

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935

ENROLLED

HOUSE BILL No. 444

(By Mr. Lantz)

PASSED March 7 1935

In Effect from Passage

446

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AN ACT to amend and reenact section thirty of chapter nine, acts of the Legislature of West Virginia, one thousand nine hundred twenty-seven (Municipal Charters), and known as the "Charter of the Town of New Martinsville," all relating to and being part of the charter of the town of New Martinsville.

Be it enacted by the Legislature of West Virginia:

That section thirty, chapter nine, Acts of the Legislature, one thousand nine hundred twenty-seven, be amended and reenacted so as to read as follows:

Section 30. The Council of said Town shall have the following general powers enumerated in the subdivision of this section, as follows:

(1) To lay off, open, close, vacate or maintain public

5 grounds, parks, and public places, and name and rename the
6 same, to have control and supervision thereover, to protect the
7 same from damages or other injury by persons or property, to
8 fix fines and punishments for any injury thereto in violation
9 of any of the orders of said council, and to maintain good
10 order and prevent violation of the ordinances of said city
11 therein or thereon.

12 (2) To protect divine worship within the limits of said
13 town, and to fix fines and punishment for disturbance of any
14 assemblage of people, then and there met for the worship of
15 God, to prohibit any interference with or disturbance of divine
16 worship or an assemblage of people met together for the wor-
17 ship of God by any person or persons loitering about the prem-
18 ises or places where such worship is being had or such assem-
19 blage is met, or from loitering in the public streets or public
20 places adjacent thereto in such manner as to interrupt such
21 worship.

22 (3) To acquire, either by purchase, condemnation or other
23 modes provided by general law, ground within said city for
24 such streets and alleys as the council may deem proper; to
25 locate, lay off, vacate, close, alter, grade, straighten, widen, or

26 narrow, pave or repave, construct and keep in good repair,
27 the roads, streets, alleys, pavements, sidewalks, cross walks,
28 drains, viaducts and gutters therein, and such bridges as may
29 be owned or built by the said city, for the use of the public or
30 of any of the citizens thereof, and to improve and light the
31 same and to keep the same clean and free from obstruction of
32 every kind: *Provided*, That the municipality shall not be liable
33 for or responsible in damages for injuries to persons or prop-
34 erty caused by or from any defect or obstruction in or on any
35 street or alley within said town that has been or may be taken
36 over by the state road commission, under and by virtue of the
37 laws of the state; nor shall said municipality be liable in dam-
38 ages for injuries to persons or property caused by or from a
39 defect or obstruction in or on the plat of ground between the
40 gutter or curb of any street and the paved or plank sidewalks
41 extending there along or between any such sidewalks and the
42 property lying next adjacent thereto, unless the municipality
43 had actual notice of such defect or obstruction prior to the
44 time of the injury complained of; and, *provided, further* that
45 where said town shall be required to respond in damages by
46 reason of injury to persons or property occasioned by the fail-
47 ure of any abutting owner to so provide or keep in repair any

48 sidewalk along such property, after being notified by the coun-
49 cil to do so, that such property owner shall be liable to the
50 town for any sum of money, costs and counsel fees which it
51 has been required to pay by reason thereof.

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

66 (5) To regulate the use of the walks, highways, bridges,
67 streets, alleys and gutters and the rate of speed or travel
68 thereon, and to prevent and punish for fast riding or driving

69 thereon of any horse, bicycle, wheeled vehicle, wagon, steam
70 or electric or traction engine, motor car or automobile, and to
71 prevent injury to such streets, alleys, roads and highways from
72 overloaded or improperly loaded vehicles, and from dragging
73 logs or other matter therein, and to regulate the speed of en-
74 gines or trains or street cars upon or across any of such streets,
75 alleys, highways, bridges, public places or any other place
76 where the council deems the public safety requires such regu-
77 lation; and otherwise regulate the use and manner of operation
78 of said vehicles.

