

ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 100

(By Mr. Yokel)

Passed February 17 1933

In Effect Twenty days from Passage

Originated in the.....*Ch. S. S. S. S. S.* Takes effect.....*Chapter 100* passage
Clerk.....*Pro. S. S. S. S. S.* Clerk of the House of Delegates.

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Chairman Senate Committee.

James L. Smith
Chairman House Committee.

ENROLLED BILL

(H. B. No. 100)

[Passed February 17, 1933; in effect ninety days from passage.]

AN ACT to amend and reenact chapter fifteen (municipal charters), acts of one thousand nine hundred twenty-one, as amended and reenacted by chapter twenty-one (municipal charters), acts of one thousand nine hundred twenty-five, relating to the charter of the city of Morgantown.

Be it enacted by the Legislature of West Virginia:

That chapter fifteen (municipal charters), acts of one thousand nine hundred twenty-one, as amended and reenacted by house bill number two hundred forty-eight, acts of one thousand nine hundred twenty-five, be amended and reenacted to read as follows:

ARTICLE 1

Section 1. The inhabitants of the portion of the county of 2 Monongalia, in the state of West Virginia, within the limits of 3 the city of Morgantown as they now are, or as they may here-

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4 after be, shall be and continue a body politic and corporate,
5 by the name and style of "the city of Morgantown," and as
6 such, and by that name, shall have perpetual succession and
7 may contract and be contracted with, sue and be sued, plead
8 or be impleaded, answer and be answered unto, and may pur-
9 chase, acquire by condemnation proceedings for public use, take,
10 receive, hold and use goods and chattels, lands and tenements
11 and choses in action, or any interest, right or estate, therein
12 either for the proper use of said city, or in trust for the benefit
13 of any person or association therein; and the same may grant,
14 sell, convey, transfer and assign, let, pledge, mortgage, charge
15 and encumber, in any case and in any manner in which it
16 would be lawful for private individuals so to do, except where
17 its power may be limited by law; and may have and use a
18 common seal, and alter and renew the same at pleasure; and
19 generally shall have all the rights, franchises, capacities and
20 powers appertaining to municipal 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 Morgantown immediately before this charter takes effect or
24 which are then held in trust or have been appropriated for the

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25 use or benefit of said city or of the inhabitants thereof, shall
26 be and the same are hereby transferred to and vested in the
27 city of Morgantown under this charter.

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

32 All ordinances heretofore enacted and all recorded orders
33 of the council of said city in effect at the time of the passage
34 of this act shall be and continue hereunder until the same shall
35 be duly and regularly repealed and revoked.

36 *Boundaries*

Sec. 2. The corporate boundaries of the city shall be as fol-
lows, that is to say:

Beginning at Target rock, a large rock in the Monongahela
river below Morgantown, said Target rock being nearest the
right bank of said river, thence north fifty-six degrees east,
two hundred and three and eight-tenths poles to a locust on
the northeast side of University avenue, opposite the entrance
of Riverview drive; thence south sixty-one degrees and fifteen
minutes east, two hundred fifty-three and seven-tenths poles to

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10 a post on the southeast side of Stewartstown road or street at
11 its intersection with Vangilder avenue; thence south fifty-
12 eight degrees and two minutes east, two hundred one and five-
13 tenths poles to a stone on the southeast side of the Ice's Ferry
14 pike or North Willey street at its intersection with Harner
15 avenue; thence south eleven degrees and nine minutes east,
16 two hundrd nineteen and five-tenths poles to a stone on the
17 southwest side of the Decker's Creek road opposite its inter-
18 section with Hartman Run road; thence south thirty-four de-
19 grees and fifteen minutes west, two hundred thirty-one and
20 five-tenths poles to a large stone on the top of the hill on land
21 of George Harner; thence south fifty-eight degrees and twenty-
22 five minutes west, two hundred twenty-seven and five-tenths
23 poles, to a stone on the northeast side of Dorsey avenue at its
24 intersection with Ross street; thence south sixty-seven degrees
25 and fifty-three minutes west, three hundred and forty-four
26 poles to a stone at the intersection of the Evansville pike, with
27 the Morgantown and Fairmont road, state route number sev-
28 enty-three; thence north eighty-eight degrees and twenty-five
29 minutes west, seventeen and eighty-eight one-hundredths poles
30 to a sycamore on the right bank of the Monongahela river;

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31 thence directly across said river to a point opposite said sycamore and thence with the shore line of said river and down the western side of same to a point opposite Target rock, and thence across said river to Target rock, the place of beginning.

35 (a) The city of Morgantown may from time to time hereafter enlarge the boundaries of the city only by and with the consent of a majority of the inhabitants of the territory proposed to be annexed, who are qualified voters of the state of West Virginia, voting upon the subject at a general election held in Monongalia county, West Virginia, for state, county, judicial or district officers, the vote upon the question of annexation to be by ballot, for the purpose of voting on such question only, to be deposited in a ballot box or boxes separate and distinct from the others used at such election, and the election to be held after a notice thereof published in two newspapers published in said city of Morgantown once a week for four successive weeks, and to be conducted and the result thereof duly ascertained, declared, certified and made a matter of record by the same officers who perform the like duties in relation to the votes upon other matters at such general election, and the ballots shall be prepared for voting upon such

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52 question by the same officers as the other ballots for use at such
53 election, and, so far as applicable, all the provisions of chapter
54 three of the code of West Virginia shall apply to the election
55 upon such annexation question.

56 (a-1) *Provided, however,* That all expenses of holding such
57 election, insofar as pertaining to such annexation of territory
58 not already separately incorporated, the payment whereof is
59 not now provided for by law, shall be paid by the city of
60 Morgantown: *Provided further,* That if the territory pro-
61 posed to be annexed is part or all of the land embraced within
62 the boundaries of any other municipal corporation, before the
63 election on such annexation question is held, the city of Mor-
64 gantown and such other municipal corporation shall agree
65 upon the terms upon which the annexation is to be made, and
66 such terms shall be inserted in the published notice of election;
67 the vote taken on such question of annexation in a municipal
68 corporation in which part or all of the territory proposed to be
69 annexed is located, and the vote on annexation in territory
70 not within a municipal corporation must be taken separately
71 and not together.

72 (a-2) A majority of the votes cast upon the question of an-

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73 nexation in any municipal corporation must be in the affirma-
74 tive to authorize the annexation of any of the territory thereof,
75 and a majority of the votes cast upon such question in terri-
76 tory not in such a corporation must be in the affirmative to
77 authorize the annexation of any of the last-mentioned terri-
78 tory.

79 (a-3) In the event that a majority of the votes upon the
80 question of annexation shall be in the affirmative the council
81 of the said city of Morgantown shall by ordinance carry out
82 the terms of agreement upon which the annexation is to be
83 made.

84 (a-4) Any territory annexed must be contiguous to a
85 boundary or boundaries of the city of Morgantown existing
86 at the time of the annexation.

87 Wards

Sec. 3. The territory included in the said city, and hereby
2 divided into wards, shall from time to time be redistricted by
3 the city council so that the wards shall be as nearly equal as
4 may be in area and population, and when the wards and the
5 boundaries thereof shall have been duly established by ordi-
6 nance of the common council they shall thereafter remain as

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7 so established until the city shall be redistricted by like ordinance.

9 Until such ordinance shall be adopted the wards shall be
10 as follows:

11 *First Ward*

12 The first ward shall comprise all that portion of said city
13 which lies between the southwestern boundary line of said corporate limits, the Monongahela river, Decker's creek and the
14 divisional lines between the first ward and the second ward of
15 said city, which divisional line is as follows, to-wit: Beginning
16 at a beech tree on the south bank of Decker's creek in a line
17 between the lands of John J. Brown and Mary E. Brown, and
18 thence with their said divisional line south eight and one-half,
19 east eighty-one and one-half poles crossing the road leading to
20 the old fair grounds, now known as Wilson or White avenue,
21 and thence in a westerly direction with said White avenue, to
22 Willey driveway, and thence with the center line of said Willey
23 driveway, to its first intersection with Jefferson street, and
24 thence with the center line of said Jefferson street in a south-
25 erly direction to Jackson avenue at its intersection with Logan
26 avenue, and thence with the center line of said Logan avenue
27

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28 around the sharp bend on said avenue to its intersection with
29 King street, and thence with the center line of said King street
30 in a southwesterly direction to the end of said street, where
31 it merges into Sheldon avenue, and thence with the center line
32 of said Sheldon avenue to its intersection with Ross street,
33 and thence with the center line of said Ross street to its in-
34 tersection with the Morgantown and Kingwood pike, and
35 thence with the center line of said pike in an easterly direc-
36 tion to the corporate limits.

37 *Second Ward*

38 The second ward shall comprise all that portion of said city
39 included within the following boundaries, viz: Beginning at
40 a beech tree on the southern bank of Decker's creek, and thence
41 in a southerly direction, with the eastern boundary of the first
42 ward to a point where the southeastern boundary line of the
43 corporate limits of said city intersects the Morgantown and
44 Kingwood pike, and thence with the said southeastern bound-
45 ary line of the corporate limits to a point where the said bound-
46 ary line crosses Decker's creek near the intersection of the
47 Decker's creek road and the Sturgiss road at a large stone, and
48 thence with the center line of the Decker's creek road in a west-

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erly direction to the iron bridge across Decker's creek near the
plant of the Everbright Mirror company, and thence with the
center line of said creek to the place of beginning.

