

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

HOUSE BILL No. 529

(By Mr. Hutnick)



PASSED March 7 1935

In Effect from Passage

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House Bill No. 529

(By MR. HERTNICK)

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

AN ACT to amend and reenact sections three, four, five, eight, nine and ten, acts of the Legislature of West Virginia, one thousand eight hundred ninety-one, relating to the town charter of New Cumberland, and the rescinding of sections one and thirteen, chapter forty-seven, acts of the Legislature, one thousand eight hundred ninety-seven, insofar as sections one and thirteen have been adopted and made a part of the charter of said town of New Cumberland, and the enactment of sections thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, and forty-five.

Section 3. The officers of said town shall be mayor, recorder, 2 and two councilmen from each ward, a sergeant, and street 3 commissioner. The mayor and recorder shall be elected by the 4 qualified voters of the town, and the councilmen by the quali-

5 fied voters of the respective wards, and together shall consti-
6 tute the common council of said town. The other officers of
7 this section shall be appointed by council, but offices of mayor,
8 sergeant, and street commissioner shall not be incompatible,
9 neither shall the offices of recorder, street commissioner, ser-
10 geant, and policeman be incompatible, and all the appoint-
11 ive offices insofar as is possible may be held in whole or in part
12 by the mayor or the recorder or either by the mayor and the
13 recorder, and such consolidation of offices shall not be deemed
14 incompatible. No person shall be eligible to any elective office
15 unless he is a legal voter and was for the preceding year as-
16 sessed with and paid taxes upon at least one hundred dollars
17 worth of real or personal property therein.

Sec. 4. The first election under this act shall be held on the
2 second Tuesday of June, one thousand nine hundred thirty-five,
3 and there shall be an election held on the second Tuesday of
4 June every two years thereafter. The vote of said election
5 shall be by ballot. All persons who shall have been bona fide
6 residents of the Town three months next preceding any elec-
7 tion, and entitled to vote under the constitution and laws of the
8 state, shall be entitled to vote at such election, but only in the

9 ward of their residence. The said election shall be held and
10 conducted at such places and under such rules and regulations
11 not inconsistent with the laws regulating district elections, as
12 may be prescribed by the council. Contested elections shall
13 be heard and decided by the council, and the proceedings shall
14 conform as nearly as may be to similar proceedings in case of
15 county and district officers. The council shall be the judge of
16 the election returns and qualifications of its own members.

Sec. 5. The terms of the office of mayor and recorded shall
2 be two years each, and of councilmen shall be four years, be-
3 ginning the first Tuesday in July next succeeding their elec-
4 tion and continuing until their successors are elected and quali-
5 fied; except that the term of office of one of the Councilmen
6 from each of the wards elected at the first election provided
7 shall be determined by lot, one for the two year term and one
8 for the four term, in the presence of and under the direction
9 of the council. The term of all officers appointed by Council
10 shall be as prescribed by council, but shall not exceed two
11 years.

Sec. 8. The territory of said town is hereby divided into
2 three wards as follows:

3 That part lying north of the center of Madison street shall
4 constitute the first ward.

5 That part lying between the center of Madison street and
6 the center of Sedgwick street shall constitute the second ward.

7 That part lying south of the center of Sedgwick street shall
8 constitute the third ward.

9 The lines between the wards are understood to run from the
10 west boundary of the town to the east boundary by lines pro-
11 jected through the center of each of the said streets and ave-
12 nues.

13 The council may, after two years after the passage of this
14 act, by ordinance, change the boundaries of the several wards
15 and may decrease the number of said wards; but no change
16 of boundaries for the decrease of the number of wards shall be
17 made until notice of such change of boundaries has been given
18 by order of council by publication in the newspapers of said
19 town, for two successive weeks prior to meeting of council at
20 which such ordinance is proposed for passage, and said notice
21 shall name the time of such meeting.

