

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

SENATE BILL No. 204

(By Mr. Spiller)



PASSED March 5 1935

In Effect from Passage

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Senate Bill No. 204

(BY MR. SPILLERS)

[Passed March 5, 1935; in effect from passage.]

AN ACT to provide a new charter for the city of Wheeling; to provide for a special election on the question of ratification or rejection thereof, to amend and reenact, and consolidate into one act, chapter twenty-one, acts of the Legislature of West Virginia, one thousand nine hundred fifteen (municipal charters), chapter one hundred seventeen, acts of one thousand nine hundred seventeen, chapter eleven, acts of one thousand nine hundred nineteen (municipal charters), chapter fourteen, acts of one thousand nine hundred nineteen (municipal charters), chapter thirty-one, acts of one thou-

sand nine hundred twenty-one (municipal charters), chapter seventy-three, acts of one thousand nine hundred twenty-three, chapter seven, acts of one thousand nine hundred twenty-five (municipal charters), chapter five, acts of one thousand nine hundred twenty-seven (municipal charters), chapter six, acts of one thousand nine hundred twenty-nine (municipal charters), chapter eighty-three, acts of one thousand nine hundred thirty-one, regular session, chapter twenty-three, acts of one thousand nine hundred thirty-two, extraordinary session, chapter one hundred thirty-five, acts of one thousand nine hundred thirty-three, regular session, chapter one hundred twenty-one, acts of one thousand nine hundred thirty-three, first extraordinary session, and chapter one hundred sixty-nine, acts of one thousand nine hundred thirty-three, second extraordinary session, and to repeal all acts and parts of acts inconsistent herewith.

Be it enacted by the Legislature of West Virginia:

PART I

Subject to ratification by the electorate of the city of Wheeling, at a special election to be held on April eighteen, one thousand nine hundred thirty-five, chapter twenty-one, acts of one

thousand nine hundred fifteen (municipal charters), chapter one hundred seventeen, acts of one thousand nine hundred seventeen, chapter eleven, acts of one thousand nine hundred nineteen (municipal charters), chapter fourteen, acts of one thousand nine hundred nineteen (municipal charters), chapter thirty-one, acts of one thousand nine hundred twenty-one (municipal charters), chapter seventy-three, acts of one thousand nine hundred twenty-three, chapter seven, acts of one thousand nine hundred twenty-five, (municipal charters), chapter five, acts of one thousand nine hundred twenty-seven, (municipal charters), chapter six, acts of one thousand nine hundred twenty-nine (municipal charters), chapter eighty-three, acts of one thousand nine hundred thirty-one, chapter twenty-three, acts of one thousand nine hundred thirty-two, an act of March ten, one thousand nine hundred thirty-three (Senate Bill number one hundred twelve, regular session, one thousand nine hundred thirty-three), chapter one hundred twenty-one acts of the first extraordinary session one thousand nine hundred thirty-three, and chapter one hundred sixty-nine, acts of the second extraordinary session one thousand nine hundred thirty-three, are hereby amended and re-enacted, and consolidated into the act so as to read as follows:

Section 1. The inhabitants of the portion of the county of
2 Ohio, in the state of West Virginia, within the limits of the
3 city of Wheeling as they now are, or as they may hereafter
4 be, shall be and continue a body politic and corporate, by the
5 name and style of "The City of Wheeling," and as such, and
6 by that name, shall have perpetual succession, and may con-
7 tract and be contracted with, sue and be sued, plead or be im-
8 pleaded, answer and be answered unto, and may purchase, ac-
9 quire by condemnation proceedings for public use, take, re-
10 ceive, hold and use goods and chattels, lands and tenements
11 and choses in action, or any interest, right or estate therein,
12 either for the proper use of said city, or in trust for the bene-
13 fit of any person or association therein; and the same may
14 grant, sell, convey, transfer and assign, let, pledge, mortgage,
15 charge and encumber, in any case and in any manner in which
16 it would be lawful for private individuals so to do, except
17 where its powers may be limited by law; and may have and
18 use a common seal, and alter and renew the same at pleasure;
19 and generally shall have all the rights, franchises, capacities
20 and powers appertaining to municipal corporations in this
21 state.

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

Sec. 2. The city of Wheeling shall have all powers of local
2 self-government and home rule that are now, or hereafter may
3 be, granted to municipalities under the constitution and laws
4 of the state, as well as all other powers possible for a muni-
5 cipality to have, whether such power or powers be expressly
6 enumerated in this charter or not, and without any further
7 action on the part of the Legislature. All such powers shall
8 be exercised in the manner prescribed in this charter, or if
9 not prescribed herein, in such manner as shall be provided
10 by ordinance of council.

Sec. 3. All legislative powers of the city shall be vested,
2 subject to the terms of this charter and of the constitution of
3 the state, in the council. The council shall have authority to
4 pass all ordinances necessary and proper to carry into full

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5 force and effect any power, capacity, authority, or jurisdiction
6 which is or shall be granted to, or fixed in the said city, or in
7 the council or any officer of said city; and to provide for the
8 enforcement of any or all of their ordinances by reasonable
9 fines and penalties, or by imprisoning offenders against such
10 ordinances, and by compelling them to labor, without compen-
11 sation, at any of the public works or improvements under-
12 taken by said city, or by any or all of said modes: *Provided,*
13 *however,* That no person shall be imprisoned or compelled to
14 labor as aforesaid more than one year or fined more than one
15 hundred dollars for any one offense.

Sec. 4. ●n the fourth Thursday in May in the year nine-
2 teen hundred and thirty-nine, and every four years thereafter,
3 a council of nine members shall be elected from the city at
4 large for a term of four years, commencing on the first day of
5 July next after their election, and they shall, unless sooner
6 removed as provided in this charter, serve until their succes-
7 sors are elected and qualified. No one shall be eligible to a
8 seat in council who shall not be, when nominated, a qualified
9 voter in the city of Wheeling. No person shall be eligible
10 to a seat in council who has been convicted of bribery, perjury,

11 felony, or other infamous crime. Such other qualifications as
12 are provided in section twenty-two, article four, chapter eight,
13 of the code of West Virginia, one thousand nine hundred thirty-
14 one shall not be applicable, because section eight of this char-
15 ter makes such qualifications unnecessary. When the office of
16 councilman becomes vacant, the vacancy shall be filled by elec-
17 tion by the council for the unexpired term, or until the next
18 city wide election, whichever shall come first. Each member
19 of council shall receive as compensation the sum of one thousand
20 two hundred dollars per annum, payable monthly, and no mem-
21 ber of council shall receive any additional emoluments, allow-
22 ances or bonuses on any account.

