brooke;
18 he shall have control of the police of said city, and may appoint
19 special police officers whenever he may deem it necessary; and
20 it shall be his duty especially to see that the peace and good
21 order of the city are preserved and that persons and property
22 therein are protected, and to this end he may cause the arrest
23 and detention of all riotous and disorderly persons in the city
24 before issuing his warrant therefor; he shall have power to issue
25 executions for all fines, penalties and costs imposed by him, or
26 he may require immediate payment thereof, and in default of
27 such payment he may commit the party in default to the jail of
28 Brooke county, or other place of imprisonment in said city until
29 the fine or penalty and costs are paid; but the term of imprison-
30 ment shall not exceed thirty days; he shall from time to time
31 recommend to council such measures as he may deem necessary
32 or needful for the welfare of the city. The expense of maintain-
33 ing any person imprisoned by him, except it be to answer an in-
34 dictment, or be under the provisions of section two hundred
35 twenty-seven and two hundred twenty-eight of chapter fifty of

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36 the code of West Virginia, shall be paid by the city. The mayor
37 shall not receive any money belonging to the state or individuals,
38 unless he shall give such bond and security required of a justice
39 of the peace by chapter fifty of the code of West Virginia; and
40 all the provisions of said chapter relating to moneys received by
41 justices shall apply to like moneys received by the mayor; and
42 for such services when acting in the capacity of a justice of the
43 peace, he shall receive such fees as are allowed by law to justices
44 for similar services.

45 It shall be lawful for the mayor, when any person is fined by
46 him, at his discretion, to sentence such person to labor without
47 compensation, on any of the streets or alleys, or any of the public
48 works or improvements, undertaken, or to be undertaken by the
49 city, in lieu of the fine so imposed for a period not exceeding
50 thirty days. In rendering such judgment, and giving such sen-
51 tence, the mayor shall ascertain and fix the amount of the fine
52 upon the payment of which, with the costs of prosecution, such
53 person shall be discharged from sentence to labor. Such person
54 so sentenced to labor, shall be confined in the jail of Brooke
55 county, or other place of imprisonment in said city, while not
56 at labor.

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Sec. 5. The city of Wellsburg shall be divided into four wards
2 as nearly equal in population as practicable. The members of
3 council from each ward shall be elected by the voters thereof and
4 the council shall establish one or more voting places in each ward,
5 and when more than one voting place shall be established in a
6 ward, the council shall establish as many precincts as there are
7 voting places numbering the same and establish the boundary
8 line thereof. Council shall have authority to alter the boundaries
9 of any of the wards of said city and to increase the number of
10 said wards keeping in view the equality of population.

Sec. 6. The first election under this act shall be held on the
2 second Tuesday of June one thousand nine hundred thirty-one
3 and an election shall be held annually thereafter on the second
4 Tuesday of June. The officers elected under this act shall hold
5 their office from the first day of July next succeeding their elec-
6 tion until their successors are elected and qualified. The terms
7 of all officers elected after said election shall commence on the
8 first day of July next succeeding their election. Vacancies in
9 all offices shall be filled by the council of said city until the next
10 city election, at which time the unexpired term of any officer
11 who has died, resigned or in any manner been removed, shall be

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12 filled by election.

13 The present year of all officers of the city now terminates
14 upon the first Monday of May, this time being changed in this
15 act to the first day of July. All present officers whose time of
16 office terminates upon the first Monday of May shall continue to
17 hold their respective offices until the first day of July succeeding
18 the expiration of their former term.

Sec. 7. Every person elected or appointed to an office in said
2 city, shall within twenty days after this election or appoint-
3 ment and before entering upon the duties of his office, take and
4 subscribe to the oath required by law, to be administered by the
5 mayor, clerk or any other person legally authorized so to do.

Sec. 8. All citizens of this state who have been bona fide resi-
2 dents of the said city for not less than sixty days next preceding
3 the election, and who are qualified voters under the constitution
4 and laws of this state, shall be entitled to vote at all municipal
5 elections held in said city, but only in the ward of which they
6 are residents.

Sec. 9. The council of the city, shall, after the first day of
2 July one thousand nine hundred thirty-one consist of two mem-
3 bers from each ward within said city, one member from each

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Enrolled H. B. No. 190] 11

4 ward to be elected annually at the city election to be held upon
5 the second Tuesday of June of each year and to hold office for the
6 term of two years or until his successor is elected and qualified.

Sec. 10. At the election of officers to be held upon the second
2 Tuesday of June one thousand nine hundred thirty-one, after
3 the passage of this act, there shall be elected a mayor, city col-
4 lector and treasurer, chief of police and one councilman from
5 each ward; and thereafter the mayor, city collector and treas-
6 urer and chief of police shall be elected every two years and shall
7 hold their respective offices for the term of two years and until
8 their successor shall be elected and qualified. *Provided fur-*
9 *ther:* That a referendum may be had on the question of
10 whether or not the office of chief of police shall be an elective or
11 appointive position, and if and upon, its submission to the
12 voters of said city, a majority of said votes shall favor said office
13 as being an appointive one, then the city council shall make such
14 appointment and the duties of said officer shall be and remain
15 the same, as herein provided.

16 The city clerk elected in said city at the election held therein
17 on the second Tuesday of April, one thousand nine hundred
18 thirty shall hold his office until the first day of July, one thou-

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19 sand nine hundred thirty-two, and thereafter a city clerk shall
 20 be elected every two years, who shall hold his office for the term
 21 of two years and until his successor is elected and qualified.

Sec. 11. The street commissioner shall be appointed by the
 2 council, and shall hold his office at their pleasure; and perform
 3 such duties and receive such compensation therefor as the coun-
 4 cil may from time to time prescribe.

Sec. 12. The powers, duties and compensation of all officers
 2 shall be established by ordinance; but the compensation pertain-
 3 ing to any office shall not be increased or diminished so as to
 4 affect any officer subsequent to his election or appointment and
 5 during the term for which he was elected or appointed.

Sec. 13. When two or more persons shall receive an equal
 2 number of votes for the same office, if such number be the
 3 highest number cast for each office, the council shall decide by
 4 lot which of them shall be returned as elected.