52

Third Ward

The third ward shall comprise all that portion of said city
which lies within the following boundaries, viz: Beginning at
the junction of Decker's creek with the Monongahela river, and
thence along the eastern shore of said river to Hough street,
and thence along the center line of said Hough street to its
intersection with Willey street, and thence along the center
line of said Willey street to the deep ravine known as Deep
Hollow, lying between the old town of Morgantown and what
is known as East Morgantown at the point where the street or
road leading from Willey street to East Morgantown crosses
said ravine; thence along the small stream in the said ravine
and down the same to Decker's creek, and thence down the cen-
ter of said Decker's creek to the place of beginning.

66

Fourth Ward

The fourth ward shall comprise all that portion of said city
which lies within the following boundaries, viz: Beginning at
the northwestern corner of the corporate limits of said city at

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70 a point on the bank of the Monongahela river known as Target
71 rock; and thence with the eastern shore of said river and up
72 the same in a southeasterly direction to the mouth of Falling
73 run; and thence in a northeasterly direction up the center line
74 of said Falling run to a point where the same is crossed or
75 intersected by the northern boundary of said city; and thence
76 in a westerly direction with the said northern boundary line
77 or corporate limits of said city to the place of beginning.

78

Fifth Ward

79 The fifth ward shall comprise all that portion of said city
80 included within the following boundaries, viz: Beginning at
81 a point on the east shore of the Monongahela river, at the
82 mouth of Falling run and a corner in the boundary line of the
83 fourth ward, and thence up the said eastern shore of said river
84 in a southerly direction to a point in the center line of Hough
85 street, and thence in an easterly direction up Hough street,
86 and with the boundary lines of the third ward of said city to
87 a point in Decker's creek at the mouth of Deep Hollow ravine,
88 a corner to both the second and third wards of said city, and
89 thence in an easterly direction with the northern boundary line
90 of the second ward of said city to the corporate limits, and

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91 thence with the northwestern boundary line of said city in a
92 northwesterly direction to a point in the center of Falling
93 run ravine, a corner in the boundary lines of said fourth ward,
94 and thence with the southeastern boundary lines of said fourth
95 ward in a southwesterly direction to the place of beginning.

ARTICLE 2

Section 1. All municipal authority of said city shall be
2 vested in the city council composed of ten or more councilmen,
3 two from each ward, elected by the voters thereof. The words
4 "council," "common council" and "city council" when used
5 in this act shall be construed as synonymous.

6 (a) All councilmen shall serve for a term of two years and
7 until their successors are elected and qualified, unless sooner
8 removed from office as hereinafter provided.

9 (b) All councilmen shall be residents of the city and of the
10 ward from which chosen, and qualified voters therein.

11 (c) No person holding an elective office under this state,
12 the United States or any foreign government; no member of
13 congress, no person who is a salaried officer of any railroad
14 company, operating or proposing to operate its lines of rail-
15 road in said city, or who is a sheriff, constable or clerk of any

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16 court of record shall be eligible to a seat in council. No person
17 who has been, or hereafter shall be convicted of bribery,
18 perjury or other infamous crime shall be eligible to a seat in
19 the council. No person who may have collected or been en-
20 trusted with public money, whether of a state, county, town-
21 ship, district or any municipal corporation, shall be eligible
22 to the council, or to any office of honor, trust or profit in the
23 city until he shall have duly accounted for and paid over
24 such money, according to law.

25 (d) Vacancies in the council shall be filled for the un-
26 expired term by a majority of the remaining members.

27 (e) The filling of any vacancy shall take into account the
28 ward of the member whose place has been vacated and his
29 successor must reside in such ward. Removal from a ward
30 shall vacate the seat of a councilman residing in such ward
31 at the time of his election.

32 (f) No member of council who is, directly or indirectly,
33 a holder or owner of any bond or stock of any corporation,
34 owning or interested in a municipal franchise, privilege or
35 easement in or from such city; or be an officer, agent, trustee,
36 servant or employee of such corporation, shall vote on, or

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37 participate in any discussion of any proposition in which such
38 company is directly or indirectly interested. If any member
39 of council shall violate this provision, he shall be guilty of a
40 misdemeanor and upon conviction thereof be confined in the
41 county jail not more than thirty days, or be fined not more
42 than one hundred dollars.

43 (g) Any member of council, officer or salaried employee of
44 the city who shall become or be directly or indirectly inter-
45 ested in any contract or in the profits to be derived therefrom
46 with the municipality shall forfeit his office and employment;
47 and in addition thereto any such contract shall be void and un-
48 enforceable against the city, and the acceptance by any coun-
49 cilman, officer or other employee of any interest in such con-
50 tract or any gift or gratuity from any person, firm or corpora-
51 tion dealing with the city, shall disqualify the person for a pe-
52 riod of five years from date of such forfeiture from holding any
53-54 office or employment in the government of the city of Mor-
55 gantown; and in addition such person shall be subject to crimi-
56 nal prosecution under any ordinance of the city or laws of the
57 state of West Virginia.

58 (h) The council at the first meeting in July of each year,

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59 beginning with one thousand nine hundred thirty-four, shall
60 select one of their number as their chairman or presiding offi-
61 cer, who shall be known officially as mayor of the city, and
62 recognized as such for ceremonial purposes and for the pur-
63 pose of being served with civil process against the city, and for
64 the performance of all duties imposed upon him by this charter.
65 A majority vote of the whole number of councilmen shall be
66 necessary for the election of such mayor.

67 (i) The mayor shall hold his office as such for one year,
68 or until his successor shall be elected, and shall be the presid-
69 ing officer of the council.

70 (j) In the event of the death or resignation of the regular
71 mayor, the vacancy in such office for the unexpired term shall
72 be filled by the council.

73 (k) And in the event of the absence or disability of the
74 regular mayor at any meeting of the council, a majority of the
75 councilmen shall select one of their number to serve as chair-
76 man pro tem of the meeting, or a part thereof, until the return
77 of the regular mayor.

Sec. 2. Terms of the members of council elected in January,
2 one thousand nine hundred thirty-two, shall continue and ex-

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3 tend to the first day of July, one thousand nine hundred thirty-
4 four; and the term of the members of council elected in Jan-
5 uary, one thousand nine hundred thirty-three, shall continue
6 and extend to the first day of July, one thousand nine hundred
7 thirty-five. The councilmen hereafter elected at the regular
8 election herein provided for shall be elected for a term of two
9 years aforesaid from the first day of July following the date
10 of their election.

Sec. 3. Councilmen shall be paid five dollars each for every
2 regular meeting they attend, and the mayor shall be paid six
3 dollars for like attendance, but no compensation shall be allowed
4 for special meetings, nor for any committee meetings of the
5 council.

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

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14 or diminished during his term of office. No member of council
15 shall receive any additional emolument, allowance or perqui-
16 site of any account, save the compensation hereinbefore in this
17 section provided.

Sec. 4. The meetings of the city council shall be held Tues-
2 day of each week at seven o'clock P. M., or as soon thereafter
3 as a quorum of members shall be in attendance, in the council
4 chamber of the city hall; and if any meeting cannot be held
5 in such chamber, it shall be held at such convenient place in
6 said city as the majority of the members shall select after reason-
7 able notice of the time and place of the meeting to each mem-
8 ber.

9 (a) In the event a legal holiday shall occur on any Tuesday,
10 the meeting shall be held on the succeeding Wednesday. Coun-
11 cil may hold special meetings at the place selected for their
12 regular meetings, commencing at such hour as they shall de-
13 termine. Special meetings of council may be called by the
14 mayor or any three members of the council.

15 (b) A majority of the council shall be necessary to form
16 a quorum for the transaction of business.

Sec. 5. (a) The council shall be judge of the election and

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2 qualifications of its members, subject to the provisions of article
3 three of this charter. A majority of all members elected shall
4 constitute a quorum to do business, and the affirmative votes
5 of a majority of all members elected shall be required for the
6 adoption of any ordinance or resolution. Every ordinance or
7 resolution passed by the council shall be signed by the mayor
8 or mayor pro tempore, and filed by him with the clerk within
9 two days and by him recorded.

10 (b) No member of the council shall vote upon any order,
11 measure, resolution, or proposition in which he may be inter-
12 ested otherwise than as an inhabitant of such city. Upon the
13 call of any member the yeas and nays on any question shall be
14 taken and recorded in the journal.

15 (c) The mayor shall have a vote as a member of the common
16 council, but in case of a tie the motion shall fail. The city clerk
17 shall have no vote, but act as clerk of said body only.