79 (6) To regulate the planting, trimming and preservation of
80 shade trees, by persons and by corporations, in streets, alleys,
81 roads, public grounds and places, and shall require the owner
82 of adjacent property to trim or remove any shade tree or orna-
83 mental shrubbery or other tree that in the opinion of the coun-
84 cil is an obstruction to the streets, alleys, or sidewalks, or a
85 menace to public safety.

86 (7) The council shall have the right to require the owner or
87 occupier of any property in the city to keep his premises clean
88 and free from all matters that would endanger the health of
89 the town, and may require the removal of any waste paper or

90 waste material of any kind or character upon the private prop-
91 erty of any citizen or property owner that would cause the
92 spread of fire or when the council deems the same should be
93 removed; and may require the removal or straightening of any
94 fence, wire, palings, or other material enclosing any lot, when,
95 in the opinion of the council, the same is dangerous or ob-
96 structs or encroaches upon the streets, alleys or sidewalks:
97 *Provided, That* in all such cases, if the owner or occupier of
98 such property fails to do any of the things enumerated in this
99 section required by the council, the council may take such
100 action as may be necessary to perform such acts and the ex-
101 pense thereof shall be charged against the property owner and
102 collected as taxes are collected.

103 (8) To regulate the making of division fences of an un-
104 sightly nature and party walls by the owners of adjoining and
105 adjacent premises and lots, in so far as the same shall not be in
106 conflict with general law.

107 (9) To regulate or require drainage by the owner or occu-
108 pier of any lot or other real estate, by proper drains, ditches,
109 and sewers, and to require the owner or occupier of any lot to
110 fill the same, at his own expense, so that water will not collect

111 in a body thereon, or so that the same will not become a menace
112 to public health.

113 (10) To regulate or prohibit street carnivals, or street fairs
114 or street parades, advertising exhibition, or other exhibitions
115 thereon, or the exhibition of goods, wares, merchandise, ma-
116 terial or artificial curiosities upon any street, sidewalk, alley or
117 public place of said town.

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

123 (12) To license, regulate or prohibit auctioneering.

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

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

130 (15) To prevent the illegal sale of tobacco, cigars, snuff, or
131 cigarettes, within said municipality.

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

137 (17) To regulate, assess and collect a license fee for the said
138 Town for the doing of anything or the carrying on of any busi-
139 ness for which a state license is required, *provided, however,*
140 that when anything for which a state license is required is to
141 be done within the limits of said town, the council may decide
142 whether such license may be granted or not, and if granted,
143 it shall be assessed and collected the same as if granted by the
144 county court of Wetzel county.

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

152 (19) To regulate the sale of food and drink products, milk,

153 fresh meats, fish and vegetables, and to provide penalties for
154 the sale of any such that are unwholesome or unfit for use.

155 (20) To regulate and provide for the weighing of hay, coal
156 and other articles for sale in the markets, or to residents of
157 said town.

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

164 (22) To prevent injury or annoyance to the public or indi-
165 viduals from anything dangerous, offensive or unwholesome.

166 (23) To regulate the keeping, handling and transportation
167 of explosives and dangerous combustibles within the munici-
168 pality; and to regulate or prohibit the use of fireworks or gun-
169 powder, toy pistols, air rifles, or guns, within the said
170 municipality.

171 (24) To regulate or prohibit the erection or operation or
172 maintenance in what the council deems an improper locality
173 within said city, any blacksmith shop, livery stable, bar, stable,

174 cattle pen, poultry house, pig pen, privy, bill board, sign
175 board, gas or other engine, coal plant, or coal bin, or any other
176 thing that may in the opinion of the council be a menace to
177 persons or property or public safety, or that would injure
178 private property or annoy citizens of said municipality.

179 (25) To regulate or prohibit the placing of signs and the
180 use of walls or walks for signs; to regulate or prevent the dis-
181 tribution or posting of any sign or bill, either on paper or
182 painted, that in the opinion of the council or mayor, is inde-
183 cent, immoral or unsightly.