Sec. 5. Every councilman, before he enters upon the duties
2 of his office, shall make before someone authorized by law to
3 administer oaths, and file with the city clerk, an oath or affirma-
4 tion to support and defend the constitution of the United
5 States and the state of West Virginia and to perform the duties
6 of his office faithfully, honestly and to the best of his skill and
7 judgment.

Sec. 6. A majority of the members elected to the council
2 shall be a quorum to do business, but a less number may ad-

3 jour from time to time. All legislative action shall be by
4 ordinance except where otherwise required by the constitution
5 or the laws of the state. The council shall keep a journal of
6 its proceedings which shall be a public record. At the desire
7 of any member the yeas and nays shall be entered upon the
8 journal, and on the passage of every ordinance, the vote shall
9 be taken by yeas and nays and entered on the journal and
10 no ordinance shall be passed without the concurrence of a
11 majority of the members elected to council. At least one reg-
12 ular meeting shall be held every week as may be provided by
13 ordinance. Special meetings shall be held on the request of
14 any two members upon twelve hours' notice to each member and
15 advertisement once in a newspaper of general circulation in
16 the city. The proceedings of the council shall be public.

Sec. 7. Every ordinance shall be fully and distinctly read
2 on two different meetings unless three-fourths of the members
3 elected to council dispense with this rule. No ordinance shall
4 contain more than one subject, which shall be clearly expressed
5 in its title, and no ordinance shall be revived or amended
6 unless the new ordinance contains the entire ordinance re-
7 vived, or the section or sections amended, and the section or

8 sections so amended shall be repealed. Council may adopt
9 codification ordinances, codifying, revising and rearranging
10 the ordinances of the city or any portion of such ordinances.
11 Every ordinance and resolution of council shall be recorded
12 in the office of the city clerk, and shall be a public record. The
13 clerk shall prepare and keep a full and proper index of all
14 ordinances, as well as separate indices of other proceedings of
15 council.

Sec. 8. Any member of council having any interest, direct
2 or indirect, other than as a citizen of Wheeling, in any matter
3 to be acted upon in any way by council, shall have no vote on
4 such matter, nor shall he be privileged to take part in the
5 discussion thereof except by unanimous consent, and, upon
6 the request of any other member of council he shall retire
7 from the session until such matter has been disposed of.

Sec. 9. Every ordinance, resolution or action changing the
2 precinct boundaries or otherwise redistricting the city, or
3 annexing any municipality or territory, or appropriating
4 money in excess of \$100, or ordering any street improvements
5 or sewer, or granting any franchise, or any right to occupy or
6 use the streets, highways, bridges, or public places in the city,

7 or any part thereof, for any purpose, shall be complete in the
8 form in which it is finally passed, and remain on file with the
9 city clerk for public inspection at least one week before the
10 final passage or adoption thereof. No franchise, or right to
11 occupy or to use the streets, highways, bridges, or public
12 places in the city, or any part thereof, shall be granted, re-
13 newed, altered, amended, repealed or extended except by
14 ordinance: *Provided, however,* That nothing contained herein
15 shall prohibit council from empowering the city licensing
16 officer from granting permits to churches, community associa-
17 tions and the like, for the use of portions of city streets for
18 street fairs and fetes of similar character.

Sec. 10. No ordinance, resolution or action of the council
2 changing the precinct boundaries or otherwise redistricting
3 the city, or annexing any municipality or territory, or grant-
4 ing to any corporation, firm, person, or association, or com-
5 bination of persons any privilege, right, license, easement, or
6 franchise, to establish, maintain or conduct in the city any
7 public utility, except when otherwise required by the general
8 laws of this state, shall go into effect before thirty days from
9 the time of its final passage, and not then unless within two

10 days after passage, Sundays and holidays excepted, the same
11 shall have been published in two newspapers, published and
12 generally circulated in said city. And if during said thirty
13 days, a petition signed by one thousand electors of the city
14 protesting against the passage of such ordinance, resolution or
15 action, be presented to council, the said ordinance, resolution
16 or action shall thereupon, be suspended from going into oper-
17 ation, and it shall be the duty of council to reconsider the
18 same, and if the same is not entirely repealed, the council
19 shall submit the ordinance, resolution or action as is provided
20 in relation to referendum of ordinances, to the vote of the
21 electors of the city either at the next general municipal elec-
22 tion or at a special municipal election to be called for that pur-
23 pose, and such ordinance, resolution or action shall not go into
24 effect or become operative unless a majority of the qualified
25 electors voting on the same, shall vote in favor thereof. Such
26 petition shall conform to the provisions of section ninety-eight
27 of this charter and shall be submitted, examined and certified
28 in the manner provided in said section ninety-eight.

Sec. 11. Any proposed ordinance may be submitted to the
2 council by petition, signed by one thousand electors of the

3 city. Such petition shall be conformed as provided by section
4 ninety-eight of this charter, and shall be submitted, examined
5 and certified in the manner provided in said section ninety-
6 eight. If the petition be certified to council as provided in
7 section ninety-eight of this charter, and contains a request
8 that the said ordinance be submitted to a vote of the people,
9 if not passed by the council, the council shall either (a) pass
10 such ordinance without alteration within twenty days after
11 attachment of the clerk's certificate of sufficiency to the said
12 petition, or (b) forthwith after the clerk shall attach to the
13 said petition his certificate of sufficiency, the council shall call
14 a special election, unless a general municipal election is to be
15 held within ninety days thereafter, and at such special or
16 general municipal election, such ordinance shall be submitted
17 without alteration to the vote of the electors of said city. If
18 a majority of the votes cast be in favor thereof, such ordi-
19 nance shall thereupon become a valid and binding ordinance
20 of the city, and any ordinance proposed by petition, or which
21 has been adopted by a vote of the people, shall not be re-
22 pealed or amended except by a majority vote of the people.
23 Any number of proposed ordinances may be voted upon at

24 the same election in accordance with the provisions of this
25 section, but there shall not be more than one special election
26 in any period of six months for such purpose. Whenever any
27 ordinance or proposition is required by this charter to be
28 submitted to the voters of the city at any election, the city
29 clerk shall cause such ordinance or proposition to be published
30 once in two daily newspapers, published in said city, such
31 publication to be not more than twenty days or less than
32 fifteen days before such election.