Sec. 6. The council shall cause to be kept in a well bound
2 book called the "council journal" an accurate record of all its
3 proceedings, by-laws, ordinances, orders and resolutions, which
4 shall be fully indexed, and shall be open to the inspection of any-
5 one who is required to pay taxes to such city. The records of

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6 the former towns of Morgantown, South Morgantown, Seneca,
7 and Greenmont shall remain with the council of said city, and
8 it shall make suitable provisions for the safekeeping and preser-
9 vation of the same. At each meeting of the council the pro-
10 ceedings of the last meeting shall be read, corrected if erroneous,
11 and signed by the presiding officer for the time being.

Sec. 7. (a) All corporate powers and functions pertaining
2 to the said city shall be exercised by its common council or under
3 its authority, in the corporate name of the city, unless otherwise
4 provided herein by state law or by municipal ordinance.

5 (b) The common council shall have the authority to pass all
6 ordinances not in conflict with the constitution and laws of the
7 United States, or of this state, which shall be necessary and
8 proper to carry into full effect any power, authority, capacity
9 or jurisdiction, which is or shall be granted to, or vested in, the
10 said city, or in the council or any officer of said city; and pro-
11 vide for the enforcement of any or all of their ordinances by
12 reasonable fines and penalties, or by imprisoning the offender
13 or offenders violating such ordinances, and by compelling them
14 to labor, without compensation, at any of the public works or im-
15 provements, undertaken or to be undertaken by said city, or by

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16 any or all of the said modes; *Provided, however,* That no person
17 shall be imprisoned or compelled to labor as aforesaid, more than
18 thirty days, or fined more than one hundred dollars for any
19 offense.

Sec. 8. (a) The council of said city shall have power there-
2 in to lay off, vacate, close, open, alter, curb, pave, and keep in
3 good repair, roads, streets, alleys, sidewalks, crosswalks, drains
4 and gutters for the use of the inhabitants thereof and of the
5 public, and to improve and light the same, and to have them
6 kept free on and over them; to regulate the width of sidewalks
7 on the streets, roads and alleys, and to order the sidewalks,
8 drains and gutters to be curbed and paved and kept in good
9 order, free and clean, by owners or occupants of the real prop-
10 erty next adjacent thereto; to establish and regulate markets,
11 prescribe the time of holding the same, provide suitable and con-
12 venient buildings therefor, and prevent the forestalling of such
13 markets; to prevent injury or annoyance to the public or indi-
14 viduals from anything dangerous, offensive or unwholesome; to
15 regulate, or prohibit slaughter houses, tan houses, tan yards,
16 soap factories, and all other structures for carrying on any busi-
17 ness, trade or employment in said city that is unhealthy, offen-

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18 sive or dangerous; to abate any nuisance within the city limits,
19 or to require and compel the abatement or removal thereof by
20 the person causing the same, or at his expense, or by the owner
21 or occupant of the ground on which such nuisance exists or at
22 the expense of the owner of such ground; to cause to be filled up,
23 raised, or drained, by the owner thereof or at his expense, any
24 lot or tract of land covered with stagnant water; to prevent
25 hogs, horses, cattle, sheep, and other animals, and fowls of all
26 kinds from going at large in such city; to provide for impound-
27 ing and confining all kinds of cattle, dogs, animals, and fowls
28 running at large within said city, until the fines and penalties
29 therefor have been paid, and in default of such payment to make
30 sale of the cattle, animals, or fowls impounded to satisfy such
31 fines and penalties; to protect places of divine worship, and to
32 preserve order in and about the places where held; to regulate
33 the keeping of gun powder and other inflammable or dangerous
34 substances; to provide in or near the city places for burial of
35 the dead, and to regulate the interment therein; to provide for
36 the regular building of houses or other structures; to provide
37 for the making and maintenance of division fences and party
38 walls by the owners of adjacent premises; to provide for the

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39 proper drainage of lots or other parcels of land by the owner
40 or occupant thereof or at his expense; to make regulations
41 for guarding against danger by fire; to impose punishment for
42 assault, assault and battery, and breaches of the peace; to
43 prohibit maintaining, loitering in or visiting houses of ill
44 fame, or loitering in saloons, upon the streets, or in any public
45 place; to define offenses against good morals, and decency, and
46 provide penalties therefor; to prevent the illegal sale of all
47 intoxicating liquors, mixtures, and preparations; to make use
48 of the county jail of Monongalia county for a city prison for
49 the city; to erect, own, control, and maintain, or authorize or
50 prohibit the erection of any waterworks in the said city or any
51 gas plant, or electric light plant, for light, heat, and power,
52 or for either of said purposes; to prevent and punish any pol-
53 lution of the water supply within said city, and to prevent
54 and punish any injury to any gas plant, electric plant, or water-
55 works within said city; to provide for and regulate the weigh-
56 ing or measuring of hay, coal, lumber, and other articles sold
57 or kept for sale in the city, and to establish rates and charges
58 therefor; to protect the person of the inhabitants of the city;
58-a and to protect all property public and private, within the city;

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59 to preserve the peace and good order therein; to preserve and
60 promote the health, safety, comfort, and well being of the in-
61 habitants thereof; to provide for the appointment of a suitable
62 police force; to provide for the examination, regulation and
63 licensing of stationary engineers, and others having charge or
64 control of stationary engines, boilers, or steam generating ap-
65 paratus within said city; to provide a revenue for the city and
66 apply the same to its purposes; to provide for the annual assess-
67 ment of taxable property therein; to impose a license tax on
68 persons or companies keeping for hire carriages, buggies,
69 wagons, or vehicles of any kind, or for carrying passengers for
70 pay in such city; to require and take from any officer when
71 deemed necessary a bond, payable according to law, with such
72 sureties, and in such penalty as the council may see fit, con-
73 ditioned for the faithful discharge of the duties of the office;
74 to adopt rules for the transaction of business and for the gov-
75 ernment and regulation of its own body.

76 (b) The enumeration of certain powers of council herein
77 shall not be construed to limit the power of council to those
78 powers enumerated to the exclusion of all or any other powers
79 which are not contrary to the constitution or any general law

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80 of this state or of the United States; and all such powers not
81 in such conflict are hereby granted to said council whether
82 enumerated herein or not.

Sec. 9. To carry into effect these enumerated powers, and all
2 other powers conferred upon such city, or its council, by this act
3 or by any other future act of the legislature of this state, the
4 council shall have power to make and pass all needful orders,
5 by-laws, ordinances, resolutions, rules and regulations, not con-
6 trary to the constitution and laws of this state, and to prescribe,
7 impose and exact reasonable fines, penalties and imprisonments
8 in the county jail or other place of imprisonment in said cor-
9 poration, if there be one; no terms of imprisonment, however,
10 to exceed thirty days or fine the sum of one hundred dollars,
11 for a violation thereof. Such fines, penalties and imprisonments
12 shall be recovered and enforced under the judgment of the
13 judge of the police court of said city, or the person lawfully
14 exercising his functions.

Sec. 10. Upon a charge being presented that any councilman
2 has violated any of the foregoing inhibitions such charge shall
3 be reduced to writing and the remaining council shall proceed
4 to arraign and try such councilman, under such regulations as

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5 the ordinances shall prescribe, but the extreme penalty upon
6 conviction shall be suspension upon majority vote, removal
7 from office upon a two-thirds vote.

ARTICLE 3

Section 1. Every person who has been a bona fide resident
2 of the city for six months next preceding the city election there-
3 in, and who is a qualified voter under the constitution and laws
4 of this state, shall be entitled to vote at any city election, in
5 the ward in which he actually resides. But no person shall be
6 deemed a resident of such city by reason of being a student of
7 any school or college therein, or by reason of being stationed
8 therein for any temporary purpose.

Sec. 2. The regular annual election in said city shall be held
2 on the first Tuesday in June, beginning with the year one thou-
3 sand nine hundred thirty-four, and at each such election there
4 shall be elected one councilman from each ward. All elections
5 shall be held, conducted and the results thereof ascertained,
6 certified, returned and finally determined under an ordinance
7 of the common council of such city which shall not be incon-
8 sistent with the general statutes of the state governing munici-
9 pal elections and shall conform as nearly as practicable to such

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10 statutes. Whenever two or more persons receive an equal num-
11 ber of votes for the same office, if such number be the highest
12 cast for such office, the persons under whom the supervision of
13 the election is held shall decide by lot which of the candidates
14 shall be returned elected and shall make their return accord-
15 ingly. All contested elections shall be heard and decided by the
16 common council.

Sec. 3. Elections or votes on any question by the qualified
2 voters of said city shall be held or taken at such place and
3 under the superintendency of such persons and subject to such
4 regulations as are by the council ordained and consistent with
5 the laws of the state.

Sec. 4. The council shall by ordinance provide for the adop-
2 tion and use by the city, in all city elections, of the regular
3 registration of voters prepared by the registrars duly ap-
4 pointed by the county court of Monongalia county (the regis-
5 tration hereby intended to be adopted and used, being the one
6 which would be used in a general or state-wide primary elec-
7 tion held in said county and state on the same day such city
8 election is to be held), and any person who shall become a resi-
9 dent of the city, after such registration has been prepared and

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10 filed by the county authorities in the manner provided by law,
11 and who shall establish his or her right to vote in such city
12 election, may register with the city clerk at any time, except
13 on a Sunday or legal holiday, until the third day before the
14 day on which such election is to be held, and his or her name
15 shall be entered on such registration list by said city clerk,
16 and the city clerk shall have the same powers in regard to the
17 transfer of voters from one precinct to another in said city, as
18 are now vested in the county clerk of Monongalia county; for
19 the transfer of voters from one precinct to another in said
20 county.