184 (26) To define by ordinance what shall constitute a nui-
185 sance, and to abate all nuisances whether defined or not, and
186 to require the removal or abatement, at the expense of the
187 owner thereof, of any obnoxious business, building, sign board,
188 signs or other thing, which in the opinion of the council is a
189 nuisance.

190 (27) To regulate or prohibit the distribution of hand bills,
191 circulars and other advertisements of like kind, on the streets,
192 roads, alleys and public places, or the placing of same in pri-
193 vate yards, buildings or other structures, without having first

194 procured the consent of the owner or occupier of such
195 property.

196 (28) To regulate or prohibit within the municipality or
197 within one mile of its corporate limits, the erection or main-
198 tenance of any slaughter house, soap factory, glue factory,
199 lamp black factory, tannery, or other house, shop or factory
200 of like kind or character.

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

206 (30) To prohibit the keeping and/or prevent the running at
207 large in the Town of dogs, hogs, cattle, sheep, horses and other
208 animals, and/or fowls and domesticated birds of all kinds; and
209 to establish and maintain places for their detention, make regu-
210 lations respecting the same, to appoint a pound master and de-
211 fine his duties and provide for the sale or disposition of such
212 animals and fowls impounded.

213 (31) To arrest, convict and punish any person for commit-
214 ting adultery or fornication, or for any lewd or lascivious co-

215 habitation or conduct within said Town, and for keeping an
216 assignation house, house of ill-fame, or for leasing or letting
217 to any other person any house or other building to be kept or
218 used as such, or for knowingly permitting any house, under
219 the the control of or owned by any person to be used as an
220 assignation house or house of ill fame; and to convict and
221 punish for frequenting, entering or loitering in any assignation
222 house or house of ill fame within said municipality.

223 (32) To arrest, convict and punish any person for import-
224 ing, printing, publishing, selling, giving away, exhibiting, or
225 distributing any book, picture or device, or other thing con-
226 taining any obscene picture or language, or making any in-
227 decent representation.

228 (33) To define, restrain, convict and punish loiterers, va-
229 grants, mendicants, beggars, tramps, common prostitutes, and
230 their associates, and drunken or disorderly persons within the
231 municipality, and to provide for their arrest and manner of
232 punishment.

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

236 (35) To prevent and prohibit any tumult, riot, quarrel,
237 angry contention, abusive language, or swearing, and to pre-
238 vent the use of insulting epithets, assaults, assault and battery,
239 and fix the fines and punishment therefor.

240 (36) To prevent and prohibit trespass upon private prop-
241 erty or the doing of anything which would annoy the owner,
242 or occupier of any premises, and to fix and provide fines and
243 punishments therefor.

244 (37) To provide against danger or damages by fire, and to
245 that end, to require, when the council may think necessary an
246 inspection of all the properties within the said town, and to
247 require the owner or occupier of any property in which a de-
248 fective or dangerous chimney, wires, flue or other dangerous
249 condition is found, to immediately repair the same, and to pre-
250 vent the use thereof until repaired as required.

251 (38) To prohibit and prevent intoxication or drunkenness,
252 and the drinking of intoxicants in any public place, store,
253 street or alley, and to fix fines and penalties therefor.

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

256 (40) To prohibit, prevent and punish for anything that is

257 against the good morals and common decency, or that would
258 tend to corruption, vice or crime.

259 (4) To protect the public schools in said town, and to pro-
260 hibit and prevent any disturbance thereof in and about the
261 buildings or upon the grounds, and to prevent injury, destruc-
262 tion, or defacement of any school property or building.

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

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

270 (44) To prohibit the bringing into the corporate limits by
271 railroads, carriers, persons or by or in any other manner, per-
272 sons who are paupers or persons who are afflicted with con-
273 tagious diseases; to punish by fine or imprisonment, or both,
274 any person who shall bring into the corporate limits any such
275 pauper or person afflicted with contagious disease, knowing or
276 having reason to believe, at the time, that such person is a
276a pauper or afflicted with such contagious disease, and to col-

276b lect and recover from any such railroad company, carrier, or
276c other person, the expense of keeping and maintaining such
276d pauper or diseased person, until such person can be lawfully
276e removed from the corporate limits.