Sec. 9. The council of said town shall have the power to lay
2 off, vacate, close, open, alter, grade and keep in good repair and

3 free from obstructions the roads, streets, alleys, pavements,
4 sidewalks, crosswalks, drains, sewers and gutters therein for
5 the use of citizens, or the public; to improve and light the
6 streets, alleys, buildings, and grounds of said town; to regulate
7 the width of pavements and sidewalks on the streets and alleys,
8 and to order the pavement, sidewalk, foot ways, drains and gut-
9 ters to be kept in order, free and clean by the owners or occu-
10 pants of the property (real) next adjacent thereto; to estab-
11 lish and regulate markets, prescribe the time of holding the
12 same; provide suitable and convenient buildings therefor, and
13 prevent the forestalling and regranteeing of such markets; to
14 prevent injury or annoyance to the public or individuals from
15 anything dangerous, offensive, or unwholesome; to prohibit or
16 regulate slaughter-houses, tan houses, or soap factories within
17 the town limits; or the exercise of any unhealthy or offensive
18 business, trade, or employment; to abate all nuisances within
19 the town limits, or to require or compel the abatement or re-
20 moval thereof, by or at the expense of the person causing the
21 same, or by or at the expense of the owner of the ground on
22 which they are placed or found; to be caused to be filled up,
23 raised, or drained, by or at the expense of the owner any town

24 lot or tract of land covered or subject to be covered by stag-
25 nant water; to prevent horses, hogs, cattle, sheep, or other
26 animals and fowls of all kinds from going or being at large
27 in said town; and as one means of prevention, to provide for
28 empounding and confining such animals and fowls, and for
29 failure to reclaim, for the sale thereof; to protect places of di-
30 vine worship, and to preserve order in and about the premises
31 where and when such worship is held; to regulate the keeping
32 of gun powder and other inflammable and dangerous sub-
33 stances; to provide for the regular building of houses or other
34 structures, and for the making and maintaining of division
35 fences by the owners of adjoining premises, and for the proper
36 drainage of town lots or other parcels of land, by or at the
37 expense of the owner thereof; to provide against danger or
38 damage by fire; to punish for assault and battery; to prevent
39 loitering in or visiting houses of ill-fame, or loitering in sa-
40 loons or on the streets, to prevent lewd or lascivious conduct,
41 the sale or exhibition of indecent pictures, or other repre-
42 sentations; to prevent and punish for gambling, the desecra-
43 tion of the Sabbath Day, profane swearing; to prevent the il-
44 legal sale of intoxicating liquors, drinks, mixtures and prepa-

45 rations, and to provide the penalties for such cases; to protect
46 the persons of those residing within the town; to appoint when
47 necessary or advisable a police force, permanent or temporary
48 to assist the sergeant in the discharge of his duties; to build
49 or purchase, or lease and use a suitable place of imprisonment
50 within or near the said town, for the safe-keeping or punish-
51 ment of persons charged with or convicted of the violation of
52 ordinances; to erect or authorize, or prohibit the erection of
53 electric, gas, or water works within the town limits; to pre-
54 vent injury to such works or the pollution of any water or gas
55 used, or intended to be used by the public or by individuals; to
56 provide for and regulate the weighing or measuring of hay, coal,
57 and lumber, and other articles sold, or kept for sale within the
58 said town; to establish, construct, alter, remove and repair land-
59 ings, wharves, and docks, and to establish and collect rates and
60 charges for the use thereof; to regulate the running and speed of
61 cars, automobiles, trucks, and other vehicles within the said town;
62 to create by ordinances such committees or boards and delegate such
63 authority thereto as may be deemed necessary or advisable; to
64 provide for the annual assesment of the taxable property there-
65 in and for a revenue for the town for municipal purposes, and

66 to appropriate such revenue to its expense; and generally to
67 take such measures as may be advisable or necessary to protect
68 the property, both public and private within the town; to pre-
69 serve and maintain the peace, quiet and good order therein,
70 and preserve the health, safety and comfort and well being
71 of the inhabitants thereof.