Sec. 12. Council shall have authority to grant franchises,
2 subject to the provisions of this charter.

Sec. 13. Franchises, rights or privileges may be granted
2 by the council, allowing to persons, firms or corporations
3 for a limited time, such occupancy of portions of the streets,
4 alleys or public grounds of the city, as may be deemed by
5 it necessary for works of public utility and service, such
6 as steam railroad tracks, street railway tracks, poles and
7 trolley wires, telephone and telegraph poles, electric light and
8 other electric poles, wires and conduits, and subways, and
9 gas, steam and heating pipe lines. But no such franchise,
10 right or privilege shall hereafter be granted by the council,

11 except under the following restrictions and conditions:

12 *First*, No ordinance granting any franchise, right or privi-
13 lege, for the use of streets, alleys or public grounds of the
14 city, for any of the purposes of public utility above named,
15 or for any other purpose of like nature shall be passed unless
16 it shall have been first offered at a regular meeting of the
17 council, and notice of the object, nature and full extent of
18 such franchise, right or privilege shall have been published
19 daily for at least thirty days (Sundays excepted) by the
20 applicant, in some daily newspaper published in the city of
21 Wheeling before being acted upon. The vote thereon shall
22 be taken by yeas and nays and the same entered upon the
23 journal of the proceedings of the meetings of the council;

24 *Second*, If no time be expressly provided in the grant, the
25 franchise, right or privilege shall be granted for one year
26 only, and in no case shall the same extend for a period ex-
27 ceeding thirty years. Nor shall any grant of a franchise,
28 right or privilege be made without the reservation on the
29 part of the city of the right to alter, amend or repeal the
30 same at any time during its term, should the grantee fail
31 to do those things which the said grant of franchise, right

32 or privilege stipulates that the grantee shall do, or, should
33 the grantee do such things as by the said grant of franchise,
34 right or privilege the grantee is prohibited from doing: *Pro-*
35 *vided*, That, after notice by the city to the grantee, specifying
36 wherein the grantee has failed to comply with the terms of
37 the grant, the grantee shall not within three months from
38 the service of such notice comply with such terms;

39 *Third*, No grant of any franchise shall be made without,
40 at the time of making it, providing that the grantee shall
41 indemnify the city against all damages caused by the con-
42 struction, operation or maintenance of any works, under the
43 grant. All reasonable additional provisions and conditions
44 may be made for the protection of the public from unneces-
45 sary damages or inconveniences by reason of such works and
46 the maintenance or operation thereof;

47 *Fourth*, No grant of any franchise, right, or privilege shall
48 be made without, at the time of making it, providing that the
49 city shall receive in consideration therefor, a compensation,
50 to be paid annually during the whole period: *Provided, how-*
51 *ever*, That the principle of competition shall be employed by
52 the council where the same is offered, so that the franchise,

53 right or privilege with prescribed terms and conditions as
54 to its extent and as to the rates to be charged the public by
55 it for its services will be given to the person, firm or corpor-
56 ation bidding or agreeing to pay therefor to the city the
57 highest compensation, or so that the franchise, right or privi-
58 lege with prescribed conditions as to its extent and the
59 compensation that must be paid therefor, will be given to
60 the person, firm or corporation that will agree to render
61 service to the public at the lowest rates. But where revenue
62 or tolls to be charged the public and revenue to the city are
63 joint points of deliberation, the council may take both points
64 into consideration with probable good or ill service of com-
65 peting applicants, and grant any such franchise to the appli-
66 cant, the grant to whom will result in the greatest benefit to
67 the largest number of citizens of the city, in the council's
68 judgment;

69 *Fifth*, The council shall, in suitable terms, make it an ex-
70 press condition of the grant of any such franchise, right or
71 privilege, where it is for a work that is useful chiefly to
72 the local public, that at the expiration of such franchise,
73 grant, right or privilege, the grantee shall, if required by

74 the council, sell to the city the physical plant in the city,
75 at what it is then worth, independent of any value based
76 upon the earning power thereof, and may also provide a
77 means of arbitration or otherwise for determining what such
78 value may be;

79 *Sixth*, In case a petition for stay of ordinance is presented,
80 in accordance with section ten, and a special election is called
81 for the purpose of accepting or rejecting the application for
82 a franchise, right or privilege, the applicant for same shall
83 deposit with the city, the amount of expenses of said elec-
84 tion, which shall be applied to the payment of such expenses,
85 if the franchise is granted, otherwise to be returned to the
86 applicant;

87 *Seventh*, No franchise, right or privilege referred to in
88 this section can be granted unless on the affirmative vote of
89 at least two-thirds of the membership of council;

90 *Eighth*, The provisions of this section, however, shall
91 not apply to grants made under section ninety-five of this
92 charter. No renewal of any franchise, right or privilege
93 for any such work or public utility or service as is mentioned
94 herein, granted for a period of more than three years, shall

95 in any manner be granted until within three years of the
96 time of its expiration. The non-user of a franchise, right
97 or privilege in or upon any street or alley, or public ground,
98 for a period continuously of one year, shall vacate and
99 annul the same as to the portion so allowed to go into
100 disuse.

Sec. 14. No public improvement, the cost or the part of
2 the cost of which is to be specially assessed on the owners of
3 property, shall be made without the concurrence of two-thirds
4 of the members elected to the council, unless the owners of a
5 majority of the foot frontage to be assessed, petition in writing
6 therefor, in which case the council shall be authorized (a ma-
7 jority of the members elected thereto concurring) to ordain such
8 improvement.

Sec. 15. If the council proposes to order and cause the
2 grading, paving, curbing or other improving of any street
3 or alley or the construction of any sewer or other drainage,
4 to be paid in whole or in part by any foreign corporation as
5 owner of any property abutting or bounding on such street,
6 alley, sewer or other improvement, or whose property abutting
7 or abounding thereon may be assessed with such improvement,

8 in whole or in part, such foreign corporation shall be given
9 notice of such proposal by service upon or acceptance by the
10 state auditor, at least thirty days before the enactment or
11 adoption of any ordinance or resolution relating to such work
12 or improvement or declaring the necessity or purpose thereof;
13 which said notice shall set forth substantially the nature of
14 the work to be proposed, the extent thereof; its location and
15 the manner of paying for the same; and no ordinance or reso-
16 lution shall be binding upon any such foreign corporation unless
17 such notice shall have been so given. Non-residents of the
18 state, other than foreign corporations, who shall be affected
19 by such ordinances or resolutions, shall be notified thereof by
20 the city clerk by registered mail, if the address of such non-
21 resident be known to him, and if such notice be practicable.

