WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1935

ENROLLED

HOUSE BILL No. 444

(By Mr. Jacob)

PASSED March 7, 1935

In Effect from Passage
ENROLLED

House Bill No. 446
(By Mr. Lantz)

[Passed March 7, 1935; in effect from passage.]

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
narrow, pave or repave, construct and keep in good repair, the roads, streets, alleys, pavements, sidewalks, cross walks, drains, viaducts and gutters therein, and such bridges as may be owned or built by the said city, for the use of the public or of any of the citizens thereof, and to improve and light the same and to keep the same clean and free from obstruction of every kind: Provided, That the municipality shall not be liable for or responsible in damages for injuries to persons or property caused by or from any defect or obstruction in or on any street or alley within said town that has been or may be taken over by the state road commission, under and by virtue of the laws of the state; nor shall said municipality be liable in damages for injuries to persons or property caused by or from a defect or obstruction in or on the plat of ground between the gutter or curb of any street and the paved or plank sidewalks extending there along or between any such sidewalks and the property lying next adjacent thereto, unless the municipality had actual notice of such defect or obstruction prior to the time of the injury complained of; and, provided, further that where said town shall be required to respond in damages by reason of injury to persons or property occasioned by the failure of any abutting owner to so provide or keep in repair any
sidewalk along such property, after being notified by the coun-
cil to do so, that such property owner shall be liable to the
town for any sum of money, costs and counsel fees which it
has been required to pay by reason thereof.

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

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

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

(7) The council shall have the right to require the owner or
occupier of any property in the city to keep his premises clean
and free from all matters that would endanger the health of
the town, and may require the removal of any waste paper or
waste material of any kind or character upon the private prop-
erty of any citizen or property owner that would cause the
spread of fire or when the council deems the same should be
removed; and may require the removal or straightening of any
fence, wire, palings, or other material enclosing any lot, when,
in the opinion of the council, the same is dangerous or ob-
structs or encroaches upon the streets, alleys or sidewalks:
Provided, That in all such cases, if the owner or occupier of
such property fails to do any of the things enumerated in this
section required by the council, the council may take such
action as may be necessary to perform such acts and the ex-
pense thereof shall be charged against the property owner and
collected as taxes are collected.
(8) To regulate the making of division fences of an un-
sightly nature and party walls by the owners of adjoining and
adjacent premises and lots, in so far as the same shall not be in
conflict with general law.
(9) To regulate or require drainage by the owner or occu-
pier of any lot or other real estate, by proper drains, ditches,
and sewers, and to require the owner or occupier of any lot to
fill the same, at his own expense, so that water will not collect
in a body thereon, or so that the same will not become a menace to public health.

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

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

(12) To license, regulate or prohibit auctioneering.

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

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

(15) To prevent the illegal sale of tobacco, cigars, snuff, or cigarettes, within said municipality.
(16) To regulate, control or prohibit runners for hotels, boarding houses and eating houses, and to regulate draymen or persons hauling or transporting for hire at and about the railroad depots and stations and other public places and in an assemblage of people within said city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(31) To arrest, convict and punish any person for committing 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 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 ning, 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.
(35) To prevent and prohibit any tumult, riot, quarrel, angry contention, abusive language, or swearing, and to prevent the use of insulting epithets, assaults, assault and battery, and fix the fines and punishment therefor.

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

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

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

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

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

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

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

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

(44) To prohibit the bringing into the corporate limits by
railroads, carriers, persons or by or in any other manner, per-
sons who are paupers or persons who are afflicted with con-
tagious diseases; to punish by fine or imprisonment, or both,
any person who shall bring into the corporate limits any such
pauper or person afflicted with contagious disease, knowing or
having reason to believe, at the time, that such person is a
pauper or afflicted with such contagious disease, and to 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 polution 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
for the arrest of any person engaged in such unlawful game or
for the search of any room in which gambling is suspected, or
for the seizure of any gambling paraphernalia, shall have the
right to break into any building, other than a private dwelling
house, without notice or demand, and into a private dwelling
or room, after demand and refusal to open same, provided
always however, that no search or seizure shall be made except
in the manner provided by general law.

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

(52) To apprehend and punish any person who, without a
state license therefor, is guilty of carrying about his person,
within the municipality, any revolver or other pistol, dirk,
bowie knife, sling shot, razor, billy, metallic or other false
knuckle, or any other dangerous or deadly weapons of like
kind and character, as provided by the official code of West
Virginia, or any amendment thereof, and the punishment
therefor, whether for the first or other offenses, shall be that
prescribed by said official code for any person guilty under
Provided, That the mayor, acting as ex-officio justice of the peace, may, after enforcing this ordinance, hold the offender to answer to an indictment in the circuit court of Wetzel county for such offense, under the state law.