Sec. 14. All contested elections shall be decided by the
 2 council.

Sec. 15. The mayor shall by virtue of his office, preside over
 2 the council, but shall only have a vote in case of a tie. The com-
 3 mittees of the council shall be selected by the hold-over members

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4 of this body and confirmed by council.

5 No member of the council shall vote on any order, measure,
6 resolution or proposition in which he may be interested other-
7 wise than as a citizen of said city.

Sec. 16. The council shall cause to be kept in a well bound
2 book, an accurate record of all its proceedings which shall be
3 fully indexed and open to the inspection of the public.

Sec. 17. The clerk of said city shall be clerk of the council,
2 and all of the committees thereof; have charge of all the records
3 and archives, make out an assessment book from the books of the
4 assessor of Brooke county and perform such other duties per-
5 taining to his office as the council may prescribe.

Sec. 18. At each meeting of council the proceedings of the
2 last meeting shall be read and corrected, if erroneous, and signed
3 by the presiding officer and clerk. Upon the call of any member
4 for the yeas and nays on any question, the same shall be taken and
5 recorded in the journal.

Sec. 19. The council shall have plenary power and authority
2 therein by ordinance or resolution as the case may require, (so
3 far as such power or authority is not in conflict with the con-
4 stitution and laws of this state or the constitution of the

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14 [Enrolled H. B. No. 190

5 United States) to lay off, vacate, close, open curb, recurb, pave
6 or repave and keep in good repair, roads, streets, alleys, side-
7 walks, crosswalks, drains and gutters, for the use of the public,
8 and to improve and light the same, and have them kept free
9 from obstructions on or over them; to prevent by proper fines
10 and penalties the throwing, depositing or permitting to re-
11 main on any street, sidewalk, alley, lane, square or other public
12 place any glass, scrap iron, nails, tacks, wire, other litter, or
13 any offensive matter or any thing likely to injure the feet of
14 persons or animals or the tires of vehicles; to regulate the use
15 of streets, alleys, lanes and sidewalks for vehicles propelled by
16 man power, and for other vehicles the use of which is not
17 regulated by general laws; to regulate the width of sidewalks
18 on the streets, and, subject to section twenty-one hereof, to
19 order the sidewalks, footways and crosswalks to be curbed,
20 recurbed, paved, repaved and kept in good order, free and
21 clean, by the owners or occupants thereof, or of the real prop-
22 erty next adjacent thereto; to establish and regulate markets,
23 and prescribe the time of holding the same; to prevent injury
24 or annoyance to the public or individuals from anything dan-
25 gerous, offensive or unwholesome; to prevent hogs, cattle, horses,

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Enrolled H. B. No. 190]

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26 sheep, dogs or other animals, and fowls of all kinds, from going
27 at large in such town; to protect places of divine worship and
28 to preserve peace and order in and about the premises where
29 held; to arrest, convict and punish any person for keeping a
30 house of ill-fame, or for letting to another person any house or
31 other building for the purpose of being used or kept as a house
32 of ill-fame, or for knowingly permitting any house owned by
33 him, or under his control, to be kept or used as a house of ill-
34 fame, or for loafing, boarding or loitering in a house of ill-fame,
35 or frequenting same; to arrest, convict and punish any person
36 for importing, printing, publishing, selling or distributing any
37 book or other thing containing obscene language; to arrest, con-
38 vict and punish any person for cruelly, unnecessarily or need-
39 lessly beating, torturing, mutilating, killing or overloading or
40 overdriving, or wilfully depriving of necessary sustenance, any
41 horse or other domestic animal; to arrest, convict and punish
42 any person for gambling or keeping gaming tables, commonly
43 called A. B. C. or E. O. table or faro bank or keno table, or
44 table of like kind, under any denomination, whether the gaming
45 table be played with cards, dice or otherwise, or any person who
46 shall be a partner or concerned in interest, in keeping or ex-

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47 hibiting such table or bank, or keeping or maintaining any
 48 gaming house or place, or betting or gambling for money or any-
 49 thing of value; to license, or for good cause to refuse to license
 50 in a particular case, or at its discretion to prohibit in all cases,
 51 the operation of pool and billiard rooms and maintaining for
 52 hire of pool and billiard tables, notwithstanding the general law
 53 as to state licenses for such business. When the council, in the
 54 exercise of its discretion, shall have refused to grant a license
 55 to operate a pool or billiard room mandamus shall not lie to com-
 56 pel the council to grant such license, unless it shall clearly ap-
 57 pear that the refusal of the council to grant such license is dis-
 58 criminatory or arbitrary. In the event that the council de-
 59 cides to license any such business, the council shall have power
 60 and it shall be the duty of the council, to make and enforce
 61 reasonable ordinances regulating the licensing and operating
 62 of such businesses; the council shall also have such power and
 63 authority to arrest, convict and punish any person for carrying
 64 about his person any revolver or other pistol, dirk, bowie-knife,
 65 razor, slung shot, billy, metallic or other false knuckles, or any
 66 other dangerous or other deadly weapon of like kind or charac-
 67 ter, within such town; to arrest, convict and punish any person

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68 for driving or operating, within such town, a motor vehicle
69 when intoxicated or under the influence of liquor, drugs or nar-
70 cotics; to provide penalties for the offenses and violations of
71 law mentioned herein in addition to the penalties provided in
72 section twenty-three of this article, but which shall not exceed
73 the penalties provided for like offenses and violations in this
74 chapter, and in chapter sixty-one of this code; to abate or cause
75 to be abated anything which, in the opinion of a majority of the
76 whole council, shall be a nuisance; to regulate the keeping of
77 gunpowder and other combustibles; to acquire, by purchase,
78 condemnation and otherwise, land in or near the city for pro-
78a viding and maintaining proper places for the burial of the dead
79 and to regulate interments therein upon such terms and con-
80 ditions as to price and otherwise as may be determined by the
81 council, and in order to carry into effect such provisions the
82 council may acquire any cemetery or cemeteries already estab-
83 lished; to provide for the regular building of houses or other
84 structures, and for making of division fences by the owners of
85 adjacent premises and the drainage of lots by the proper drains
86 and ditches; to make regulations guarding against danger or
87 damage by fire; to prevent the illegal sale of intoxicating liquors,