Sec. 5. In all city elections for councilmen the names of
2 the candidates for council in each ward shall be arranged and
3 placed alphabetically on the ballots without party designation
4 or symbol, whether such candidates are nominated by
5 political parties or by petition, or such other methods as are
6 now provided by law.

Sec. 6. In all city elections hereinafter held in said city,
2 the council shall provide by ordinance for the opening of the
3 polls at seven o'clock in the morning, and the closing of same
4 at seven o'clock in the evening.

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Sec. 7. The council is empowered to define and locate voting
2 precincts for elections in said city which shall conform, so far
3 as practicable, to the territorial areas of the election precincts
4 in said city for state and county elections, but there shall be
5 only one voting place in each precinct.

ARTICLE 4

Section 1. 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 be
5 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
9 said levy laid in the manner and at the time provided by the
10 one thousand nine hundred thirty-one, code of West Virginia,
11 and any and all acts amendatory thereof and as otherwise pro-
12 vided by law.

Sec. 2. (a) Annually after the county assessor shall have
2 completed the assessment of real and personal property within
3 said city, the city manager, with the assistance of the city clerk

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4 and the city engineer, shall review the assessments so made
5 within the city of Morgantown, and where, in their judgment,
6 material errors have been made, they shall seek to have the
7 same corrected, and if necessary shall appear before the board
8 of equalization and review for that purpose.

9 (b) And it shall be the duty of the city manager and the
10 city solicitor in like manner to review and, if necessary, cause
11 to be corrected assessments of properties, real and personal, of
12 public service corporations within the city.

Sec. 3. The council of said city may, by proper ordinance,
2 assess and collect a poll tax on every resident of said city who
3 has attained the age of twenty-one years, which tax shall not
4 be in excess of five dollars per person per annum, and may
5 be collected by the assessor of said county at the time of making
6 the annual assessment of the property within said city, or by
7 the city clerk and his assistants, or by both: *Provided, however,*
8 That no poll tax in excess of one dollar per person per annum
9 shall be assessed and collected unless and until the proposal
10 for such higher rate of tax shall first be submitted to vote at any
11 regular election in said city and approved by a majority of the
12 votes cast upon that question at such election: *And provided*

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13 *further*, That the council shall give notice of such submission
14 by publication of the same once each week for two successive
15 weeks immediately preceding said election, in two newspapers
16 published within said city.

Sec. 4. The annual levy upon property above provided for
2 shall be upon all real and personal property subject to state
3 and county taxes, and such levy shall be upon the basis of the
4 valuation of such properties as has been fixed for state and
5 county purposes: *Provided, however*, That the aggregate of such
6 levy when so laid for all city purposes shall not in any one
7 year exceed the rate of one dollar on every hundred dollars of
8 valuation. Said levy shall also be upon all dogs in the city.

Sec. 5. The city clerk, after the city council shall have
2 made its levy final, shall certify the same to the sheriff of Mon-
3 ongalia county, who shall add such levy to the levies for state,
4 county and school district purposes upon real and personal
5 property within the city. And the said sheriff, after the said
6 city levy shall have been extended upon the land and personal
7 property books of the sundry wards, shall include such levies
8 upon the tax tickets for the real and personal property within
9 said city.

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Sec. 6. Thereafter the said sheriff shall proceed to collect
2 the taxes due to the city in manner and form as provided for
3 the collection of state, county and school district taxes under
4 chapter eleven of the code of one thousand nine hundred thirty-
5 one. He shall pay over to the city clerk of said city the sums so
6 collected by him not oftener than semi-monthly, at such times
7 as will be mutually suitable and convenient to the said sheriff
8 and the city clerk. The record of delinquent taxes, both real
9 and personal, the collection thereof, the lien to secure the same
10 and all other matters pertaining thereto, shall be governed by
11 the provisions of chapter eleven of the code of one thousand
12 nine hundred thirty-one as to state and county delinquencies.
13 The sheriff shall give to the city a bond in the sum of at least
14 twenty-five thousand dollars for the paying over and accounting
15 for taxes due the said city so collected by him, but the expense
16 of such bond shall be borne by the city.

Sec. 7. (a) The council may by ordinance require that
2 suitable magazines or places shall be provided in or near said
3 city for the storage of gunpowder, dynamite, petroleum and
4 the volatile products thereof, and all explosives and combustible
5 and dangerous articles, make and enforce such regulations as it

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6 may deem necessary respecting the place and manner of trans-
7 porting the same, and assess and collect an annual license tax
8 for the keeping and selling of any or all such articles.

9 (b) The council may by ordinance regulate theatrical ex-
10 hibitions, public shows, musical performances and hypnotic ex-
11 hibitions, and all performances to which admission is obtained
12 by the payment of money or other reward, and grant or refuse
13 license for any of such performances, and levy and collect taxes
14 on the same.

15 (c) The council may grant license to owners and keepers
16 of horses, hacks, carts, wagons, drays, bicycles and every
17 description of wheeled vehicles kept within the said city;
18 levy and collect license taxes as well as other taxes thereon, and
19 subject the same to such regulations as the interest or conveni-
20 ence of the inhabitants of said city, in the opinion of the coun-
21 cil, may require. The council shall also have authority to li-
22 cense and collect license taxes from hawkers and peddlers with-
23 in said city, and persons who rent temporary quarters or who
24 temporarily station themselves upon a street to sell or exhibit
25 articles, must take out and pay the license required by the
26 city of hawkers and peddlers. Nothing in this paragraph shall

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26-a be construed so as to supersede or to be in conflict with section
26-b twenty-one, article six, chapter seventeen of the code of West
26-c Virginia, relating to the licensing of motor vehicles.

27 (d) It shall be unlawful for any person, in said city, to
28 hold himself or herself out as a fortune teller, clairvoyant,
29 mindreader or palmist, and purport and claim to tell the future
30 or the past by the above or any other hidden and secret methods
31 or science, or to practice the above callings, avocations or pro-
32 fessions, and the council may pass an ordinance prohibiting the
33 same and prescribing penalties for its violation. Nothing in
34 this section contained shall be construed so as to regulate or
35 control any religious association or body.

36 (e) The council may by ordinance regulate sales at auction
37 within said city, and levy and collect taxes upon such sales;
38 grant or refuse licenses to auctioneers, and loan agencies, and
39 levy and collect taxes upon such licenses, in addition to any
40 tax which may be payable to the state: *Provided, however,* That
41 nothing herein contained shall be construed to authorize any
42 interference by the corporate authorities of the city with, or
43 the imposition of any tax upon any sale made under the judg-

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44 ment or decree of any court of justice in this state, or made
45 by a trustee under a deed of trust given bona fide in this state
46 to secure debt.

47 (f) The council shall have exclusive authority within said
48 city, by ordinance, to grant or refuse license to the keepers of
49 hotels, inns and taverns, houses of public or private entertain-
50 ment, not used for immoral purposes, boarding houses, public
51 eating houses, places of public amusement and boarding stables
52 or stables for keeping and feeding horses and mules for com-
53 pensation: *Provided, however,* That persons keeping an inn,
54 hotel or tavern, with stabling attached, shall not be required
55 to have any other license than the license to keep an inn, hotel
56 or tavern, by reason of their keeping and feeding horses and
57 mules for compensation. The council shall further have au-
58 thority, by ordinance, to regulate the manner in which such
59 horses or places shall be kept, and to levy and collect a license
60 tax from every person licensed under the authority of this sec-
61 tion, in addition to all other taxes imposed upon him or his
62 property.

63 (g) The council may by ordinance require city license from
64 persons conducting the business of pawn broker or loan agent

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65 in the city by lending money or other things of value for profit
66 for or on account of personal property deposited with the lender,
67 in pledge or left in the possession of the borrower and secured
68 to the lender by lien, pledge, mortgage, or deed of trust.

69 (h) The council may also, by ordinance, restrict or regu-
70 late fees to be charged to patrons by money brokers, pawn
71 brokers, loan agents, private bankers and others engaged in like
72 business, in said city, for examination of title, applications,
73 examinations of property, appraisements, renewals, transfers,
74 or any other paper writing to be signed by such patrons, or
75 for anything else connected with a loan, and may safeguard
76 the public against unscrupulous, unfair or exorbitant charges
77 by any such brokers, loan agents, bankers and others engaged
78 in like business, in said city.

79 (i) The council may by ordinance require city license for
80 persons conducting and carrying on any business or vocation in
81 the city for which the state may now or hereafter require
82 license.

83 (j) The council may by ordinance subject any person or
84 persons, who without having obtained a city license therefor,
85 shall do any act, or follow any employment or business in said

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86 city, for which the council is or shall be authorized to grant
87 license, to any fine or punishment which they are authorized to
88 impose or inflict for the enforcement of their ordinance.