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

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

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

(56) To regulate the building of fire walls, fire places, chimneys, boilers, smoke stacks, stove pipes, and the burning of
(57) To require any building that, in the opinion of the council is dangerous, to be repaired, altered or removed by the owners thereof or put in a safe condition, such as the council may approve, at the expense of such owner or occupier, and to provide punishments for failure to comply with any order of the council concerning same.

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

(59) To provide for the prevention and extinguishing of fires, and for this purpose, the council may equip and govern fire companies, prescribe the powers and duties of such companies and departments, and of the several officers thereof, or
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 both is imposed, to work upon the streets of said town in case of nonpayment of said fine, until the same is paid by such labor, or in case imprisonment is imposed, to work upon the streets of said town during the term of such imprisonment in addition to the payment of such fine, under such regulations as the council may prescribe.

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

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

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

(65) To acquire, erect, provide, manage and operate an incinerator or incinerators, machinery and equipment for dis-
posal of garbage and other waste matter; to provide, furnish maintain and operate and/or contract for a system of garbage removal for the said town, including the power to fully regul-
late the service charges and service in connection therewith, and to promulgate such rules and regulations concerning the use thereof as may be necessary for the safe and efficient handling of such business.

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

(67) The council shall have the right to own, maintain, operate and control any electric light plant within said town, or to provide for, or purchase electric power and to use, generate, distribute, sell and control electricity and gas for heat, light and power, and to furnish light for the streets, houses, buildings, stores and other places in and about said town, and 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
person who permits any drainage from his residence or lot to enter upon any property after a sewer has been placed in the street or alley adjacent to his property, to which he should connect, after notice has been given to him by the council to make such connection. The council may provide by ordinance for the inspection of all sewer connections by some person appointed by council and provide for the assessment of the cost of such inspection upon the property owner, which cost may be collected the same as taxes or as otherwise provided by council.

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

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

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

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

(73) The council may, within any prescribed area, prohibit the erection on any street or in any square, of any building, or of any addition to any building more than ten feet high, unless the outer walls thereof be made of brick and mortar or other fire-proof material. And may require the 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
in said town, provided that such levy and assessment of taxes shall be uniform with respect to persons and property within the jurisdiction of said town; and provided further that such levy, assessment and collection of taxes shall be made in accordance with the acts of the Legislature of West Virginia now existing or hereafter enacted, and in accordance with the provisions of the constitution of the state of West Virginia and amendments thereto.

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

But said town shall not hereafter be allowed to become indebted in any manner for any purpose to an amount including the existing indebtedness, in the aggregate, exceeding five per centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county purposes previous to the incurring of such indebtedness, with out at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and the principal thereon within and not exceeding thirty-four years; provided, that no debt shall be contracted under this charter unless all questions connected with the
same shall have been first submitted to a vote of the people and have received three-fifths of all the votes cast for and against the same.

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

The council shall have the power to grant franchises, but shall not grant any such franchise to any person, or corporation, within said town limits which shall be either exclusive or perpetual, but all such grants shall have annexed to them the power to rescind, revoke, alter, modify or regulate the exercises of any such franchise; and said council shall have power on ten days notice, and for cause, to revoke, rescind, alter or modify, the exercise of any such franchise; and no franchise involving the use of any of the public property, streets, alleys, sidewalks, cross-walks or involving the use or occupancy of the same, shall be granted except by an ordinance to that effect; and no such ordinance shall be passed unless the question of the granting of such franchise shall have been first submitted to a vote of the people, and shall
have and receive a majority of all the votes cast upon the question; provided, such submission shall have been petitioned for by at least one-tenth of the qualified voters of said town, to be ascertained according to the number of votes cast at the last preceding election.

(81) The council shall have the right, power and authority to require the owner of any real property abutting upon any sidewalk or footway in the town to curb, recurb, pave, repave, or keep the same clean; and if the occupant and/or owner shall fail or refuse to keep the same clean, or if the owner shall fail or refuse to curb, recurb, pave or repave any such sidewalk or footway in the manner or within the time required by the council, it shall be the right and duty of the council to cause the same to be done at the expense of the municipality and to assess the amount of such expense upon such owner or occupant, as the case may be; and such expenses may be collected by the town in the manner herein provided by the collection of municipal taxes.

(82) The council shall have the power and authority to regulate the use of and altitude at which airplanes, airships or balloons may be flown or navigated over the municipality
as well as the right and power to punish for intoxicated
avigation over the municipality, provided, however, that any
ordinances enacted under this section shall not be incon-
sistent with the general laws of the state in relation to the
same.

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

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

(85) Except as herein otherwise provided, the powers of
the council of said town shall also be co-extensive with the powers of town and city councils generally as provided by the general laws and statutes of the state of West Virginia.

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

I certify that the foregoing act, 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 prescribed by the constitution of the state, has become a law without his approval.

This the 15th day of March, 1896.

[Signature]
SECRETARY OF STATE
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect... passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

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