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88 drinks, mixtures and preparations therein; to protect the per-
89 sons and property of the inhabitants of such city, and to pre-
90 serve peace and good order therein, except as otherwise pro-
91 vided, to prescribe the powers and define the duties of the offi-
92 cers appointed by the council, fix their terms of service and
93 compensation, and require and take from them bonds, when
94 deemed necessary, payable to such city, in its corporate name,
95 with such sureties and in such penalty as the council may see
96 fit, conditioned for the faithful discharge of their duties; to
97 require and take from employees and contractors bonds in such
98 penalties with such sureties and with such conditions, as council
99 may see fit; to erect, or authorize or prohibit the erection of,
100 gas works, electric light works or water works within or with-
101 out the town and to prevent injury to such works or the pollu-
102 tion of the water and its maintenance in a healthful condition
103 for public use within the town; to regulate and provide for the
104 weighing of hay, coal and other articles sold or for sale in the
105 town; to provide a revenue for the city and appropriate the
106 same to its expenses, which power shall include the power to
107 tax dogs; to impose a license tax on persons or companies keep-
108 ing for hire carriages, hacks, buggies or wagons; or for carry-

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109 ing passengers for pay in any such vehicle, in such town; to
110 adopt rules for the transaction of business, and the govern-
111 ment and regulation of its own body.

112 Wherever the powers herein granted cannot be reasonably
113 and efficiently exercised by confining the exercise thereof with-
114 in the corporate limits the powers of the corporation shall ex-
115 tend beyond the corporate limits to the extent necessary to the
116 reasonably efficient exercise of such powers within the cor-
117 porate limits. But such powers, unless otherwise provided,
118 shall not extend more than one mile beyond the corporate
119 limits, nor shall such powers extend into the corporate limits
120 of another municipal corporation.

Sec. 20. Whenever anything for which a state license is re-
2 quired is to be done within said city, also to include miniature
3 golf course, the council may require a license therefor and may
4 impose a tax thereon for the use of said city.

5 It shall be unlawful for any person in said city to hold him-
6 self or herself out as a fortune teller, clairvoyant, mind reader,
7 or palmist and purport and claim to tell the future or the past
8 by the above or any other hidden and secret methods or science,
9 or to practice the above calling, avocation or profession, and the

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10 council may pass an ordinance prohibiting the same and pre-
 11 scribing penalties for its violation. Nothing in this section con-
 12 tained shall be construed so as to control any religious associa-
 13 tion or body.

Sec. 21. If the owner of any real property next adjacent to
 2 any sidewalks, crosswalks, drains and gutters within said city,
 3 shall fail or refuse to curb, pave, recurb or repave or to keep the
 4 same clean in the manner or within the time required by the
 5 council, it shall be the duty of the council to cause the same to
 6 be done at the expense of the city and to assess the amount of
 7 such expense to such owner of the property abutting thereon and
 8 the same may be collected by the city collector and treasurer in
 9 the same manner provided for the collection of city taxes. Coun-
 10 cil shall always have authority to pave or repave, curb or re-
 11 curb or otherwise permanently improve streets, alleys, cross-
 12 walks, drains and gutters and sewers in said city at the expense
 13 of the city.

14 The city of Wellsburg having upon the ninth day of April, one
 15 thousand nine hundred eight, by a special election, adopted,
 16 chapter eight of the acts of the legislature of one thousand
 17 nine hundred eight, as a method for paving and sewerage with-

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18 in said city, therefor, article eight of chapter eight of the of-
19 ficial code of West Virginia, one thousand nine hundred thirty-
20 one, is hereby adopted and made a part of the charter of the city
21 of Wellsburg, with the exception that all paving and repaving,
22 curbing and recurbing and sewerage, which shall be done in the
23 city, the whole cost thereof, other than that portion which is
24 chargeable to a street railway company, or other railway com-
25 pany, shall, including the intersection of streets and alleys, be
26 charged to the owners of the property abutting upon any street
27 so improved or sewerage.

Sec. 22. It shall be the duty of the city collector and treas-
2 urer at least once every six months during his continuance in
3 office and oftener, if required by council, to render an account
4 of the taxes, fines, penalties, assessments and other claims in his
5 hands for collection and to read a list of such as he shall not
6 have been able to collect by reason of insolvency, removal or
7 other causes; to which list he shall make affidavit that he used
8 due diligence to collect the same but has been unable to do so,
9 and if the council shall be satisfied of the correctness of said
10 list and affidavit, it shall allow the city collector and treasurer
11 a credit for said claim; he shall pay any money in his hands to

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12 the city, upon the order of council and not otherwise.

Sec. 23. For the purpose of promoting health, safety, mor-
2 als, or the general welfare of the community, council is hereby
3 empowered to regulate and restrict the height, number of
4 stories, and size of buildings and other structures, the per-
5 centage of lot that may be occupied, the size of yards, courts,
6 and other open spaces, the density of population, and the lo-
6a cation and use of buildings, structures, and land for trade, in-
6b dustry, residence or other purpose.

7 *Districts.* For any or all of such purposes the council may
8 divide the municipality into districts of such number, shape
9 and area as may be deemed best suited to carry out the pur-
10 poses of this article; and within such districts it may regulate,
11 and restrict the erection, construction, reconstruction, altera-
12 tion, repair or use of buildings, structures, or land. All such
13 regulations shall be uniform for each class or kind of build-
14 ings throughout each district, but the regulations in one dis-
15 trict may differ from those in other districts.

16 *Purposes in View.* Such regulations shall be made in ac-
17 cordance with a comprehensive plan and designed to lessen
18 congestion in the streets; to secure safety from fire, panic and

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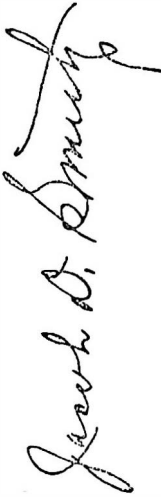
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Enrolled H. B. No. 190] 23

19 other dangers; to promote health and the general welfare; to
20 provide adequate light and air; to prevent the overcrowding
21 of land; to avoid undue concentration of population; to facili-
22 tate the adequate provision of transportation, water, sewerage,
23 schools, parks, and other public requirements. Such regula-
24 tions shall be made with reasonable consideration, among other
25 things, to the character of the district and its peculiar suit-
26 ability for particular uses, and with a view to conserving the
27 value of buildings and encouraging the most appropriate use
28 of land throughout such municipality.