Sec. 16. Council shall appoint such commissioners of
2 municipal loans and bond issues as may be required by laws
3 of the state.

Sec. 17. Council shall provide by ordinance for the issuing
2 of all city licenses, the license fees, and the various kinds of
3 licenses, and the terms, requirements and conditions upon
4 which licenses shall be issued.

Sec. 18. The existing departments, commissions, boards and
2 other branches of the city government are continued, unless
3 changed by the provisions of this charter or by ordinance of
4 the council. Within six months after this charter becomes
5 effective, the council shall by ordinance adopt an administrative
6 code providing for a complete plan of administrative organiza-
7 tion of the city government. Thereafter, except as established
8 by the provisions of this charter, the council may change,
9 abolish, combine and rearrange the departments, commissions,
10 boards and other branches of the city government provided for
11 in said administrative code, but an ordinance creating, com-
12 bining, abolishing or decreasing the powers of any department,
13 commission, board or other branch, shall require a vote of
14 three-fourths of the members elected to the council, except the
15 ordinance adopting an administrative code.

Sec. 19. At its first meeting in July following the regular
2 municipal election, the council shall choose one of its members
3 as presiding officer, who shall have the title of mayor. The
4 mayor shall preside at the meetings of the council and perform
5 such other duties as may be prescribed by this charter or as
6 may be imposed by the council, consistent with his office. He

7 shall have no power of veto. He shall be recognized as the
8 official head of the city for all ceremonial purposes, by the
9 courts for the purpose of serving civil process, and by the
10 governor for military purposes. In time of public danger or
11 emergency, he may, with the consent of the council, take com-
12 mand of the police, maintain order and enforce the law. The
13 council may by ordinance provide for a salary to be paid the
14 mayor in addition to his salary as councilman.

Sec. 20. The council shall also at its first meeting in July
2 following the regular municipal election, choose one of its mem-
3 bers as vice-mayor. The vice-mayor shall perform the duties
4 of the mayor during his absence or disability. In the event
5 of the death, removal or resignation of the mayor, the council
6 shall choose one of its members as mayor for the unexpired
7 term. No additional compensation shall attach to the office of
8 vice-mayor.

Sec. 21. The appointments to be made by the mayor shall
2 be made with the advice and consent of the council, and such
3 appointees shall serve at the pleasure of council.

Sec. 22. There is hereby created a commission to be known
2 as the traffic commission, whose duty it shall be to pass rules

3 and regulations concerning the parking of automobiles and
4 other vehicles, and regulating the same on the public thorough-
5 fares in the city of Wheeling. Such rules and regulations,
6 when passed and promulgated by said commission, shall have
7 the same force and effect as ordinances passed by the council
8 of the city of Wheeling until altered, repealed, revoked or
9 amended by said council. Said commission shall be composed
10 of five citizens of Wheeling, none of whom shall be state,
11 county or city officials, and said commissioners shall be ap-
12 pointed by the mayor and serve at the pleasure of council.

Sec. 23. For the purpose of promoting the health, safety,
2 morals or the general welfare of the community, the council
3 may pass and cause to be enforced such ordinances as it shall
4 deem necessary or proper to regulate and restrict the height,
5 number of stories, size of buildings and other structures, per-
6 centage of lot that may be occupied, the size of yards, courts, and
7 other open spaces, the density of population and the location and
8 use of buildings, structures and land for trade, industry, resi-
9 dence or other purposes. For any or all of said purposes,
10 council may divide the city and the districts into such number,
11 shape, and area as may be deemed best suited to carry out the

12 purposes of this act, and within such districts it may regulate
13 and restrict the erection, construction, reconstruction, alter-
14 ation, repair or use of buildings, structures, or land; all such
15 regulations shall be uniform for each class or kind of build-
16 ings throughout each district but the regulation in one dis-
17 trict may differ from those in other districts. Such regulations
18 shall be made in accordance with a comprehensive plan and
19 design to lessen the congestion; to secure safety from fire, panic,
20 or other danger; to promote health and general welfare; to
21 provide adequate light and air; to prevent the crowding of
22 land; to avoid undue concentration of population; to facili-
23 tate the adequate provision for transportation, water, sewer-
24 age, schools, parks, and other requirements. Such regulations
25 shall be made with reasonable consideration being given to
26 the character of the district and its peculiar suitability for
27 particular uses, and with the view to conserve the value of
28 buildings and encourage the most appropriate use of land
29 throughout the city of Wheeling. Council shall provide for
30 the manner in which such regulations and restrictions and the
31 boundaries of such districts shall be determined, established
32 and enforced, and from time to time may amend, supplement,

33 or change: *Provided, however,* no such regulations, restrictions
34 or boundaries shall become effective until after public hearing
35 in relation thereto, at which parties interested and citizens
36 shall have an opportunity to be heard. At least fifteen days'
37 notice of the time such regulations are to be presented shall be
38 published in at least two newspapers published and circulated in
39 the city of Wheeling.

40 Council may appoint a commission to be known as the "zon-
41 ing commission" consisting of five members, who shall be citi-
42 zens of the city of Wheeling, to recommend the determination
43 of the various districts and appropriate regulations to be en-
44 forced therein.

45 Council may provide by ordinance for the enforcement of this
46 section or of any ordinance or regulations made thereunder.
47 The violation of this section or of any such ordinances or regula-
48 tions adopted or made is hereby declared to be a misdemeanor
49 and council may provide for the punishment and fine or im-
50 prisonment or both of any violation thereof.

51 In case any building or structure is erected or constructed,
52 altered, repaired, converted, or maintained, or any building,
53 structure or land is used in violation of this section or of any

54 ordinance or any other regulation made under authority con-
55 ferred hereby, said council in addition to other remedies may
56 in the name of the city, bring an appropriate action or pro-
57 ceeding to prevent such unlawful erection, construction, alter-
58 ations, repair, conversion, maintenance or use, and to restrain,
59 correct or abate such violations, to prevent the occupancy of
60 said building, structure, or land or to prevent any illegal act,
61 conduct, business, or use in or about such premises.