277 (45) To arrest, convict and punish any person for cruelty,
278 unnecessarily or needlessly beating, torturing, mutilating, kill-
279 ing, or overloading, or overdriving, or wilfully depriving of
280 necessary sustenance, any horse or other domestic animal.

281 (46) To regulate the hitching of horses within the corporate
282 limits, and the driving of cows and cattle through, upon and
283 along the streets and alleys of said Town.

284 (47) To prohibit, prevent and punish for the pollution of
285 any stream of water running into or through the said munici-
286 pality; and to prohibit and prevent the throwing into any such
287 stream of any trash, dirt, filth, offal, decayed substances or
288 matters, or anything that would make said water unhealthy or
289 unfit for domestic use.

290 (48) To prohibit, prevent and punish for any desecration of
291 the Sabbath day; prohibit the playing of any game, exhibiting
292 any show, theatre, picture show, and the keeping open of busi-
293 ness places, except hotels, eating houses, boarding houses, res-

294 taurants, and drug stores and other places of necessity or
295 charity.

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

298 (50) To arrest, convict and punish any person for gambling
299 or keeping any gaming table, commonly called "Faro Bank,"
300 or table and chips used in playing such game; crap, crap table,
301 chips or dice used in playing such game; or roulette or the
302 wheel, chips or other equipment used in playing such game; or
303 keno table or table of like kind or device used in playing the
304 same; or table of like kind under any denomination, whether
305 the game or games be played with cards, dice, or otherwise on
306 which anything is bet or wagered, whether the same be played
307 in any public or private room or residence; and may convict
308 and punish any person who shall be a partner or concerned in
309 interest in the keeping of any such gambling devices heretofore
310 enumerated, or in any game played, such as hereby prohibited,
311 or in keeping or maintaining any gambling house or place of
312 gambling for money, or anything of value; and shall have the
313 right to destroy such gambling paraphernalis as may be found
314 on any such premises; and any officer armed with a warrant

315 for the arrest of any person engaged in such unlawful game or
316 for the search of any room in which gambling is suspected, or
317 for the seizure of any gambling paraphernalia, shall have the
318 right to break into any building, other than a private dwelling
319 house, without notice or demand, and into a private dwelling
320 or room, after demand and refusal to open same, *provided*
321 *always however*, that no search or seizure shall be made except
322 in the manner provided by general law.

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

327 (52) To apprehend and punish any person who, without a
328 state license therefor, is guilty of carrying about his person,
329 within the municipality, any revolver or other pistol, dirk,
330 bowie knife, sling shot, razor, billy, metallic or other false
331 knuckle, or any other dangerous or deadly weapons of like
332 kind and character, as provided by the official code of West
333 Virginia, or any amendment thereof, and the punishment
334 therefor, whether for the first or other offenses, shall be that
335 prescribed by said official code for any person guilty under

336 the misdemeanor clause provided therein: *Provided*, That the
337 mayor, acting as ex-officio justice of the peace, may, after en-
338 forcing this ordinance, hold the offender to answer to an indict-
339 ment in the circuit court of Wetzel county for such offense,
340 under the state law.

341 (53) To regulate the erection, construction, alteration and
342 repair of dwelling houses, buildings and other structures,
343 within the municipality, to issue permits therefor and to com-
344 pel the numbering of such houses and buildings by the owners
345 and occupiers thereof; and to prescribe by ordinance the dis-
346 tance which dwelling houses, and other structures in resident
347 districts shall be set back from the sidewalk.

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

352 (55) To establish fire limits and to regulate the construction
353 of buildings, and designate materials to be used in the con-
354 struction of buildings within such limits.

355 (56) To regulate the building of fire walls, fire places, chim-
356 neys, boilers, smoke stacks, stove pipes, and the burning of

357 waste paper, trash or other waste matter in the corporate
358 limits.