29 *Method of Procedure.* The council shall provide for the
30 manner in which such regulations and restrictions and the
31 boundaries of such districts shall be determined, established,
32 and enforced, and from time to time amended, supplemented,
33 or changed. However, no such regulation, restriction, or boun-
34 dary shall become effective until after a public hearing in re-
35 lation thereto, at which parties in interest and citizens shall
36 have an opportunity to be heard. At least fifteen days' notice
37 of the time and place of such hearing shall be published, in an
38 official paper, or a paper of general circulation, in such mu-
39 nicipality.

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40 *Changes.* Such regulations, restrictions, and boundaries,
 41 may from time to time be amended, supplemented, changed,
 42 modified, or repealed. In case, however, of a protest against
 43 such change, signed by the owners of twenty per cent or more
 44 either of the area of the lots included in such proposed change,
 45 or of those immediately adjacent in the rear thereof extend-
 46 ing one hundred feet therefrom or of those directly opposite
 47 thereto extending one hundred feet from the street frontage
 48 of such opposite lots, such amendment shall not become effective
 49 except by the favorable vote of three-fourths of all members
 50 of the council of such municipality. The provisions of the
 51 previous section relative to public hearings and official notice
 52 shall apply equally to all changes or amendments.

53 *Zoning Commission.* In order to avail itself of the zoning
 54 powers conferred by this article, the council shall appoint a
 55 commission, consisting of freeholders of the municipality, to
 56 be known as the zoning commission, to recommend the boun-
 57 daries of the various original districts and appropriate regu-
 58 lations to be enforced therein. Such commission shall make
 59 a preliminary report and hold public hearings thereon before
 60 submitting its final report, and council shall not hold its public

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Concurrent Measure

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Enrolled H. B. No. 190] 25

61 hearings or take action until it has received the final report of
62 such commission. Where a municipal planning commission al-
63 ready exists, it may be appointed as the zoning commission.
64 The members of the commission shall serve without compen-
65 sation.

66 *Board of Adjustment.* The council may provide for the ap-
67 pointment of a board of adjustment, and in the regulations and
68 restrictions adopted pursuant to the authority of this article
69 may provide that the said board of adjustment may, in ap-
70 propriate cases and subject to appropriate conditions and safe-
71 guards, make special exceptions to the terms of the ordinance
72 in harmony with its general purpose and intent and in ac-
73 cordance with general or specific rules therein contained.

74 The board of adjustment shall consist of five members each
75 to be appointed for a term of three years and removable for
76 cause by the appointing authority upon written charges and
77 after public hearing. Vacancies shall be filled for the unex-
78 pired term of any member whose term becomes vacant.

79 The board shall adopt rules in accordance with the provisions
80 of an ordinance adopted pursuant to this article. Meetings
81 of the board shall be held at the call of the chairman and at

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26 [Enrolled H. B. No. 190

82 such other times as the board may determine. Such chairman,
83 or in his absence the acting chairman, may administer oaths
84 and compel the attendance of witnesses. All meetings of the
85 board shall be open to the public. The board shall keep min-
86 utes of its proceedings, showing the vote of each member upon
87 each question, or, if absent or failing to vote, indicating such
88 fact, and shall keep records of its examinations and other of-
89 ficial actions, all of which shall be immediately filed in the
90 office of the board and shall be a public record.

91 Appeals to the board of adjustment may be taken by any
92 person aggrieved or by any officer, department, board, or
93 bureau of the municipality affected by any decision of the ad-
94 ministrative officer. Such appeal shall be taken within a reason-
95 able time, as provided by the rules of the board, by filing with
96 the officer from whom the appeal is taken and with the board of
97 adjustment a notice of appeal specifying the grounds thereof.
98 The officer from whom the appeal is taken shall forthwith trans-
99 mit to the board all the papers constituting the record upon
100 which the action appealed from was taken.

101 An appeal stays all proceedings in furtherance of the ac-
102 tion appealed from, unless the officer from whom the appeal

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Enrolled H. B. No. 190] 27

103 is taken certifies to the board of adjustment after the notice of
104 appeal shall have been filed with him that by reason of facts
105 stated in the certificate a stay would, in his opinion, cause immi-
106 nent peril to life or property. In such case proceedings shall
107 not be stayed otherwise than by a restraining order which may
108 be granted by the board of adjustment or by a court of record
109 on application on notice to the officer from whom the appeal is
110 taken and on due cause shown.

111 The board of adjustment shall fix a reasonable time for the
112 hearing of the appeal, give public notice thereof, as well as due
113 notice to the parties in interest, and decide the same within a
114 reasonable time. Upon the hearing any party may appear in
115 person or by agent or by attorney.

116 The board of adjustment shall have the following powers:

117 (a) To hear and decide appeals where it is alleged there is
118 error in any order, requirement, decision, or determination
119 made by an administrative official in the enforcement of this
120 article or of any ordinance adopted pursuant thereto;

121 (b) To hear and decide special exceptions to the terms of
122 the ordinance upon which such board is required to pass under
123 such ordinance;

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124 (c) To authorize upon appeal in specific cases such variance
125 from the terms of the ordinance as will not be contrary to the
126 public interest; where, owing to special conditions, a literal
127 enforcement of the provisions of the ordinance will result in
128 unnecessary hardship, and so that the spirit of the ordinance
129 shall be observed and substantial justice done.

130 In exercising the above mentioned powers such board may,
131 in conformity with the provisions of this article, reverse or
132 affirm, wholly or partly, or may modify the order, requirement,
133 decision, or determination appealed from, and may make such
134 order, requirement, decision, or determination as ought to be
135 made, and to that end shall have all the powers of the officer
136 from whom the appeal is taken.