Sec. 24. The council may cause to be taken or damaged for
2 the use of the city, for streets, alleys, markets, bridges, public
3 squares, parks, play-grounds, and other municipal purposes,
4 including occupation by sewer, water pipes, gas pipes, heating
5 pipes, compressed air pipes and electric or other subways, any
6 private property within the city, (but where such use is to
7 secure or improve the water supply, or for park, play-grounds
8 sanitary or cemetery purposes, outside the limits of the city)
9 but no such property shall be taken or damaged without just
10 compensation. The compensation, if it cannot be determined
11 by agreement with the owner of the property so taken or dam-
12 aged, shall be ascertained in such manner as is or may be pre-
13 scribed by general law for the condemnation of land for pub-

14 lie purposes. In addition to all other levies provided by law,
15 the council of the city of Wheeling shall have the right to
16 levy annually not to exceed five cents on each one hundred
17 dollars of the assessed valuation of the property within the
18 limits of the city according to the last assessment thereof for
19 state and county purposes, for the purpose of obtaining and
20 maintaining parks, play-grounds and recreation centers.

21 For the management of that plat of ground heretofore known
22 as Wheeling Park, and donated to the city of Wheeling on the
23 eighteenth day of December, one thousand nine hundred twen-
24 ty-four, for use as a municipal park, and for the management
25 of the other parks of Wheeling there shall be, and there is
26 hereby created a commission to be known as "Wheeling Park
27 Commission," and the same is hereby made a body corporate,
28 and by that name the commission may sue and be sued; plead
29 and be impleaded; and contract and be contracted with. The
30 said commission shall consist of five citizens of the city of
31 Wheeling, who shall be appointed in the manner hereinafter set
32 out, and who shall serve without compensation and shall hold no
33 remunerative political office, either state, county or municipal;
34 and no member of the commission shall be eligible to appoint-

35 ment to any remunerative office or position under the juris-
36 diction of the commission. The commissioners in office at the
37 time this charter becomes effective shall continue in office for
38 the duration of the terms for which they were appointed, and
39 thereafter their successors shall be appointed either by the
40 board of directors of the Wheeling chamber of commerce or
41 by the city manager, as the case may be, which appointed the
42 commissioner whose place is being filled. The respective
43 successors shall be appointed for the term of five years each,
44 excepting that any person appointed to fill a vacancy occurring,
45 before the expiration of a term, shall serve only for the un-
46 expired term; any commissioner shall be eligible for reappoint-
47 ment: *Provided further*, That any vacancy created either
48 by the expiration of a term, or otherwise, shall be filled by the
49 appointing body, either the board of directors of the Wheel-
50 ing chamber of commerce, or the city manager, as the case
51 may be, which appointed the commissioner whose place on the
52 commission is being filled. Upon the appointment of said
53 commission the members thereof shall elect from among their
54 number a chairman and a secretary-treasurer who shall hold
55 office for one year and be eligible for re-election. **Annually**

56 thereafter the commission shall organize by the election of a
57 secretary-treasurer and such other officers from its own num-
58 ber as it may deem advisable. Members of the commission may
59 be removed from office in the same manner as provided for
60 the removal of county officers under section seven, of article
61 six, chapter six of the code of West Virginia, one thousand
62 nine hundred thirty-one. The commission shall have all
63 and sole power necessary, convenient and advisable for the
64 proper care, equipment and management of the said Wheeling
65 park and other parks heretofore and hereafter acquired by the
66 city of Wheeling, either by gift or purchase, and shall make
67 such rules and regulations as it shall deem expedient for the
68 care and management thereof.

69 In order to provide for the purchase of the equipment for
70 use in Wheeling park and Oglebay park (Waddington) and for
71 the maintenance and upkeep of said Wheeling park and Ogle-
72 bay park, the city council of Wheeling shall levy annually ten
73 cents, or lesser amount, if requested by the commission, on each
74 one hundred dollars of the assessed valuation of the property
75 within the limits of the city, according to the last assessment
76 thereof for state and county purposes. The proceeds of this

77 ten cent levy shall be for the exclusive use of said Wheeling
78 park, Oglebay park and any other parks heretofore or hereafter
79 acquired as aforesaid by the city of Wheeling, and shall be dis-
80 bursed only upon the order of the commission evidenced by
81 warrants drawn on the city treasurer, and signed by the chair-
82 man and the secretary-treasurer of the commission.

Sec. 25. The council shall appoint a city manager who shall
2 be the chief executive and administrative officer of the city,
3 and except as provided in section twenty-six of this charter,
4 he shall be appointed solely on the basis of his executive and
5 administrative qualifications and need not, when elected, be a
6 resident of the city or state, unless the Constitution of the
7 state shall provide otherwise. No member of the council shall
8 be chosen as city manager. The city manager shall be ap-
9 pointed for an indefinite term as hereinafter provided. He
10 shall be removable at any time at the pleasure of the council.
11 If removed at any time after he has served six months, he may
12 demand written charges and the right to be heard thereon at
13 a public meeting of the council prior to the date on which his
14 final removal shall take effect, but pending and during such
15 hearing the council may suspend him from office. The action

16 of the council in suspending or removing the city manager shall
17 be final, it being the intention of this charter to vest all author-
18 ity and fix all responsibility for such suspension or removal
19 in the council. The council may designate some other officer of
20 the city to perform the duties of the city manager during his
21 absence or disability. The city manager shall receive such
22 compensation as may be fixed by the council.

Sec. 26. Before entering upon the duties of city manager,
2 he shall make, before some one authorized by law to admin-
3 ister oaths, and file with the city clerk an oath or affirmation
4 to support and defend the constitution of the United States
5 and of this state and to perform the duties of his office faith-
6 fully, honestly and to the best of his skill and judgment. No
7 person shall be eligible to the office of city manager who has
8 been convicted of bribery, perjury, felony or other infamous
9 crime. Before entering unto the discharge of his duties, the
10 city manager shall give a good and sufficient bond, payable to
11 the city in such amount as may be prescribed by council but
12 not less than ten thousand dollars, conditioned upon the faith-
13 ful performance of his duties, and with a corporate surety
14 authorized to do business within the state; and such bond shall

15 be filed with the city clerk after being approved as to form
16 and surety by a judge of the circuit court of Ohio county.
17 The premium on such bond shall be payable by the city.