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

365 (58) To regulate the height, construction and inspection of
366 all new buildings hereafter erected, the alteration and repair
367 of any buildings now or hereafter erected, to require permits
368 to be obtained of the council therefor, and the submission of
369 plans and specifications to the council for its approval; to
370 regulate the limits within which it shall be lawful to erect any
371 steps, porticos, bay windows, awnings, signs, columns, piers, or
372 other projection or structural ornaments of any kind for the
373 houses or buildings on any street or alley.

374 (59) To provide for the prevention and extinguishing of
375 fires, and for this purpose, the council may equip and govern
376 fire companies, prescribe the powers and duties of such com-
377 panies and departments, and of the several officers thereof, or

378 may authorize volunteer fire companies, under such rules and
379 regulations as the council may prescribe and impose on those
380 who fail to obey any lawful command of the officer in charge
381 of any such company, or volunteer company, any penalty
382 which the council is authorized to impose for violation of an
383 ordinance, and to give authority to any such fire officer to
384 direct the pulling down or destruction of any building, fence,
385 wall or other thing, if such officer deem it necessary to prevent
386 the spreading of any fire which is being extinguished under
387 the direction of such officer, and without any liability on the
388 municipality for damages therefor.

389 (60) To protect the persons and property within the cor-
390 porate limits and preserve the peace and good order therein,
391 and for this purpose, to appoint, when necessary, a police force
392 and such other officers as may be deemed necessary; and to
393 provide a lockup, jail or other suitable place to confine per-
394 sons sentenced to imprisonment for violation of the ordinances
395 of said Town; *provided, however,* that the jail of Wetzel
396 county may be used for that purpose, if authorized by the
397 county court of said county.

398 (61) To require any person violating any of the ordinances

399 of said city, or any order from which a fine, imprisonment or
400 both is imposed, to work upon the streets of said town in case
401 of nonpayment of said fine, until the same is paid by such
402 labor, or in case imprisonment is imposed, to work upon the
403 streets of said town during the term of such imprisonment in
404 addition to the payment of such fine, under such regulations
405 as the council may prescribe.

406 (62) To prescribe the powers, define the duties of the officers
407 appointed under the corporate authority, fix their terms of
408 service and compensation, if not otherwise prescribed by this
409 chapter, and to require and take from them bonds, when deemed
410 necessary payable to the state of West Virginia, or the town of
411 New Martinsville with the sureties, and in such penalties as
412 may be prescribed, conditioned for the faithful discharge of
413 their respective duties; provided, that the compensation of
414 any officer, elected or appointed, shall not be increased nor
415 diminished during the time for which he is elected or ap-
416 pointed, unless due notice of such intention is first served on
417-447. the officer interested.

448 (63) To make regulations with respect to, and have super-
449 vision and control over the erection, removal and relocation

450 of all telephone, telegraph, electric light or other poles within
451 said town, and the extension of wires, lines or poles by any
452 individuals or corporations.

453 (64) To acquire, erect, operate and manage or authorize
454 or prohibit the erection of gas works, electric light works or
455 water works within the town limits; to prevent injury to such
456 works or the pollution of any gas or water used or intended to
457 be used by the public or by individuals; and to do all things
458 necessary to adequately supply said city and the inhabitants
459 thereof with pure, healthful and wholesome water; and to re-
460 quire any company furnishing gas or electricity for sale or dis-
461 tribution in said city, to furnish an adequate supply thereof;
462 to require gas fixtures, electric light wires, telephone wires
463 and all apparatuses used in connection with any of these, to
464 be kept in repair and suitable for use, and free from danger,
465 so far as practicable; to use, generate, distribute, sell and
466 control electricity, water and gas for heat, light and power and
467 to furnish light for the streets, highways, buildings, stores
468 and other places in and about said town.

469 (65) To acquire, erect, provide, manage and operate an
470 incinerator or incinerators, machinery and equipment for dis-

471 posal of garbage and other waste matter; to provide, furnish
472 maintain and operate and/or contract for a system of garbage
473 removal for the said town, including the power to fully regu-
474 late the service charges and service in connection therewith,
475 and to promulgate such rules and regulations concerning the
476 use thereof as may be necessary for the safe and efficient
477 handling of such business.