137 The concurring vote of four members of the board shall be
138 necessary to reverse any order, requirement, decision or deter-
139 mination of any such administrative official, or to decide in
140 favor of the applicant on any matter upon which it is required
141 to pass under any such ordinance, or to effect any variation in
142 such ordinance.

143 Any person or persons, jointly or severally, aggrieved by any
144 decision of the board of adjustment, or any taxpayer, or any

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Enrolled H. B. No. 190] 29

145 officer, department, board, or bureau of the municipality, may
146 present to a circuit court of the county, a petition, duly veri-
147 fied setting forth that such decision is illegal, in whole or in
148 part, specifying the grounds of the illegality. Such petition
149 shall be presented to the court within thirty days after the
150 filing of the decision in the office of the board.

151 Upon the presentation of such petition the court may allow
152 a writ of certiorari directed to the board of adjustment to re-
153 view such decision of the board of adjustment and shall pre-
154 scribe therein the time within which a return thereto must be
155 made and served upon the realtor's attorney, which shall not
156 be less than ten days and may be extended by the court. The
157 allowance of the writ shall not stay proceedings upon the de-
158 cision appealed from, but the court may, on application, on
159 notice to the board and on due cause shown, grant a restrain-
160 ing order.

161 The board of adjustment shall not be required to return the
162 original papers acted upon by it, but it shall be sufficient to re-
163 turn certified or sworn copies thereof or of such portions
164 thereof as may be called for by such writ. The return shall
165 concisely set forth such other facts as may be pertinent and

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166 material to show the grounds of the decision appealed from
167 and shall be verified.

168 If upon the hearing, it shall appear to the court that testi-
169 mony is necessary for the proper disposition of the matter, it
170 may take evidence or appoint a referee to take such evidence
171 as it may direct and report the same to the court with his
172 findings of fact and conclusions of law, which shall constitute
173 a part of the proceedings upon which the determination of the
174 court shall be made. The court may reverse or affirm, wholly
175 or partly, or may modify the decision brought up for review.

176 Costs shall not be allowed against the board unless it shall
177 appear to the court that it acted in bad faith or with malice in
178 making the decision appealed from.

179 *Remedies.* In case any building or structure is erected, con-
180 structed, reconstructed, altered, repaired, converted, or main-
181 tained, or any building, structure or land is used in violation
182 of this article or of any ordinance or other regulation made
183 under authority conferred hereby, the proper local authori-
184 ties of the municipality, in addition to other remedies, may in-
185 stitute any appropriate action or proceedings to prevent such
186 unlawful erection, construction, reconstruction, alteration, re-

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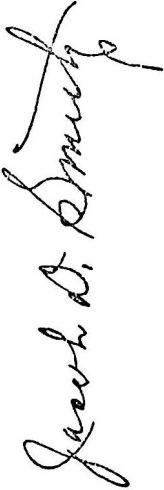
Enrolled H. B. No. 190] 31

187 pair, conversion, maintenance, or use, to restrain, correct, or
188 abate such violation, to prevent the occupancy of such building,
189 structure, or land, or to prevent any illegal act, conduct busi-
190 ness, or use in or about such premises.

191 *Conflict With Other Laws.* Wherever the regulations made
192 under authority of this article require a greater width or size
193 of yards, courts, or other open spaces, or require a lower height
194 of building or less number of stories, or require a greater per-
195 centage of lot to be left unoccupied, or impose other higher
196 standards than are required in any other statute or local ordi-
197 nance or regulation, the provisions of the regulations made
198 under authority of this article shall govern. Wherever the
199 provisions of any other statute or local ordinance or regula-
200 tion require a greater width or size of yards, courts, or other
201 open spaces, or require a lower height of building or a less
202 number of stories, or require a greater percentage of lot to be
203 left unoccupied, or impose other higher standards than are
204 required by the regulations made under authority of this
205 article, the provisions of such statute or local ordinance or
206 regulation shall govern.

207 *Power to Appoint Municipal Planning Commission.* The

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208 council is hereby authorized to appoint a municipal planning
209 commission.

210 *Municipal Planning Commission; Compensation.* The mu-
211 nicipal planning commission shall consist of not less than five
212 citizens, all of whom shall be taxpayers and residents, who
213 shall be nominated by the mayor and confirmed by the council
214 of the town. The members of the commission first appointed
215 shall serve respectively for terms of one year, two years and
216 three years, divided equally or as nearly equally as possible be-
217 tween these terms. Thereafter members shall be appointed for
218 terms of three years each. Vacancies shall be filled by ap-
219 pointment for the unexpired term only. Members of the com-
220 mission shall serve without compensation.

221 *Duties of Commission.* The duties of the commission shall
222 be to prepare plans for the development of the whole or any
223 portion of the municipality and of any land outside of the
224 municipality which, in the opinion of the commission, bears
225 relation to the planning of the municipality: *Provided, how-*
226 *ever,* That the power of the municipal planning commission
227 shall not extend beyond the territorial limits of the munici-
228 pality except so far as is reasonably necessary to protect the

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James Madison

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Enrolled H. B. No. 190] 33

229 community, both within and without the corporate limits,
230 against the inadequate streets, highways, and sewers, and in-
231 adequately planned and zoned territory: *Provided further,*
232 That when two or more municipal corporations in close prox-
233 imity might otherwise have conflicting jurisdiction under this
234 section, the first municipal corporation to exercise such extra-
235 territorial jurisdiction shall thereby acquire exclusive jurisdic-
236 tion over such territory. Such plans shall show recommenda-
237 tions for new streets, bridges, parks, parkways, playgrounds
238 and any other public areas or public improvements. When-
239 ever the commission shall have agreed upon a plan for the
240 development of the municipality or any portion thereof, such
241 plan or plans shall be submitted to the mayor and council for
242 their consideration and action.

243 Before final action shall be taken by any municipality or de-
244 partment thereof on the location and design of any public
245 building, public memorial, street, park, parkway, playground
246 or other public area, such question shall be submitted to the
247 municipal planning commission for investigation and report.