Sec. 27. It shall be the duty of the city manager to act as
2 chief conservator of the peace within the city; to supervise the
3 administration of the affairs of the city, except as otherwise
4 specifically provided in this charter; to see that the ordinances
5 of the city and the laws of the state are enforced; to make all
6 appointments and removals in the administrative and execu-
7 tive services except as otherwise provided in this charter; to
8 make such recommendations to the council concerning the
9 affairs of the city, as may to him seem desirable; to keep the
10 council advised of the financial condition and future needs of
11 the city; to prepare and submit to the council the annual bud-
12 get estimate; to prepare and submit to the council such reports
13 as may be required by that body, and to perform such other
14 duties as may be prescribed by this charter or required of him
15 by ordinance or resolution of the council. Except as other-
16 wise provided in this charter, all other executive and admin-
17 istrative powers conferred by the laws of the State upon any
18 municipal official shall be exercised by the city manager or

19 persons designated by him.

Sec. 28. The city manager shall negotiate and enter into all
2 contracts upon behalf of the city, except those of the park
3 commission, and as otherwise provided in this charter. Such
4 contracts to be negotiated and entered into by the city manager
5 shall be within the limits of the budget and within the limits
6 and purposes of the allocations of the budget, as determined
7 by the purposes and subject matters of the contracts. If any
8 such contract involves the expenditure of more than five hun-
9 dred dollars, or the performance thereof extends beyond the
10 budget year, or involves the expenditure of money not within
11 the budget, such contract must be ratified by council, in the
12 form of an ordinance, and the fact of ratification attested
13 thereon by the city clerk before execution by the city manager.
14 The city manager shall report in writing to council his nego-
15 tiations and the terms of the contracts requiring their ratifica-
16 tion, and the council may in such cases alter, amend, ratify
17 or reject any such contract. Any contract executed by the
18 city manager on behalf of the city in violation of the terms
19 of this section shall not be binding upon the city.

Sec. 29. In all cases required by ordinance or in which he

2 may deem it advisable, the city manager shall take of any
3 person appointed by him a bond, payable to the city of Wheel-
4 ing conditioned on the faithful performance of his duties, and
5 in such amount as may be required by council, or if there be
6 no requirement of council, in such amount as the city manager
7 shall deem requisite. Such bonds shall be filed with the city
8 clerk. No person shall be appointed in the executive or ad-
9 ministrative services of the city who has been convicted of
10 bribery, perjury, felony or other infamous crime. But resi-
11 dence within the city at the time of such appointment shall
12 not be a necessary qualification for appointment unless the
13 constitution of the state shall provide otherwise. If the city
14 manager or any other officer of the city shall be a member,
15 manager, officer or stockholder of any partnership, business,
16 firm or corporation, which by contract furnishes material and
17 supplies to the city or to any workmen or contractor for the
18 city, that shall not of itself constitute a disqualification for
19 office under this charter. Unless otherwise provided by this
20 charter or by ordinance, the city manager shall fix the com-
21 pensation for all persons in the executive and administrative
22 services of the city, within the limits and terms of the budget.

Sec. 30. The city manager and such other officers of the city
2 as may be designated by vote of the council, shall be entitled
3 to seats in the council. None of said officials shall have a vote
4 in the council, but the city manager shall have the right to
5 discuss any matter coming before the council, and the other
6 officers shall be entitled to discuss any matter before the council,
7 relating to their respective departments and offices.

Sec. 31. No person in the executive or administrative services
2 shall directly or indirectly give, solicit or receive, or in any
3 manner be concerned in giving, soliciting or receiving any as-
4 signment, subscription, or contribution for any political party
5 or for any candidate. No person in the executive or admini-
6 strative services of the city shall be an officer or member of
7 any political committee, nor shall such person take an active
8 part in any political campaign. Any violation of this section
9 shall operate to forfeit the office or position held by the person
10 violating the same and shall render any such person ineligible
11 to any municipal office or position for a period of one year.

Sec. 32. Neither the council nor any of its committees or
2 members shall interfere in any way with the appointment or
3 removal of any of the officers or employees in the executive

4 or administrative services. Except for the purpose of inquiry,
5 the council and its members shall deal with that part of the
6 executive and administrative services for which the city man-
7 ager is responsible, solely through the city manager.

Sec. 33. The city manager shall appoint a city solicitor. No
2 person shall be eligible to the office who is not an attorney at
3 law, duly admitted to practice in this state. He shall serve
4 the council, officers, commissioners, and boards of the city as
5 legal counsel and attorney, and shall represent the city in all
6 proceedings in court. He shall act as prosecuting attorney in
7 the municipal court. He shall perform all other duties which
8 the council may impose upon him consistent with his office.
9 The solicitor shall appoint his assistants and fix their salaries,
10 but the maximum number of assistants and the total amounts
11 of the assistants' salaries shall be fixed by council. The assist-
12 ants shall hold their offices at the pleasure of the solicitor.

Sec. 34. The city manager shall appoint a city treasurer,
2 who shall perform the duties as may be prescribed by ordinance
3 and consistent with the office. He shall have the custody of all
4 city funds, and shall disburse same only by proper authority.

Sec. 35. The mayor shall appoint a city clerk, to serve at

2 the pleasure of council. The city clerk shall keep the minutes
3 and other proceedings of council and shall perform such other
4 duties as may be imposed by this charter or by ordinance.

Sec. 36. The city health officer incumbent at the time this
2 charter becomes effective shall continue in office until the ex-
3 piration of the term for which he was appointed. Thereafter,
4 the city manager shall appoint the city health officer, and the
5 city manager may by contract with the Board of Commis-
6 sioners of Ohio county, provide that the same person may be
7 appointed to the office of city health officer and also be selected
8 by the board of commissioners as county health officer, during
9 the same period of time, and perform similar duties for the
10 city of Wheeling and county of Ohio. Such contract shall pro-
11 vide for the city and county to share all expenses including
12 compensation of such city-county health officer on a basis to be
13 stated in the contract. Such contract, on the part of the city,
14 must be ratified by council before it shall become effective.

Sec. 37. The city manager shall appoint, among other heads
2 of departments, the chief of police, and the chief of the fire
3 department.

Sec. 38. The mayor shall appoint a city auditor, who shall

2 be the chief fiscal officer of the city. He shall exercise super-
3 vision over all accounts, and accounts shall be kept showing
4 the financial transactions of all departments of the city upon
5 forms prescribed by him and approved by the city manager
6 and the council. He shall submit to the city manager and to
7 the council at its second meeting in each month a summary
8 statement of revenues and expenses for the preceeding month,
9 detailed as to appropriations and funds in such manner as to
10 show the exact financial condition of the city and of each de-
11 partment, office and branch thereof. He shall perform such
12 other duties as may be imposed upon him by ordinance of the
13 council. He shall prepare and submit to the city manager
14 such information as shall be required by the city manager
15 for the preparation of an annual budget. He shall appoint his
16 subordinates, if subordinates be provided by ordinance. The
17 city accountant incumbent at the time this charter becomes
18 effective shall continue in office as city auditor unless and until
19 a successor is appointed and qualifies.