478 (66) To require any gas company or person furnishing
479 gas for said town or the inhabitants thereof, to put in stand-
480 ard meters for the measurement thereof, and may appoint a
481 competent person to inspect the meters and remove the same if
482 not standard and in good order; to prevent injury to any gas
483 works, electric light works, water system, sewerage system or
484 garbage system or any gas meter within said municipality.

485 (67) The council shall have the right to own, maintain,
486 operate and control any electric light plant within said town,
487 or to provide gor, or purchase electric power and to use, gen-
488 erate, distribute, sell and control electricity and gas for heat,
489 light and power, and to furnish light for the streets, houses,
490 buildings, stores and other places in and about said town, and
491 for such electricity other than that furnished for the muinci-

492 pality in lighting its streets, or public places, it may charge
493 reasonable rates, but such rates in all cases shall be uniform;
494 and such electric light plant shall be under the supervision and
495 control of the council, and its wires, poles, distributing system
496 and machinery shall be kept in such repair so that as little
497 danger as possible shall arise therefrom, and so that same
498 will furnish an adequate supply of electricity to all persons
499 in said town desiring to use same.

500 (68) The council shall have the right to provide a sew-
501 erage system for said town, and may require the owner of any
502 property abutting upon any street or alley in which a sewer has
503 been laid or placed, to connect a sewer leading from his or her
504 property or lot into any public sewer which is located in such
505 street or alley adjoining the same, and if the owner or occu-
506 pier of said lot or property fails or refused to do so, after hav-
507 ing been given reasonable notice, the council may enter upon
508 such lot and construct such sewers, and may levy the actual
509 cost thereof against the lot upon which the same is built and
510 collect such costs from the owner of such lot in the same
511 manner as city or state taxes are collected; in addition thereto,
512 the council may punish by fine, or fine and imprisonment, any

513 person who permits any drainage from his residence or lot to
514 enter upon any property after a sewer has been placed in the
515 street or alley adjacent to his property, to which he should
516 connect, after notice has been given to him by the council to
517 make such connection. The council may provide by ordinance
518 for the inspection of all sewer connections by some person ap-
519 pointed by council and provide for the assessment of the cost
520 of such inspection upon the property owner, which cost may be
521 collected the same as taxes or as otherwise provided by coun-
522 cil.

523 (69) The council shall have the right to impose fines and
524 penalties for any interference with or destruction of the sewer
525 system or any part thereof in said town, or for the destruction
526 of or damages to any street, alley or sidewalk in said town, or
527 any improper use thereof; it shall have the right to regulate
528 or prevent the use of the sidewalk for bicycles, push carts,
529 sleds, tricycles, roller skates and other things of like character
530 and to fix fines and penalties for violation of the ordinances
531 respecting same.

532 (70) To grant by ordinance or resolution permits for the
533 temporary use of such parts of its streets, roads, alleys and

534 public places as the council may deem proper and right to be
535 used in construction, alteration or repair of buildings located
536 thereon, or for such other purposes as the council may deem
537 proper and right, and under such regulations and for such
538 time as the council may prescribe.

539 (71) The council may buy, lease and operate either with-
540 in or without the municipality, stone quarries, crushers and
541 land for said purposes or for the purpose of furnishing a sup-
542 ply of stone or other material suitable for macadamizing or
543 paving the streets, sidewalks and alleys, and improving public
544 property.

545 (72) To operate by ordinance such committees or boards,
546 and delegate such authority thereto as may be deemed neces-
547 sary or advisable by the council; and to employ such legal
548 council on behalf of the town, from time to time, as the town
549 may deem necessary to protect the interests of the town.

550 (73) The council may, within any prescribed area, pro-
551 hibit the erection on any street or in any square, of any build-
552 ing, or of any addition to any building more than ten feet
553 high, unless the outer walls thereof be made of brick and
554 mortar or other fire-proof material. And may require the re-

555 moval of any building or addition which shall be hereafter
556 erected contrary to this prohibition, at the expense of the
557 owner or owners thereof.