Sec. 10. To carry into effect these enumerated powers and
2 all others by this act, or by general laws conferred upon
3 the said town, or its council, or any of its officers, the said
4 council shall have and possess full authority to make, pass,
5 and adopt all needful ordinances, by-laws, and resolutions, not
6 repugnant to the constitution of the United States, or of this
7 state, and to enforce any and all ordinances, by-laws, orders, or
8 resolutions by prescribing for a violation thereof fines and pen-
9 alties and imprisonments, either in the county jail of Hancock
10 county, or in the town prison, if there be one. Such fines and
11 terms of imprisonment shall not exceed the penalties im-
12 posed by the state for like offenses. Such fines and penalties
13 shall be imposed and recovered, and such imprisonment in-
14 flicted and enforced, by and under the judgment of the mayor
15 of said town, or in case of his absence or inability to act, then

16 the recorder may act in his place, or one of the justices within
17 the district of Clay.

Sec. 39. This act shall be submitted to the said voters at
2 the regular town election on March eleventh, one thousand nine
3 hundred thirty-five, or at a special election to be held in the
4 said town of New Cumberland on the second Tuesday of the
5 month next succeeding the calendar month in which this act
6 is enacted by the Legislature of West Virginia. Notice of such
7 special election shall be given by publication two weeks prior
8 to the date of the election.

9 The ballots to be used at such election shall be in the following
10 form :

11 PROPOSED CHANGES OF TOWN CHARTER OF

12 NEW CUMBERLAND

13 ☐ For Ratification

14 ☐ Against Ratification

Sec. 40. It shall be the duty of the mayor, recorder, and
2 council, in office at the time of the time of submission of the
3 changes in the charter to the voters, to perform all the duties

4 in relation to holding such election as required by the general
5 laws in holding municipal elections.

Sec. 41. If this act be adopted by the majority of the votes
2 cast at said election then the mayor, recorder, and councilmen
3 in office at the time of the adoption shall hold an election as
4 made and provided in section four of this act, for the purposes
5 of electing a mayor, recorder, and six councilmen, and the des-
6 ignation by lot the councilmen selected for the two year and
7 four year terms as provided in section five, as to the two year
8 and four year terms of councilmen.

Sec. 42. During the interim between the time when this act
2 shall take effect and its adoption by the votes cast at a special
3 election for ratification or rejection, the present officers of the
4 town shall have and exercise the same authority as made and
5 provided in the old charter. On and after the second Tues-
6 day in July, one thousand nine hundred thirty-five, all officers
7 elected on the second Tuesday in June, one thousand nine hun-
8 dred thirty-five, shall take office, after qualifying, and all offi-
9 cers elected March eleven, one thousand nine hundred thirty-
10 five, shall terminate, unless reelected under the provisions of
11 this act.

Sec. 43. The town council may by ordinance or ordinances
2 adopt any sections now in the state municipal code, or that
3 hereafter may be adopted as a part of the said state municipal
4 code.

Sec. 44. All ordinances, by-laws, resolutions, and rules of the
2 town of New Cumberland in force at the time of the passage
3 of this act and the adoption thereof by the votes so cast in its
4 ratification, which are not inconsistent therewith, shall be and
5 remain in full force and effect, until amended or repealed by
6 the council of said town.

Sec. 45. All acts and parts of acts in conflict and inconsis-
2 ent with this act are hereby repealed. If any clause, para-
3 graph, or section of this act should be declared to be unconsti-
4 tutional, all clauses, paragraphs, and sections thereof shall not
5 be affected thereby.

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 pre-
scribed by the constitution of the state, has
become a law without his approval.

This the 15th day of March,

1935.


SECRETARY OF STATE

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

Clinton F. Howard
Chairman Senate Committee

Arnold M. Pickens
Chairman House Committee

Originated in the

House of Delegates

Takes effect

from

passage.

Charles E. Hall
Clerk of the Senate

Joe Hall
Clerk of the House of Delegates

Chas. E. Hardy
President of the Senate

John S. Patter
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