Sec. 39. The city manager shall appoint a city licensing
2 officer, or if he sees fit, may require some other city officer to as-
3 sume the duties of city licensing officer. The city licensing officer

4 shall issue all city licenses and he shall be governed by the
5 provisions of the ordinances relating to licenses and the ap-
6 plicable laws of the state: *Provided, however,* That he may,
7 before issuing any license, require the affidavit of any appli-
8 cant, setting forth that such applicant is a proper party for
9 such license, and that all terms, requirements and conditions
10 of the licensing laws pertaining to the license applied for have
11 been met: *Provided further,* That he may, before issuing any
12 license, make an investigation to determine whether such terms,
13 requirements and conditions have in fact been met; and *Pro-*
14 *vided further,* That all applications for beer and/or liquor
15 licenses shall be thoroughly investigated by him before any such
16 license shall be issued. The city licensing officer and/or council
17 may revoke any license issued by the city licensing officer for
18 any violation of law pertaining to such license.

Sec. 40. The city manager shall appoint a judge of the
2 police court, from among the members of the Ohio county bar.

Sec. 41. The judge of the police court shall appoint a clerk
2 of the police court from among the members of the police force
3 of the city.

Sec. 42. The judge of the police court shall preside over

2 said court and try and determine all cases over which said
3 court has jurisdiction. In the event of his temporary absence
4 or disability, the city manager shall appoint a member of the
5 Ohio county bar to preside over said court, and perform the
6 duties of the judge thereof, during the absence or disability
7 of the regular judge, and the judge's salary shall be trans-
8 ferred to and paid such temporary judge for the time he serves
9 as such judge.

Sec. 43. The judge of the police court shall have jurisdiction
2 over all offenses against, or violation of, the ordinances of said
3 city, and full authority to punish in any manner lawfully
4 prescribed by such ordinances, the offenders against or violators
5 of the same: *Provided, however,* That no jury shall be allowed
6 in any trial and said court for the violation of any ordinance
7 of said city.

8 The said judge of the police court shall have the same
9 criminal and civil jurisdiction and powers within the county
10 of Ohio as is now provided by law for justices of the peace
11 elected in said county.

Sec. 44. The proceedings for the recovery of the fines or for
2 the enforcement of the penalty prescribed by any ordinance

3 shall conform to the regulations so far as they are applicable,
4 prescribed in the code of West Virginia for civil proceedings
5 before justices of the peace; but the judge or the clerk of said
6 court may, for good cause, shown by affidavit, by an endorse-
7 ment upon the summons, order the defendant or defendants
8 to be arrested and brought before the said court to be dealt
9 with according to law.

Sec. 45. In cases where evidence discloses such a violation
2 within the city, of a law of the state, that, in the opinion of
3 the judge of the police court, the person accused should be
4 committed to await the action of the grand jury upon an
5 accusation made, the judge of the police court shall have the
6 same jurisdiction and power as a justice of the peace in the
7 county of Ohio, in regard to the apprehension, commitment
8 and admission to bail of the person so accused; and, in the
9 exercise of such jurisdiction and powers, shall be governed
10 by the same regulations.

Sec. 46. The sessions of said court shall be at such time
2 and places as the council of said city shall by ordinance direct.

Sec. 47. The said court shall have full power and authority
2 to enforce its orders and judgments, by any process of law

3 which may be necessary and proper for the purpose, and all
4 processes, executions and orders of said court shall be signed
5 by the judge or clerk thereof. Such process and executions
6 shall be directed to the chief of police of said city, and be
7 executed by him or one of his deputies. In the execution of
8 any process or order of said court, the chief of police or deputy
9 shall have the same powers, be governed in his proceedings by
10 the same rules of law, and be subject to the same liabilities as
11 the sheriff of Ohio county, West Virginia, in the performance
12 of like services. There may be charged for the services of such
13 officer the same fees as the sheriff is entitled to charge for like
14 services, but all such fees, as well as all fines imposed by said
15 court, shall be collected by the chief of police, and accounted
16 for and paid by him to the treasurer of the city. The city
17 shall in no event be liable for any such fees.

Sec. 48. The clerk of said court shall have authority to
2 administer oaths within said city, and shall perform such
3 duties as may be required by the judge of said court, or be
4 prescribed by rule or order of the council. Such clerk may
5 charge the same fees for his services as are now allowed to be
6 charged by justices of the peace for like services, and such

7 fees shall be collected by him in like manner as fees of the clerk
8 of the circuit court are collected; but all such fees shall be
9 accounted for by him to the city and paid over to its treasurer.

Sec. 49. A docket and other books required for the records
2 and a seal shall be provided for the said court by the council,
3 and the seal may be altered or renewed as the said court may
4 direct. Full faith and credit shall be given to the records of
5 said court, and the certificates of its judge or clerk whether
6 the seal of said court be affixed thereto or not, in like manner
7 and with the same effect as if the same were records of the
8 circuit court or certificates of the judge of a circuit court
9 similarly authenticated.

Sec. 50. The said police court shall have power, upon ren-
2 dering judgment against a defendant charged with the viola-
3 tion of an ordinance of the city, to render judgment against
4 him also for the costs of prosecution. In every suit or prose-
5 cution for the violation of an ordinance the said court shall
6 cause the person or persons at whose instance it was instituted
7 to be designated upon the warrant or writ issued to arrest or
8 summon the person charged, and if the person or persons
9 charged shall not be convicted in such court, and such court

10 shall be of the opinion that no sufficient or probable cause
11 existed for the institution of the said suit or prosecution, then
12 judgment for the costs of the city, and of the defendant, or
13 of either of them, as the court shall deem just, shall be ren-
14 dered against the person or persons at whose instance such
15 suit or prosecution was instituted.