Sec. 8. There shall be a lien on all real estate within the city
2 for the city taxes assessed thereon from the day fixed by law
3 for the commencement of the assessment of such taxes in each
4 year, and the interest upon such taxes at the rate of nine per-
5 centum per annum from the time provided by chapter
6 of the acts of the legislature, special session of one thousand nine
7 hundred thirty-two, which may be enforced in the same manner
8 provided by law for the enforcement of the lien for state and
9 county taxes. There shall also be a lien on all real estate within
10 the city for other assessments, fines and penalties assessed or im-
11 posed upon the owners thereof by the authorities of the city from
12 the time the same are so assessed or imposed, with interest at six
13 percentum per annum, which shall have priority over all other
14 liens except the lien for taxes, and may be enforced by the coun-
15 cil by suit in equity in the corporate name of the city or in the
16 manner now prescribed by law for the enforcement of the lien
17 for state and county taxes, or in such other manner as the coun-
18 cil may by ordinance prescribe.

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Sec. 9. (a) The city may support its own poor and ^{may support} its
2 own health unit and shall construct and maintain its own roads
3 and streets, and by reason thereof there shall be no county
4 and/or district levies on real estate and personal property in
5 the city for the support of the poor outside the city limits, dur-
6 ing such time as the city shall support its own poor, nor for
7 the hospitalization of the county poor, nor for maintenance of
8 any county hospital, nor any county health unit during such
9 time as the city shall support its own health unit, nor any dis-
10 trict road tax levies for the construction and maintenance of
11 roads outside the city limits.

12 (b) But the county court shall remain chargeable for the
13 construction and maintenance of bridges within the city, and
14 the location of such bridges, when once established, shall not be
15 changed or relocated by said county court without the con-
16 sent of the council.

ARTICLE 5

Section 1. (a) The council shall appoint the following
2 officers of the city: A city manager, a city clerk, a judge of the

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3 police court, and may appoint an auditor, each of whose powers,
4 duties and responsibilities shall be as hereinafter set forth. They
5 shall each receive such compensation as the council may from
6 time to time determine. All other subordinate officers of the city,
7 except assistants and clerks in the office of the city clerk, shall
8 be appointed by the city manager. Assistants and clerks in the
9 office of the city clerk shall be appointed by the city clerk with
10 assent and approval of the city manager.

11 (b) Every city officer and employee on salary, before he enters
12 upon the duties of his office, shall make before someone author-
13 ized by law to administer oaths, and file with the city clerk an
14 oath or affirmation to support the constitution of the United
15 States and of the state of West Virginia, and to perform faith-
16 fully, honestly and impartially the duties of his office to the best
17 of his skill and judgment.

18 (c) Such officers and employees of the city as the council
19 may determine by ordinance, shall, respectively, furnish and
20 file their bonds with the city clerk for approval by council as to
21 form and security, in such penalties, respectively, and with such
22 conditions as are fixed by such ordinance, with such corporate
23 or other surety or sureties hereinbefore mentioned, payable to

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24 the city. The furnishing of such bond shall be necessary quali-
25-26 fication of such officers or employees.

27 (d) The bonds of all appointive officers required to give
28 bond shall also be approved as to form by the city solicitor. No
29 officer or employee of the city of whom a bond is required shall
30 enter into the discharge of his official duties or of the duties
31 which he is employed to discharge, until his bond has been duly
32 filed and approved.

33 (e) All bonds, obligations or other writings taken in pur-
34 suance of this section, as well as other bonds given to the city of
35 Morgantown, shall be made payable to such city, and the respect-
36 ive persons or corporations, their heirs, executors, administra-
37 tors and successors bound thereby, shall be subject to the same
38 proceedings on the said bonds, obligations or other writings for
39 enforcing the conditions and terms thereof, by motion or other-
40 wise, before any court of record whose sessions are or shall be
41 held in the city of Morgantown, as collectors of the county levies
42 and their sureties are or shall be subject to on their bonds for
43-44 enforcing the payment of such levies.

45 (f) All fees and money paid to an officer of the city for any
46 official service shall belong to the city and be paid at once into

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47 the city treasury by such officer, the salary or compensation
48 given by the city to its officers respectively being all the com-
49 pensation they shall be entitled to for any official service.

Sec. 2. (a) The city manager shall be chosen by the council
2 solely on the basis of his executive and administrative qualifica-
3 tions. The choice shall not be limited to inhabitants of the city
4 or state. The city manager shall be administrative head of the
5 municipal government and shall be responsible for the efficient
6 administration of all departments.

7 (b) The city manager shall be appointed for an indefinite
8 period. He shall be removable by the majority vote of the whole
9 membership of council. If removed at any time after six
10 months, he may demand written charges and a public hearing
11 on the same before the council prior to the date on which his
12 final removal shall take effect. But during such hearing the
13 council may suspend him from office. During the absence or
14 disability of the city manager the council shall designate some
15 properly qualified person to perform the duties of the
16 office.

17 (c) The powers and duties of the city manager shall
18 be:

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19 (1) To see that the laws and ordinances are enforced.

20 (2) To appoint all officers and employees of the city, ex-
21 cept members of the city council and such officers as council
22 is hereby authorized to elect and employ, or cause to be em-
23 ployed, to-wit: the city manager, the city clerk, the judge of
24 the police court and the auditor; but all appointees or em-
25 ployees shall be upon merit and fitness alone.

26 (3) To exercise supervision and control over all depart-
27 ments and divisions created herein or that hereafter may be
28 created by the council, except the council and other officers by
29 it appointed.

30 (4) To attend all meetings of council with the right to take
31 part in discussion, but having no vote.

32 (5) To recommend to the council for adoption such meas-
33 ures as he may deem necessary or expedient.

34 (6) To keep council fully advised as to the financial con-
35 ditions and needs of the city.

36 (7) To approve for payment all vouchers prepared by the
37 city clerk, when the expenditure has been authorized by council
38 by proper appropriation, and the payment is otherwise proper
39 to be made.

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40 (8) To supervise the conduct and performance of the duties
41 of other officers and employees of the city, except the members
42 of the city council, reporting to such council any failure of per-
43 formance of duty by any of the other appointees of such coun-
44 cil, and enforcing the proper performance of their duties by
45 the officers appointed by him and by the city council, to the
46 end that the city's business shall be efficiently and economically
47 tranacted; and

48 (9) The city manager shall act as purchasing agent and
49 purchase all supplies and materials for all departments of the
50 city government, and make sale of all property of the city not
51 needed or suitable for the public use (when and after such
52 sale has been authorized by the city council) in such manner as
53 the council may direct: *Provided, however,* That he shall not
54 make any contract involving an expenditure in excess of five
55 hundred dollars without first obtaining assent of council so to do,
56 which said assent shall be made a matter of record and properly
57 entered upon the journal or minute book by the city clerk; he
58 shall submit to contractors for competitive bids, on forms ap-
59 proved by council, all proposals for construction work to be
60 done for or by the city and all improvements to be made for or

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61 by the city; all supplies to be used by the city and all materials
62 purchased by the city for construction of any public improve-
63 ments or for any other city purpose, shall be done, performed,
64 made and purchased on competitive bids. All proposals for
65 such shall be upon precise specifications, and notice of the re-
66 quirements of the city shall be given to dealers in supplies and
67 materials of the kind required who by reason of location are
68 best able to furnish same at lower prices. All bids and offers
69 shall be filed and preserved in the office of the city clerk. In
70 purchasing limited quantities of materials or supplies, or in
71 case of an emergency, the city manager may purchase or con-
72 tract the expenditure in a sum not exceeding five hundred dol-
73 lars without the assent of council or the delay necessary to se-
74 cure competitive bids or offers to supply same. Council shall
75 have the power and right to reject any or all bids or estimates
76 for construction or improvements and may cause such work to
77 be done, or improvements to be made otherwise than upon com-
78 petitive bids, when in their opinion such bids are excessive.
79 (10) To perform such other duties as may be prescribed by
80 this charter or be required of him by ordinance or resolution of
81 the council.

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82 (11) The city manager shall devote his whole working time
83 to the performance of the duties of his office, and while occupy-
84 ing such office shall not engage, directly or indirectly, or be
85 actively interested in any business other than the performance
86 of his duty concerning the affairs of the city of Morgantown.

87 (12) The city manager shall have authority to grant, in
88 writing, to the officers so appointed the power necessary or
89 proper for the purposes above mentioned; to define their duties
90 in writing, to allow them reasonable compensation (said com-
91 pensation to be approved by council), and to require and take
92 from them such bonds, obligations or other writings as shall
93 be necessary or proper to insure the faithful performance of
94 their several duties.

Sec. 3. The qualifications, powers, duties and responsibilities
2 of the city clerk shall be:

3 (1) The city clerk shall be a citizen, resident and qualified
4 voter of said city.

5 (2) He shall hold office at the will of the council.

6 (3) He shall keep all records of the city, including the
7 records of the meeting of the city council.

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8 (4) He shall act as auditor and keep the records of the
9 finances of the city showing all receipts and disbursements.