248 *Plans of Land and Streets to be Submitted to Commission*
249 *and Approved by Mayor and Council.* All plans, plats, or re-

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250 plats of land laid out in building lots, and the streets intended
251 to be dedicated to public use, shall be submitted to the mu-
252 nicipal planning commission for their consideration and no
253 such plat or replat shall be filed in the office of the clerk of the
254 county court, as provided by law in other cases, until such plat
255 or replat shall have indorsed upon it the fact that it has first
256 been submitted to the municipal planning commission, and
257 by the municipal planning commission to the mayor and coun-
258 cil and by the mayor and council duly approved.

259 *Commission May Employ Help; Expenses.* The municipal
260 planning commission shall have the power and authority to
261 employ engineers and clerks, and/or any other help neces-
262 sary, and to meet such expenses the municipal planning com-
263 mission shall submit to the mayor and council its budget for
264 each fiscal year, itemizing expenses and amounts, and the pur-
265 pose. The council shall thereupon consider such budget and
266 make such allowances to the municipal planning commission
267 as it shall deem proper.

Sec. 24. The chief of police, shall, subject to the directions
2 of the mayor, have charge of and be responsible for the police
3 force of the city and see that all subordinate police officers

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35

4 faithfully perform their official duties; he shall nominate, and
5 by and with the advice and consent of the council, a majority
6 of all the councilmen elected concurring by yeas and nays, ap-
7 point all the subordinate police officers; he shall be ~~ex~~ officio a
8 constable within the corporate limits of his city; may execute
9 any writ or process issued by the mayor or justice of the peace
10 at any place in Brooke county. It shall be the duty of the chief
11 of police to collect all fines and costs at the time of trial or
12 assessment of said fines and costs by the mayor, and make
13 monthly reports thereof to the council and pay said fines and
14 costs and all city moneys that may come into his possession to
15 the city collector and treasurer weekly; and he shall have in all
16 respects the same power to enforce the collection of fines and
17 costs as the sheriff of Brooke county now has, or may hereafter
18 have, to enforce the collection and payment of fines and costs:
19 he shall have all the powers, rights and privileges within the
20 corporate limits of the city and anywhere within Brooke county
21 in regard to the arrest of persons, the collection of claims and
22 and the execution and return of process, that can be legally
23 exercised by a constable of a district in which the said city is sit-
24 uated, and he and his sureties shall be liable to all fines, penalties

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25 and forfeitures that a constable of a district is liable to, for any
26 failure or dereliction in his office, to be recovered in the same
27 manner and in the same courts that the fines, penalties and for-
28 feitures may be recovered against such constable. All subordi-
29 nate police officers shall have all the powers, rights and priv-
30 ileges of a constable of the district within the corporate limits
31 of the city, in regard to the arrest of persons and the execution
32 and return of all criminal writs and process issued by the mayor,
33 but the council may exempt them from giving the bond required
34 by constables.

35 The chief of police shall before entering upon the duties of
36 his office, execute a bond for the faithful performance by him
37 of the duties of his office, and for the accounting for and paying
38 over as required by law, all the money which may come into
39 his hands by virtue of his office, with sureties satisfactory to the
40 council in a penalty of two thousand dollars, and shall for his
41 compensation receive a salary of not less than one hundred fifty
42 dollars nor more than two hundred dollars per month during
43 his tenure of office, the same to be affixed by the council.

Sec. 25. Said city shall have the right to condemn real estate
2 therein for streets, alleys and other purposes of public utility,

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Enrolled H. B. No. 190] 37

3 and proceedings for such condemnations shall be as prescribed
4 in chapter fifty-four of the code of West Virginia, and shall be
5 at the expense of said city.

Sec. 26. The meetings of council shall be at such times and
2 places as council may from time to time prescribe.

Sec. 27. Council shall appoint three commissioners and two
2 clerks in each ward, before each annual election, who shall hold
3 the election herein provided for. Said commissioners shall make
4 return of the elections so held by them, to the council of said
5 city, as soon as practicable after such elections are held; and
6 council shall thereupon ascertain and publish the result of such
7 election and enter said result upon the journal thereof. The
8 city clerk shall provide the necessary poll books and ballot
9 boxes for such elections, at the expense of the city, and the pro-
10 visions of chapter three, of the code of West Virginia, insofar
11 as they are applicable thereto, and not inconsistent with the
12 provisions of this act, shall apply to and govern such elections.

Sec. 28. All salaries herein provided shall be paid monthly
2 or quarterly as determined by council.

Sec. 29. All propositions involving the appropriation of
2 money shall be read before the council and referred to the proper

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38 [Enrolled H. B. No. 190

3 committees thereof which shall examine the same and report
4 thereon as soon as practicable and any propositions involving
5 the appropriation of one thousand dollars or more shall not pass
6 unless at least two-thirds of the members of council are present
7 at the time the same is acted upon.

Sec. 30. All ordinances of said city and all entries in the
2 journal of the council thereof which shall be printed or pub-
3 lished by authority of the council, or which shall be certified to
4 be corrected by the city clerk of the city, under the seal thereof,
5 shall be received by all the courts and justices of the state as
6 prima facie correct.

Sec. 31. The city shall construct, keep in repair and maintain
2 its own roads, streets and alleys and by reason thereof shall not
3 be required to pay any district or county road levies for the
4 construction or maintenance of roads outside of the city limits,
5 except levies to pay the bonded indebtedness of the county of
6 Brooke, now outstanding.

Sec. 32. In addition to the method of securing the laying of
2 sidewalks set out in section twenty of this charter, the council
3 of said city may cause any sidewalk to be constructed, laid, re-
4 laid or otherwise permanently improved in the city of Wells-

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Conness Madison

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5 burg, in the following manner and upon the following terms:
6 Notice shall first be given the abutting property owners by pub-
7 lication for two successive weeks in one newspaper published in
8 said city by giving location of property in front of which side-
9 walks shall be laid, but no error in said publication shall in any
10 way affect the validity of the certificate hereinafter provided
11 for, or any of them. The contract for same shall, after due
12 advertisement in which council shall reserve the right to reject
13 any and all bids, be let to the lowest responsible bidder and upon
14 completion and acceptance of the work council shall order the
15 mayor and city clerk to issue to the contractor doing the work
16 a certificate for the amount of the assessment to be paid by the
17 owner of any lot or fractional part thereof fronting on such
18 sidewalk, and the amount specified in said assessment certificate
19 shall be a lien in the hands of the holder thereof upon the lot or
20 part of a lot fronting on such sidewalk and such certificate shall
21 draw interest from the date of said assessment, and the payment
22 may be enforced in the name of the holder of such certificate
23 by a proper suit in equity in any court having proper jurisdic-
24 tion to enforce such liens and council shall fix the amount of
25 such assessment and do all things in connection therewith neces-