558 (74) The council shall keep all roads, streets and alleys
559 within its limits passable and in good repair.

560 (75) In the enforcement of the ordinances, orders, rules,
561 regulations and by-laws of the said town, no fine shall be
562 imposed exceeding five hundred dollars, and no person shall
563 be imprisoned or compelled to labor on the streets of said
564 town, as hereinbefore provided, exceeding six months; pro-
565 vided, violations of the road laws or automobile laws, may be
566 punished by fines and penalties prescribed by general law, un-
567 less different fines and penalties are expressly prescribed by
568 the ordinances of said town.

569 (76) It shall be the express duty of the council to present
570 charges against any of its members, or any officer of the town,
571 who fails to perform, or who does not promptly and diligently
572 perform any duty prescribed by this act, or by any ordinance
572-a or resolution of the council, and upon hearing thereof before
572-b the council, after notice to such officer, he shall be removed
572-c from office by the council, if the charges be found correct.

573 (77) To provide for the payment of all appointive officers
574 and employees.

575 (78) To exercise all of the legislature functions of the town
576 government, and shall have the right to demand of any town
577 official, or employee, information, explanation, facts, details,
578 correspondence, or other papers affecting the town's interests;
579 and it shall be deemed misfeasance and neglect of duty for
580 such official or employee to fail or refuse to comply with such
581 demands.

582 The council shall have the power, under this section, to
583 require the acting head official of any municipal gas, water,
584 electric, garbage and/or sewerage department to prepare or
585 cause to be prepared a chart or map of any or all municipal
586 water lines, gas lines, electric lines, sewerage lines and/or
587 garbage routes; and if such be not furnished within a rea-
588 sonable and fixed time after notice thereof, to the council,
589 the defaulting official or officials may be removed or fined
590 in the discretion of the council.

591 (79) The council shall have the power and authority to
592 levy, assess and collect taxes upon the real and personal prop-
593 erty within said town, including the taxation of dogs kept

594 in said town, provided that such levy and assessment of
595 taxes shall be uniform with respect to persons and property
596 within the jurisdiction of said town; and provided further
597 that such levy, assessment and collection of taxes shall be
598 made in accordance with the acts of the Legislature of West
599 Virginia now existing or hereafter enacted, and in accord-
600 ance with the provisions of the constitution of the state of
601 West Virginia and amendments thereto.

602 To provide a revenue for the town for municipal purposes
603 and to appropriate such revenue to its expenses.

604 But said town shall not hereafter be allowed to become in-
605 debted in any manner for any purpose to an amount including
606 the existing indebtedness, in the aggregate, exceeding five
607 per centum of the value of the taxable property therein, to
608 be ascertained by the last assessment for state and county
609 purposes previous to the incurring of such indebtedness, with-
610 out at the same time providing for the collection of a direct
611 annual tax sufficient to pay annually the interest on such
612 debt and the principal thereon within and not exceeding
613 thirty-four years; provided, that no debt shall be contracted
614 under this charter unless all questions connected with the

615 same shall have been first submitted to a vote of the people
616 and have received three-fifths of all the votes cast for and
617 against the same.

618 The council shall have the power and authority to levy
619 and assess a poll tax of not more than one dollar upon each
620 male resident of said municipal corporation over twenty-one
621 years of age.

622 (80) The council shall have the power to grant franchises,
623 but shall not grant any such franchise to any person, or
624 corporation, within said town limits which shall be either
625 exclusive or perpetual, but all such grants shall have annexed
626 to them the power to rescind, revoke, alter, modify or regulate
627 the exercises of any such franchise; and said council shall
628 have power on ten days notice, and for cause, to revoke, re-
629 scind, alter or modify, the exercise of any such franchise;
630 and no franchise involving the use of any of the public prop-
631 erty, streets, alleys, sidewalks, cross-walks or involving the
632 use or occupancy of the same, shall be granted except by an
633 ordinance to that effect; and no such ordinance shall be passed
634 unless the question of the granting of such franchise shall
635 have been first submitted to a vote of the people, and shall

636 have and receive a majority of all the votes cast upon the
637 question ; provided, such submission shall have been petitioned
638 for by at least one-tenth of the qualified voters of said town,
639 to be ascertained according to the number of votes cast at
640 the last preceeding election.