10 (5) He shall keep all other records pertaining to the city
11 and all departments thereof, including the records pertaining
12 to the office of city manager not necessary to be kept in the
13 offices of such departments.

14 (6) He shall act as clerk of the police court and perform
15 the duties required in connection therewith by the provisions of
16 this charter, ordinances of council or by direction of the police
17 judge, himself. And if he shall hold the office of police judge,
18 then the city manager shall appoint an assistant or clerk from
19 some department of the city to so act as clerk of the police court
20 during his term of office.

21 (7) He shall act as treasurer of said city, collecting all
22 moneys (except those collected by the sheriff or other person as
23 herein provided) due it and depositing the same in such bank as
24 shall be named a "city depository" by council. He shall pay
25 out no money except upon vouchers approved for payment by
26 endorsement by the city manager.

27 (8) He shall receipt to the sheriff at such times, not oftener

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28 than semi-monthly, as shall be mutually convenient for them,
29 for the taxes collected by said sheriff for the use of the city.

30 (9) The city clerk shall report to and be under the direc-
31 tion of the city manager, but the city manager shall not have
32 the right or power to remove him from office.

33 (10) He shall give bond as treasurer of the city in at least
34 the sum of twenty-five thousand dollars, conditioned as required
35 by this charter and according to law.

Sec. 4. The judge of the police court shall be a citizen,
2 resident and qualified voter of the city. He shall hold office at
3 the will of the council.

4 (b) He shall be the presiding officer of the police court and
5 shall have authority to try and determine all cases over which
6 said court shall have jurisdiction. In the event of his absence
7 or disability, the city clerk shall act as temporary police judge
8 until such time as the council shall appoint some duly qualified
9 person to perform the duties of police judge, paying therefor
10 such compensation as the council may deem reasonable. The
11 police court shall have jurisdiction over all offences against or
12 violation of the ordinances of said city, and authority to inflict
13 punishments for such violations in the manner lawfully pre-

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14 scribed by such ordinances upon and against offenders or viola-
15 tors of the same: *Provided, however,* That no jury shall be al-
16 lowed in any trial in said court for the violation of any ordi-
17 nance of the city.

18 (c) The proceedings for the recovery of the fine or for the
19 enforcement of the penalty prescribed by any ordinance shall
20 conform to the regulations so far as they are applicable, pre-
21 scribed in chapter fifty of the code of one thousand nine hun-
22 dred thirty-one for the enforcement of penalties against per-
23 sons convicted for misdemeanors; but the judge of said court
24 by capias pro fine or other process may cause the defendant to
25 be arrested and brought before said court to be dealt with
26 according to law.

27 (d) In cases where evidence discloses such a violation within
28 the city, of a law of the state that, in the opinion of the judge of
29 the police court, the person accused should be committed to
30 await the action of the grand jury upon an accusation made,
31 the judge of the police court shall have the same jurisdiction
32 and power as a justice of the peace in the county of Monon-
33 galia in regard to the apprehension, commitment and admission
34 to bail of the person so accused; and in the exercise of such

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35 jurisdiction and powers shall be governed by the same regula-
36 tions.

37 (e) The sessions of said court shall be at such times and
38 places as the council of said city shall by ordinance direct.

39 (f) The said court shall have full power and authority to
40 enforce its orders and judgments, by any process of law which
41 may be necessary and proper for the purpose, and all processes,
42 executions and orders of said court shall be signed by the judge
43 or the clerk thereof. Such process and executions shall be di-
44 rected to the chief of police of said city, and be executed by him
45 or one of his deputies. In the execution of any process or order
46 of said court, the chief of police or deputy shall have the same
47 powers, be governed in his proceedings by the same rules of
48 law, and be subject to the same liabilities as the sheriff of Mon-
49 ongalia county, West Virginia, in the performance of like serv-
50 ices. There may be charged for the services of such officer the
51 same fees as the sheriff is entitled to charge for like services,
52 but all such fees, as well as all fines imposed by said court, shall
53 be collected by the chief of police, and accounted for and paid
54 by him to the treasurer of the city. The city shall in no event
55 be liable for any such fees.

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56 (g) The clerk of said court shall have authority to admin-
57 ister oaths within said city, and shall perform such duties as
58 may be required by the judge of said court, or be prescribed by
59 rule or order of the council. Such clerk may charge the same
60 fees for his services as are allowed to be charged by justices of
61 the peace for like services, and such fees shall be collected by
62 him in like manner as fees of the clerk of the circuit court are
63 collected, but all such fees shall be accounted for by him to the
64 city and paid over to its treasurer.

65 (h) A docket and other books required for the records and
66 a seal shall be provided for the said court by the council, and
67 the seal may be altered or renewed as the said court may direct.
68 Full faith and credit shall be given to the records of said court
69 and the certificates of its judge or clerk, whether the seal of said
70 court be fixed thereto or not, in like manner and with the same
71 effect as if the same were records of the circuit court or certifi-
72 cates of the judge of a circuit court similarly authenticated.

73 (i) The said police court shall have power, upon rendering
74 judgment against a defendant charged with the violation of an
75 ordinance of the city, to render judgment against him also for
76 the costs of prosecution. In every suit or prosecution for the

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77 violation of an ordinance the said court shall cause the person
78 or persons at whose instance it was instituted to be designated
79 upon the warrant or writ issued to arrest or summon the person
80 charged, and if the person or persons charged shall not be con-
81 victed in such court, and such court shall be of the opinion that
82 no sufficient or probable cause existed for the institution of the
83 said suit or prosecution, then judgment for the costs of the city,
84 and of the defendant, or of either of them, as the court shall
85 deem just, shall be rendered against the person or persons at
86 whose instance such suit or prosecution was instituted.

Sec. 5. The chief of police shall be ex officio a constable
2 within the corporate limits of this city. He may execute any
3 writ or process issued by the police judge or a justice of the
4 peace at any place in Monongalia county. He shall have all
5 powers, rights and privileges within the corporate limits of the
6 city in regard to the arrest of persons, the collection of claims,
7 and the execution and return of process, that can be legally
8 exercised by a constable of the district in which the said city
9 is situated, and he and his sureties shall be liable to all the fines,
10 penalties, and forfeitures that a constable of a district is liable
11 to, for any failure or dereliction in his office, to be recovered in

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12 the same manner and in the same courts that the fines, penalties
13 and forfeitures may be recovered against such constables.

14 (a) The chief of police and/or such police officers as he may
15 designate shall attend the sessions of the police court and exe-
16 cute and enforce the orders of the judge thereof.

17 (b) All special police officers shall have and possess all the
18 powers, rights and privileges of a constable of a district within
19 the corporate limits of the city, in regard to the arrest of per-
20 sons, and the execution and return of all criminal writs and
21 process issued by the police judge; but the council may exempt
22 them from giving the bond required of constables.

Sec. 6. The powers and duties of the auditor shall be:

2 (1) He shall at the end of each fiscal year make and report
3 to the council a complete examination and audit of all the books
4 and accounts of said city, and upon completion of such audit
5 a notice of such completion shall be published in two daily news-
6 papers of said city to the effect that such audit has been made
7 and is on file, a copy thereof in the office of the city clerk and
8 a copy thereof in the office of the city solicitor, where the same
9 shall be constantly open at all reasonable hours to the inspec-
10 tion of any citizen and taxpayer of said city thereafter.

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11 (2) He shall at the request and direction of the council fur-
12 nish to each member of council, not later than ten days after
13 the close of any quarter of the fiscal year, a complete itemized
14 statement of the receipts and disbursements for such quarter,
15 and a statement of assets and liabilities, together with the true
16 financial status of the city at the end of such quarter.

17 (3) He shall perform such other duties as may be required
18 of him by the council or by the city manager.

19 (4) The auditor may be employed part time or full time, as
20 the council may elect from time to time, and shall receive
21 such compensation for his services as the council shall prescribe.
22 The council shall be the sole judge of the qualifications and fit-
23 ness of the person employed as auditor.

ARTICLE 6

Section 1. It shall be unlawful for any person, firm or cor-
2 poration to subject any of the streets of the city of Morgantown
3 to a use which will destroy, impair or injure the use of such
4 street, or streets, for ordinary travel in ordinary modes. The
5 council shall carry this provision into effect by appropriate
6 ordinance or ordinances.

Sec. 2. Council shall have full power and authority to desig-

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2 nate by ordinance certain of the streets and alleys of the city as
3 routes for the transportation and haulage of commodities and to
4 classify such commodities and specify the streets and alleys
5 over which certain classes shall be hauled and transported, and
6 otherwise to regulate the traffic of the city in such manner as
7 in its judgment will protect the streets and alleys of the city
8 and promote the public interest.