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Brunswick

Chairman House Committee

26 sary as is provided for paving or improving streets and alleys
27 and such certificates shall be issued one for each abutting lot or
28 portion thereof payable six months from the date of the com-
29 pletion and acceptance of the work and shall be a lien in the
30 hands of the holder thereof upon the particular lot against
31 which they are assessed in the same way and manner and of the
32 same effect that assessments for street paving liens under the
33 other provisions of this act created: *Provided, however, That*
34 council shall not receive any bids or let any sidewalk contract
35 between the first day of October and the first day of March of
36 of any year. Nothing in this section shall be so construed as to
37 prevent any abutting lot owners from having his own sidewalk
38 put in if done before the advertising hereinbefore mentioned
39 and provided same is done according to the lines, grades and
40 specifications of the city engineer, for which no charge shall
41 be made. The total cost of constructing, laying, relaying or
42 otherwise permanently improving any sidewalk or walks shall
43 be borne by the owners of the land abutting upon said sidewalk ;
44 corner lots shall be assessed for the amount in front or alongside
45 of said lot and extended to the curb line.

Sec. 33. The municipal corporation shall cause to be pub-

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Bruce W. Madsen

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Enrolled H. B. No. 190] 41

2 lished in two newspapers of opposite politics, if there be such
3 published therein, at a compensation not to exceed the rate pro-
4 vided by law for like publications, for one issue, or, if no such
5 newspaper be published therein, to publish in pamphlet form
6 not less than one hundred copies of a sworn statement of the
7 financial condition of such corporation. Such statement shall
8 contain a summary account of the receipts and expenditures of
9 the city or municipality showing the source from which all
10 money was derived, and the purpose for which expended, and
11 also a specific statement of the debts of such municipal corpo-
12 ration, showing the purpose for which any debt was contracted,
13 the time it becomes due, the rate of interest, up to what time
14 the interest thereon has been paid, the amount of money in the
15 treasury at the end of the preceding administration and the
16 debts contracted by it. Such statement shall be prepared by
17 the municipal corporation every twelve months and shall then
18 be printed according to the provisions of this section. Either
19 method of the report shall be sworn to by the recorder, by the
20 mayor and two members of the city council. One copy of such
21 printed report shall be delivered to the judge of the judicial
22 district, one to the clerk of the county court, one to the clerk

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Bureau Measure

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42 [Enrolled H. B. No. 190

23 of the circuit court, one shall be kept as a part of the records of
24 the city or municipal corporation, and the remainder shall be
25 held for distribution as called for by the taxpayers. If a city
26 council fail or refuse to perform the duties hereinbefore named,
27 every member of such council and the recorder thereof concur-
28 ring in such failure or refusal shall be guilty of a misdemeanor,
29 and upon conviction thereof, shall be fined not less than ten nor
30 more than one hundred dollars. If any of the provisions of this
31 section are violated, it shall be the duty of the prosecuting attor-
32 ney of the county in which such violations are made to imme-
33 diately present the evidence thereof to the grand jury if in
34 session, and if not in session, he shall cause such violation to be
35 investigated by the next succeeding grand jury.

Sec. 34. It shall be the duty of the city collector and treas-
2 urer to prepare the tax bills which shall be based upon the
3 county assessor's valuation of real and personal property within
4 the city; it shall be the duty of the police officers to make a list
5 of all dogs in the municipality and the names of the owners
6 thereof which list shall be returned to the council.

7 It shall be the duty of the city collector and treasurer to col-
8 lect all taxes, special assessments and other moneys other than

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Samuel M. Adams

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9 fines due the municipality and he is hereby vested with the
10 same rights to distrain for the same as is vested in the sheriff
11 for the collection of taxes. He shall give bond conditioned ac-
12 cording to law in such penalty and with such security as the
13 council may require and in a sum not less than ten thousand
14 dollars.

Sec. 35. The city collector and treasurer shall begin the collec-
2 tion of taxes upon the first day of October of each year; when
3 the taxes of any one person or corporation amount to a sum
4 greater than ten dollars they may be collected, the one-half dur-
5 ing the month of October and the remaining one-half during the
6 month of April of the following year; all unpaid taxes shall
7 bear interest at the same rate as state and county taxes, thirty
8 days after the same are due.

Sec. 36. There shall be a lien on all real estate within the
2 municipality for the taxes assessed thereon for municipal pur-
3 poses. The lien for municipal taxes shall attach and the taxes
4 shall become due at the same time, be subject to the same dis-
5 count, and bear interest at the same rate and from thirty days
6 after due, the same as state and county taxes; and such lien
7 may be enforced by the council in the same manner provided by

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8 law for the enforcement of the lien for state and county taxes,
9 or in such other manner as the council may by ordinance pre-
10 scribe. If any real estate within such municipality be returned
11 delinquent for the non-payment of the taxes thereon, copies of
12 such delinquent list may be certified by the council to the audi-
13 tor, and such real estate may be sold for the taxes, interest and
14 costs of publication thereon, in the same manner, at the same
15 time and by the same officer as real estate is sold for the non-
16 payment of state and county taxes: *Provided*, That any such de-
17 linquent real estate list of any municipality that may be certified
18 to the auditor as herein provided shall be so certified to them
19 before the first day of September in the year next succeeding
20 that for which such taxes were assessed: *Provided further*, That
21 in all cases where a delinquent list of real estate is certified to
22 the auditor as aforesaid, the council shall at the same time cer-
23 tify a like list to the clerk of the county court of the county
24 wherein such real estate is situated and returned delinquent by
25 such council; and it shall be the duty of such clerk forthwith to
26 record the list so certified to him in the record of delinquent real
27 estate kept in his office, and in which is recorded the delinquent
28 list of real estate returned by the sheriff of his county. The

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45

29 council shall pay to such clerk for recording such list a reason-
30 able compensation therefor, not to exceed one cent for each
31 parcel of real estate so certified to him and twenty-five cents
32 for recording the certificate of such list.