641 (81) The council shall have the right, power and authority
642 to require the owner of any real property abutting upon any
643 sidewalk or footway in the town to curb, recurb, pave, repave,
644 or keep the same clean ; and if the occupant and/or owner
645 shall fail or refuse to keep the same clean, or if the owner
646 shall fail or refuse to curb, recurb, pave or repave any such
647 sidewalk or footway in the manner or within the time re-
648 quired by the council, it shall be the right and duty of the
649 council to cause the same to be done at the expense of the
650 municipality and to assess the amount of such expense upon
651 such owner or occupant, as the case may be ; and such ex-
652 penses may be collected by the town in the manner herein
653 provided by the collection of municipal taxes.

654 (82) The council shall have the power and authority to
655 regulate the use of and altitude at which airplanes, airships
656 or balloons may be flown or navigated over the municipality

657 as well as the right and power to punish for intoxicated
658 avigation over the municipality, provided, however, that any
659 ordinances enacted under this section shall not be incon-
660 sistent with the general laws of the state in relation to the
661 same.

662 (83) The council shall have the power and authority to
663 restrain, prevent and punish the stealing of any gas, water
664 or electric energy, or the tampering with any mains, pipes,
665 meters, or any other device or appliance used in connection
666 with the aforesaid, conducting, supplying, or being used in
667 somewise in connection therewith, of gas, water or electric
668 energy, provided any enactment of this section shall be con-
669 sistent with the general laws of the state.

670 (84) The council shall have authority and power to pass
671 such ordinances as may be deemed necessary or advisable
672 to carry out the provisions of this charter and to protect all
673 property, public or private, within said town; to preserve
674 and maintain peace, quiet and good order therein; and to
675 preserve and promote the health, safety and well-being of
676 the inhabitants of said town.

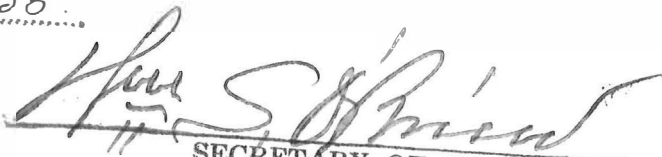
677 (85) Except as herein otherwise provided, the powers of

678 the council of said town shall also be co-extensive with the
679 powers of town and city councils generally as provided by the
680 general laws and statutes of the state of West Virginia.

681 (86) All acts or parts of acts inconsistent with this act are
682 hereby repealed, but this act shall not be construed to repeal,
683 change or modify any previous act, not inconsistent with this
684 act, authorizing the town of New Martinsville to contract
685 debts or to borrow money, or to take away any of the powers
686 conveyed by general law upon said town, or upon the mayor
687 or council of any officers, except so far as the same may be
688 inconsistent with the powers hereby conferred.

I certify that the foregoing bill,
having been presented to the Governor for
his approval, and not having been returned
by him to the House of the Legislature in
which it originated within the time pre-
scribed by the constitution of the state, has
become a law without his approval.

This the 15th day of March,
1936.


SECRETARY OF STATE

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Clinton F. Woodward

 Chairman Senate Committee

David M. Dickson

 Chairman House Committee

Originated in the

House of Delegates

Takes effect

from

..... passage.

Phyllis M. ...

 Clerk of the Senate

Geo. S. Hall

 Clerk of the House of Delegates

Chas. E. Hays

 President of the Senate

John A. Dettmer

 Speaker House of Delegates.

The within this the

day of, 1935.

.....
 Governor.

Filed in the office of the Secretary of State
 of West Virginia.

MAR 15 1935

Wm. S. O'BRIEN,
 Secretary of State