Sec. 3. Council shall have full power and authority to pro-
2 vide by ordinance for the construction, maintenance and repair
3 of all streets and alleys in said city; and to provide rules and
4 regulations for the laying of water and gas lines and street car
5 tracks thereon; and for the construction of sewer pipes and
6 sewer systems thereon; and to provide rules and regulations for
7 the manner in which said pipes and tracks shall be laid and re-
8 laid in such streets and alleys, and to provide for the future
9 needs of such pipes and their connection, and such street car
10 tracks, and excavations therefor, and to provide rules and reg-
11 ulations for excavations in such streets or alleys under the su-
12 pervision of such city officials as council may by ordinance pro-
13 vide, and the council shall have full power and authority to
14 provide by ordinance for the laying of gas, water and sewer

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15 pipes, and street car tracks in any such street or alley, and to
16 provide that no such street or alley or part thereof, after being
17 paved, shall be opened, excavated, or in any manner interfered
18 with, except upon such conditions and terms as council may by
19 ordinance prescribe, and council shall have full power and
20 authority to provide by ordinance for the relaying and reloca-
21 tion of such pipes and their connections, and such street car
22 tracks prior to the paving or repaving of any such street or
23 alley.

Sec. 4. Council shall provide by ordinance for the require-
2 ment upon all public utilities or public service corporations to
3 place or renew all pipes, conduits or other underground appli-
4 ances, including all connections therewith to the curb upon any
5 street to be paved sufficient to provide for the reasonable antici-
6 pated requirements of such company or companies for the
7 probable life of such paving, and notice to that effect shall be
8 given by the city council a sufficient time in advance of the
9 commencement of such paving, not to exceed ninety days, to
10 enable such public service corporation or utilities corporation
11 fully to comply therewith, and upon their failure so to do, such
12 public utility corporation or public service corporation shall

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13 thereafter be deprived of any rights under its franchises from
14 the city or otherwise of disturbing such paving to install such
15 improvements to its plant, and council may at the expiration of
16 the time fixed in said notice, proceed with its paving and not be-
17 fore.

Sec. 5. And before any streets of said city shall hereafter be
2 paved, and as preliminary to the paving thereof, council shall
3 provide reasonable adequate sewers, both main and lateral, and
4 including the connections of the property line of said street.

Sec. 6. The council may by ordinance prohibit the dis-
2 turbance of any streets or alleys of the city, including the side-
3 walks or public grounds of said city, caused by digging there-
4 in for the benefit of any private person, firm or corporation
5 other than the city itself, except by city employees under city
6 supervision at the expense of such private person, firm or cor-
7 poration, or under the superintendence and control of the city
8 itself; and may charge a service fee to cover the permanent in-
9 jury to such streets, alleys, sidewalks or public grounds im-
10 possible to repair, and the council shall by ordinance require
11 the enforcement of these provisions, including the duty of mak-

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12 ing repeated repairs as often as the defects so caused shall re-
13 appear.

Sec. 7. Council shall have full power and authority to pro-
2 vide by ordinance for the issue and sale of bonds for the pur-
3 poses set forth in chapters forty-seven and forty-seven-a of
4 the code of West Virginia, and any and all amendments there-
5 of, in the amount of five per centum of the valuation of all
6 assessable property lying within the limits of said city, which
7 value shall be ascertained by the last assessment made by the
8 city, in the manner hereinbefore provided, of all the taxable prop-
9 erty therein next prior to the issuing of such bonds; and council
10 shall have full power and authority to provide by ordinance for
11 the collection of a direct annual tax sufficient to pay annually,
12 the interest on such bonded indebtedness, and the principal
13 thereof, within not exceeding thirty-four years from the date of
14 the issuing of same: *Provided, however,* That no bonds may be
15 issued for street paving purposes other than paving street inter-
16 sections or financing the grading, regrading, paving or repaving
17 of streets or alleys ordered or petitioned to be paved under ordi-
18 nance providing for the assessment of the cost thereof to the
19 owners of lots or fractional parts of lots abutting thereon as

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20 provided in section twenty-four of said chapter fifteen, munici-
21 pal charters, acts of the legislature of West Virginia, one thou-
22 sand nine hundred twenty-one; and further, that no bonds
23 shall be issued until all questions connected therewith shall
24 have been first submitted to the qualified voters of the said city
25 and shall have received three-fifths of all the votes cast for
26 and against the same, and otherwise in accordance with the
27 provisions and requirements of said chapter forty-seven-a of
28 the code of West Virginia and any and all amendments there-
29 of.

ARTICLE 7

Section 1. (a) The council may by ordinance, within
2 said city lay out and cause to be opened any street, walks,
3 alleys, market grounds and public squares, or extend or widen
4 the same, first having obtained title to the ground necessary
5 for the purpose; may grade any street, walk, alley, market
6 ground or public square which is or shall be established with-
7 in said city; and may pave or otherwise improve the same, and
8 cause them to be kept open in good repair, and generally or-
9 dain and enforce such regulations respecting the same, or any

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10 of them, as shall be proper for the health, interest or conveni-
11 ence of the inhabitants of said city.

12 (b) The council may cause to be taken or damaged for
13 the use of the city, for streets, alleys, markets, bridges, public
14 squares, parks, playgrounds and other municipal purposes, in-
15 cluding occupation by sewer, water pipes, gas pipes, heating
16 pipes, compressed air pipes and electric or other subways, any
17 private property within the city (and where such use is to
18 secure or improve the water supply, or for park, playground,
19 sanitary or cemetery purposes) outside the limits of the city,
20 but no such property shall be taken or damaged without just
21 compensation. The compensation, if it cannot be determined
22 by agreement with the owner of the property so taken or dam-
23 aged, shall be ascertained in such manner as is or may be pre-
24 scribed by general law for the condemnation of land for public
25 purposes.

26 (c) Council shall have full powers and authority to make
27 and provide, by ordinance, laws, rules and regulations for the
28 establishing or changing of the grades of any sidewalks, foot-
29 way or gutter in said city; to grade, regrade, curb, recurb,
30 pave and repave any such sidewalk, footway or gutter and

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31 keep the same clean, in such manner and time as the council
32 shall provide by ordinances; and to assess the amount of such
33 expense upon such real property or the owner thereof: *Pro-*
34 *vided, however,* That such cost shall be levied but once against
35 the same property so far as it pertains to the change of grade.

36 (d) The council shall have full power and authority to
37 make and provide by ordinance for the establishment of a
38 method to be followed in all street grading, paving and re-
39 paving from time to time with any suitable material therefor,
40 depending upon the character of traffic and the grade and other
41 conditions upon any particular street, and such ordinance
42 shall provide for the assessment of the entire cost of such
43 grading, re-grading, paving and re-paving (except as pro-
44 vided for in paragraph four of this section) to the owners of
45 lots or the fractional part of lots abutting on that part of
46 the street or alleys so paved, in proportion to the distance
46-a such lot or fractional part of lot abuts on such street or alley
47 so graded, regraded, paved or repaved, subject, however, to
48 the following provisions:

49 (1) That when any part of said street or alley so paved
50 or about to be paved is occupied or used by any public service

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51 or public utility company, the council shall provide for as-
52 sessing such portion of the total costs of such grading, re-
53 grading, paving or re-paving, as may be provided for in the
54 respective franchise, for the distance such street is so occu-
55 pied by such public service or public utility company, includ-
56 ing the intersections of cross streets and alleys, and shall pro-
57 vide for assessing the remainder of the cost of such grading,
58 re-grading, paving or re-paving, including such cross streets,
59 alleys, etc., to the abutting property owners on both sides of
60 such street, in proportion to their frontage thereon, taking
61 the entire distance such street is traversed by such service or
62 public utility company as the basis of such assessment.

63 (2) Council shall by ordinance provide for the collection
64 of such assessments, which at the option of the owner or
65 owners may be paid either in cash or yearly installments of
66 not exceeding ten years, such installments shall be evidenced
67 by the issuance of interest-bearing certificates of assessment
68 payable in from one to ten years, and said certificates of as-
69 sessment when so issued shall become a lien upon the prop-
70 erty for which the assessment has been levied, and such lien
71 shall have priority over all other liens of whatever nature,

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72 except the lien for taxes. Said certificates of assessment shall
73 bear interest at a rate not exceeding the legal rate of six per-
74 centum per annum to the date of issuance until paid, and shall
75 be and are hereby made exempt from all taxation by the state
76 of West Virginia or any of its agencies. Any property owner
77 shall have the right on ninety days' notice to pay in whole or
78 in part at any time before maturity any or all certificates
79 of assessment standing as a lien against his property and shall
80 not be liable for interest thereon or on such part so paid after
81 payment.

82 (3) Nothing herein contained, however, shall authorize
83 and empower council to cause the owner or occupant of any
84 lot or any parcel of ground abutting on such street or alley
85 to pay for or be assessed with the cost of such grading or re-
86 grading, paving or repaving, within fifteen years after such
87 street or alley has been once graded and paved or repaved with
88 concrete or other permanent base at the cost and expense of the
89 property owners abutting thereon.

90 (4) Council shall provide for all necessary grading at the
91 city's expense upon any street or alley ordered by it to be
92 graded and paved for the first time, in order to equalize the

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93 cost of paving in the first instance and re-paving those streets
94 and alleys heretofore graded and paved at the city's expense.