33 The city collector and treasurer, after ascertaining which of
34 the taxes in the city cannot be collected, shall, on or before the
35 first Monday in June next succeeding the year for which such
36 taxes are assessed, make out an alphabetical list of the taxes on
37 personal property and real property which have not been paid
38 and the collector and treasurer returning such list shall at the
39 foot thereof subscribe the following oath: I, A. B., city collector
40 and treasurer of the city of Wellsburg, do swear that the fore-
41 going list is, I verily believe, correct and just; that I have re-
42 ceived no part of the taxes for which the persons and property
43 therein mentioned are returned delinquent; and that I have
44 used due diligence to find property within the city liable to dis-
45 tress for such taxes, but have found none.

46 A copy of every such list shall be posted at the front door of
47 the city hall at least two weeks before the session of the council
48 at which they are presented for examination.

Sec. 37. To carry into effect the powers conferred upon such

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46

[Enrolled H. B. No. 190

2 town or its council, by this chapter or by any future act of the
3 legislature of this state, the council shall have power to make
4 and pass all needful orders, by-laws, ordinances, resolutions,
5 rules and regulations, not contrary to the constitution and laws
6 of this state; and, for a violation thereof, to prescribe reason-
7 able fines, penalties and imprisonments in the county jail or the
8 place of imprisonment in such corporation, if there be one, for
9 a term not exceeding thirty days. Such fines, penalties and
10 imprisonments shall be recovered, imposed or enforced under
11 the judgment of the mayor of such town or the person lawfully
12 exercising his functions.

13 The fact that a municipal ordinance vests in the council or
14 some other body or officer a discretion to do, or refuse to do, a
15 given thing, shall not invalidate such ordinance when it would
16 be impractical to lay down by ordinance for all cases a uniform
17 guide for exercising such discretion. This section shall not be
18 construed to mean that a delegation of discretion in any other
19 case shall necessarily invalidate an ordinance. But, if in any
20 case, a delegated discretion is exercised in an arbitrary or dis-
21 criminatory manner, such ordinance, as so applied, shall be un-
22 lawful and void.

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.....
Chairman Senate Committee.

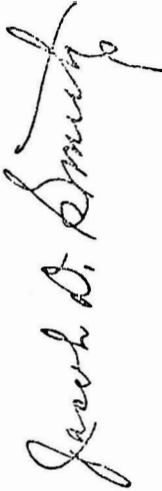
Samuel M. Adams

.....
Chairman House Committee.

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Sec. 38. The council may appoint a water board consisting
2 of three members, each for the term of three years, and their
3 appointments shall be so made that the term of one member
4 shall expire each year. The board shall appoint from their own
5 number, a president, who shall, when present, act as chairman
6 at all meetings of the board. They may also appoint a clerk
7 to have charge of all records. The board shall have authority,
8 and it shall be their duty, to employ sufficient men; to properly
9 operate the water works and pay all proper running expenses
10 of the water works; to purchase and pay for all tools and work-
11 ing equipment necessary for the use of their employees; to ob-
12 tain and pay for the advice and plans of expert hydraulic en-
13 gineers whenever the board may consider the same necessary;
14 to make any and all necessary repairs and improvements and
15 to keep on hand such stocks of extra parts of machinery, pipes,
16 various and other extra material of the kind in common use
17 about the water works for repairs and for extensions of mains
18 and which may at any time be, in their judgment, prudent to
19 have: *Provided*, That in regard to the improvements and exten-
20 sions of mains, the matter shall first be submitted to the city
21 council for their approval.

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Chairman House Committee

Sec. 39. The tax levy which was laid in August of the year
 2 one thousand nine hundred thirty, having been laid to cover
 3 a period of twelve months only, and, by the terms of this act the
 4 beginning and ending of the fiscal year having been changed
 5 from the first Monday in May to the first day of July, therefore
 6 for the years one thousand nine hundred thirty and one
 7 thousand nine hundred thirty-one, the fiscal year shall
 8 terminate upon the first Monday in May one thousand nine
 9 hundred thirty-one and the books and all accounts shall
 10 close upon that day; the present officers of the city, however,
 11 shall hold over and continue their term of office until July
 12 first as set forth in section five of this act; when the levy is laid
 13 in August one thousand nine hundred thirty-one, the same
 14 will be to take care of the expense of the city from the first
 15 Monday in May one thousand nine hundred thirty-one to
 16 the first day of July, one thousand nine hundred thirty-two,
 17 and may be fourteen-twelfth times the levy authorized to
 18 general purposes by section seven of article eight of chapter
 19 eleven of the new code, and there shall be a sufficient levy
 20 to take care of the sinking fund and interest on the bonded
 21 indebtedness of the city for a period of fourteen months.

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Concurrent Measures

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Chairman House Committee.

Chairman Senate Committee.

Enrolled H. B. No. 190] 49

Sec. 40. All ordinances now in effect shall still remain of
2 full force and virtue, excepting when they are in conflict and
3 inconsistent with this act, and when in conflict or inconsistent
4 with this act, that portion of such ordinance or ordinances which
5 are in such conflict or inconsistency are hereby repealed.

Sec. 41. All acts and parts of acts which are in conflict and
2 inconsistent with this act, are hereby repealed and declared
3 inoperative insofar only as they are in conflict or inconsistent
4 with this act.

Originated in the Takes effect Passage.

..... Clerk of the House of Delegates.

..... Clerk.

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Jacob D. Smith
.....
Chairman Senate Committee.

Charles W. Meadows
.....
Chairman House Committee.

E. K. ...
.....
Clerk of the House of Delegates.

J. Alfred Rayler
.....
Speaker of the House of Delegates.

W. H. ...
.....
President of the Senate.

M. S. Hodges
.....
Clerk of the Senate.

The within is.....

this..... day of.....1931.

.....
Governor.

Filed in the office of the Secretary of State
of West Virginia. FEB 24 1931

GEORGE W. SHARP,
Secretary of State.