95 (5) Nothing herein contained, however, shall prevent the
96 council from including the grading of any street or alley, or
97 part thereof, and the paving of the cross streets or cross alleys
98 and the assessment of the entire cost thereof against the prop-
99 erty owners adjacent thereto in proportion to their frontage
100 upon both sides of such street, whenever the owners of a ma-
101 jority of the frontage abutting upon both sides of said street
102 shall petition council so to do, and for the purpose of this
103 section the distance to be paved as a unit shall not be limited
104 to one city block between cross streets, but shall be for the
105 entire distance petitioned to be paved.

106 (6) Immediately upon the completion and acceptance of
107 any such pavings, the council shall direct the city clerk to
108 cause to be published a notice which shall name and describe
109 the location of the portion of the street or alley upon which
110 said paving shall have been constructed; give the name or
111 names of the owners of each lot abutting or bounding upon
112 such portion of the street or alley, if known, and if the name
113 or names of the owner of any lot or fractional part of a lot

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114 are unknown, such lot shall be described with reasonable cer-
115 tainty in order that the same may be identified; and the num-
116 ber of feet that each lot or fractional part of a lot abuts upon
117 such paved portion, as well as the amount assessed against
118 each lot or fractional part of a lot for the cost of the paving.
119 Said notice shall cite all owners of lots or fractional parts of
120 lots abutting upon the portion of the street or alley which
121 has been paved, to appear before the council at a regular
122 meeting thereof, within thirty days from the first publica-
123 tion of the notice, and show cause, if they can, why the as-
124 sessment aforesaid should not become final, which notice shall
125 be published once a week for two successive weeks in one or
126 more newspapers of general circulation published in said city.
127 The council shall upon the request of any one or more of the
128 owners of said lots or fractional parts of lots, appoint a day
129 to hear the grievances of said owner or owners, and may alter
130 or amend any assessment made against any one or more of said
131 owners for good cause shown. The city clerk shall give notice
132 to all persons claiming to be injured by said assessment, of the
133 time and place of holding the meeting of the council to hear
134 such grievances, which meeting shall be held within ten days

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135 after the clerk shall have given the last mentioned notice.
136 The council may adjourn the hearing from time to time. In
137 case any owner or owners of abutting property fail within
138 thirty days to complain to the council of any grievance or
139 injury they may have suffered by reason of the assessment
140 aforesaid, or to appear before the council for the purpose of
141 having the same corrected on the day appointed by council
142 for the hearing of such grievances as has been complained of,
143 the assessment as laid shall be final. The findings of such
144 council shall be subject to correction by the circuit court of
145 Monongalia county upon appeal, which must be taken and
146 perfected within thirty days from the findings and be heard
147 and determined by such court without delay, having prece-
148 dence over other cases on the court's docket. The rights con-
149 ferred by this section are cumulative and shall not be ex-
150 hausted as to any particular street or alley by reason of hav-
151 ing been once exercised.

152 When the amount of any such assessment shall be so de-
153 termined, the city clerk shall thereupon certify the amount of
154 such assessment with a description of the property chargeable
155 therewith, and the name of the owner thereof, to the clerk of

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156 the county court of Monongalia county, who shall record the
157 same in the trust deed books of said clerk's office, and the
158 record thereof in such book shall constitute notice to all per-
159 sons of the existence of such paving assessment; and such as-
160 sessment shall be and constitute from and after the date of
161 such recordation the first lien against such property, subject
162 only to state, county and municipal taxes; and such assess-
163 ment when due, if not paid, shall be certified by the city clerk
164 to the auditor of the state of West Virginia and proceeded
165 with for collection thereof as is now provided or may here-
166 inafter be provided for the collection of taxes.

167 (7) All money appropriated for the paving, repaving or
168 maintenance of streets or alleys shall be used for such pur-
169 poses only, and the proceeds derived from all such paving and
170 maintenance assessments shall be placed in special funds,
171 and shall be applied to the city's liabilities on that particular
172 improvement.

173 (8) In any case, however, where any street or alley in said
174 city shall be paved by the state, county or district, thereby
175 making it unnecessary for the city to pave the same under any
176 of the provisions of this section, the city shall have the power

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177 to assess a special maintenance assessment against the prop-
178 erties abutting on so much of said street or alley so paved to
179 be applied to the maintenance of all streets and alleys of the
180 city, and the amount of which shall be the approximate cost
181 of the said paving based upon the frontage of each particular
182 property abutting thereon.

183 (e) The council may by ordinance establish the width of
184 any sidewalk along any street, alley or part thereof, at a
185 width of not less than four feet and require the owner or
186 owners of any ground fronting on such sidewalks abutting on
187 their property to pave or re-pave the same; and in case of the
188 failure or refusal of such owners so to do, the city may cause
189 same to be properly paved, or re-paved at the expense of such
190 owner or owners; and the council shall have power by ordi-
191 nance, in like manner, to require the owner or owners of
192 property abutting on any paved sidewalk, whether heretofore
193 or hereafter constructed, to keep such sidewalk in repair, and in
194 default of his or their so doing, to cause the same to be repaired
195 and assess the cost thereof upon such owner or owners. It shall
196 be lawful for the officer authorized by council to collect any
197 such tax or assessment for the cost of such paving or re-paving

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198 to collect the same from the owner or owners of such grounds
199 in the same manner as provided by law in the collection of
200 city taxes: *Provided, however,* That such cost shall be levied
201 but once against the same property so far as it pertains to the
202 change of grade.

203 (f) In all cases where the city is compelled to construct
204 or lay sidewalks under this section, it shall include a commis-
205 sion of not exceeding twenty per cent, for the time of its em-
206 ployees in supervising such construction, laying the assess-
207 ment, and collecting the same over and above the actual cost
208 to it of such assessment.

ARTICLE 8

Section 1. Council shall provide by ordinance for the sys-
2 tematic collection, removal and disposal of all garbage of every
3 kind and character under the control, management and at the
4 expense of the city, and for such rules and regulations as shall
5 by it be deemed necessary, advisable or expedient in the collec-
6 tion, removal and disposal of the same; and should the expense
7 thereof be found to be excessive for the revenue of the city, the
8 council shall have the power to provide by ordinance for the

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Chairman Senate Committee.

Chairman House Committee.

9 laying of a special levy for that purpose sufficient to provide
10 funds therefor.

11 But council may, by appropriate ordinance, fairly submit the
12 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 and
15 disposal at public expense, then council shall suspend the op-
16 eration of this section, and should the result of such referendum
17 show a majority vote in favor of such collection and disposal
18 at public expense, then council shall provide for the collection
19 of all garbage thereafter.

Sec. 2. In lieu of the itemized annual statement of accounts
2 of the city the council may cause to be published annually such
3 general statement of the finances of the city as to give the public
4 a fair understanding thereof.

Sec. 3. All contracts, grants, easements, rights, privileges or
2 consent on, in or relative to any street, alley, or public ground
3 or property of said city, made by the council of said city, or by
4 any board or officer thereof, prior to this charter taking effect,
5 and all other contracts, grants, easements, rights, privileges or
6 consents, entered into or granted by the said city or its council,

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Chairman Senate Committee.

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7 at any time prior to this charter taking effect, which are now in
8 force, or which may have been lawfully entered into or granted,
9 within any territory hereafter annexed to the city of Morgan-
10 town, and be in force and effect when the annexation is made,
11 shall continue in full force and effect, and be respected and
12 complied with by the city of Morgantown, and the council and
13 other officers thereof under this charter, and all indebtedness
14 incurred by the said city, prior to this charter going into effect,
15 shall be binding upon the city of Morgantown, under this char-
16 ter, and be paid by it out of its revenues.

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

Sec. 5. This charter shall not invalidate any legal act done
2 by the council of the city of Morgantown, or any officer of said
3 city now or heretofore in office.

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Henry D. Hyman

Chairman House Committee.

Chairman Senate Committee.

Sec. 6. Any person who shall violate any of the provisions
2 of this charter for the violation of which no punishment has
3 been provided herein, shall be deemed guilty of a misdemeanor,
4 and upon conviction thereof, shall be punished by a fine of not
5 exceeding one hundred dollars or by imprisonment in the county
6 jail not exceeding one year, or by both such fine and imprison-
7 ment.

Sec. 7. In accordance with the provisions of the nineteenth
2 federal amendment and laws of this state, women shall have the
3 same rights, privileges, and prerogatives as men, and the pro-
4 noun "he" wherever used herein shall be construed to include
5 women.

Sec. 8.-(a) All acts and parts of acts which are in conflict
2 and inconsistent with this act, are hereby repealed and declared
3 inoperative insofar only as they are in conflict or inconsistent
4 with this act.

(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.

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Amos A. Ayre
.....
Chairman Senate Committee.

James L. Smith
.....
Chairman House Committee.

W. M. Fisher
.....
Speaker of the House of Delegates.

Geo. S. Hall
.....
Clerk of the House of Delegates.

W. M. Mauney
.....
President of the Senate.

David A. Smith
.....
Clerk of the Senate.

The within is.....

this..... day of..... 1933.

.....
Governor.

Filed in the office of the Secretary of State
of West Virginia **FEB 27 1933**
GEORGE W. SHARP,
Secretary of State.