Sec. 51. From the judgment of the police court in any case
2 in which there is unpaid a fine of ten dollars or more, or im-
3 prisonment, or both, or in any case involving the validity of
4 an ordinance of the said city, an appeal shall lie as a matter
5 of right, to the criminal court of said Ohio county, either on
6 behalf of the defendant or the city, and in any case where a
7 fine is imposed, on demand of the defendant, such fine must
8 be fixed at least ten dollars, so that such appeal may be
9 taken; but no defendant shall be entitled to such appeal until
10 and unless he execute before the said police court, or its clerk,
11 bond in such penalty, not exceeding two hundred dollars, as
12 the said police court may prescribe, conditioned for the per-
13 formance of the judgment or order of the criminal court of
14 said county made or rendered upon such appeal. Every such
15 bond shall be with security approved by the said police court

16 or its clerk; but in any case in which an appeal is taken or
17 granted on behalf of the city, no bond or security shall be re-
18 quired. Every such appeal shall be proceeded within the
19 criminal court in the same manner as is provided by law for
20 the proceedings in such criminal court, in cases appealed from
21 justices of the peace. If on such appeal judgment be against
22 the appellant it shall also be against the sureties on his appeal
23 bond for costs, and for any fine or pecuniary penalty adjudged
24 against him. No such appeal shall be allowed after ten days
25 from the date of any final order or judgment desired to be
26 appealed from.

Sec. 52. The provisions of the general laws of West Vir-
2 ginia which require and provide civil service in and for muni-
3 cipal fire and police departments in this state, and which do
4 not exclude Wheeling from the operation thereof, shall apply
5 to the fire and police departments of Wheeling.

Sec. 53. The council shall prepare a civil service ordinance
2 which shall be applicable to the fire and police departments
3 and to all employees in the administrative services of the city,
4 and which shall provide for one civil service commission for the
5 city. Such ordinance shall be adopted within one year after

6 this charter becomes effective; and after its adoption it shall
7 not be altered or amended in any material respect except by
8 three-fourths vote of all members elected to council, after notice
9 of such proposed amendment has been published in two Wheel-
10 ing newspapers of general circulation in the city not later than
11 three days before such proposed amendment is to be acted upon;
12 nor shall such ordinance be repealed except by majority vote
13 of the electorate of the city. Until the general civil service
14 ordinance provided herein shall have been adopted, the civil
15 service laws applicable to the Wheeling police department and
16 the Wheeling fire department at the time this charter be-
17 comes effective shall have the force and effect of provisions
18 of the charter of the city.

Sec. 54. At the end of each year the city council shall
2 cause a full and complete examination of all the books and
3 accounts of the city to be made by the city auditor or by other
4 competent accountants and shall publish the result of such
5 examination in connection with the annual city financial state-
6 ment required by law.

Sec. 55. If, at the beginning of the term of office of the first
2 council elected in said city under the provisions of this charter,

3 the appropriations for the expenditures of the city government
4 for the current fiscal year have been made, said council shall
5 have power, by ordinance, to revise, to repeal or change said
6 appropriations, and to make additional appropriations.

Sec. 56. The fiscal year of the city of Wheeling shall be fixed
2 by ordinance.

Sec. 57. All property, real and personal, within the city
2 which is subject to taxation under the constitution and laws
3 of the state of West Virginia, shall be assessed for and subject
4 to taxation for the benefit of said city.

Sec. 58. The council may, by ordinance, levy an annual
2 capitation tax of not exceeding one dollar upon each inhab-
3 itant or tithable of city, who, under the constitution of this
4 state, is subject to a capitation tax.

Sec. 59. The county assessor or other officer assessing prop-
2 erty in Ohio county, for taxation for state and county pur-
3 poses, shall furnish to the council of the city of Wheeling, a
4 transcript of the assessment of real and personal property
5 within said city liable to taxation by the state, on or before the
6 first day of August of each year, and he shall receive such
7 compensation therefor as may be fixed by said council.

Sec. 60. Subject to the limitations of the state laws prescribing the aggregate of all levies for city purposes, the council shall annually cause to be levied and raised by a general tax upon all taxable property in the city:

(1) An amount sufficient to pay the interest and any installment of principal falling due within the year upon all bonds of the public debt of the city, which shall be kept in a separate fund, to be called the public debt fund.

(2) An amount which, with the revenue from the water works, and any other revenue-producing works or property owned by or in charge of the city, will be sufficient to defray the expenses for the next fiscal year of all of the works and property, and an amount sufficient to pay the salaries of all officers of the city, and the wages of all employees of the city, and all necessary ordinary and contingent expenses of the city, not otherwise provided for, which, with all other moneys received by the city, not belonging to any other fund specified by this charter, shall be kept as a separate fund, to be called the general city fund.

Sec. 61. If any person against whom or upon whose property any tax shall be lawfully assessed for the benefit of said

3 city shall not wholly pay such tax on or before the first day
4 of July after the same shall become due, it shall be lawful for
5 the officer authorized to collect such tax to take reasonable dis-
6 tress of any personal property in said city, belonging to said
7 delinquent, or in which he or she shall have any right or in-
8 terest, and sell such property, right or interest at public auction
9 in said city, having given ten days' notice of the time and
10 place of sale by advertisement posted in some public place
11 in the city, and published or posted in such other manner as
12 may be prescribed by ordinance of said city, if the council shall
13 by ordinance require any other or more ample advertisement,
14 and, out of the proceeds of such sale, after defraying all proper
15 expenses, to pay to the said city the said tax or so much thereof
16 as shall be delinquent, and return the remainder, if any, to the
17 owner of the property so levied on and sold. All taxes on real
18 and personal property therein assessed and collected by said
19 city for its corporate purposes, must be uniform with respect to
20 persons and property within the jurisdiction of the city.

Sec. 62. All taxes assessed upon real estate, for the benefit
2 of said city, shall remain a lien thereon, bearing interest at
3 the rate of six per cent per annum until the same be fully

4 paid. Such lien may be enforced by suit in equity in the
5 circuit court of Ohio county, West Virginia, by the leasing or
6 sale of such real estate, under the decree of such court, where
7 the amount involved, exclusive of interest and costs, exceeds
8 fifty dollars. If the amount involved is fifty dollars or less,
9 exclusive of interest and costs, suit may be brought before any
10 justice of the peace of said Ohio county, and the judgment
11 obtained enforced by execution or suit in equity in said cir-
12 cuit court. The officer charged with the duty of collecting any
13 municipal taxes of any kind of said city, shall have all the
14 powers now or hereafter given by law to the sheriff of said
15 county for collection of state or county taxes therein.

Sec. 63. Water rents shall be distrained for and collected
2 in the same manner as taxes owing to the city may be enforced.
3 The collection of water rents shall also be enforced by shut-
4 ting off the supply of water from delinquents, and the refusal
5 thereafter to furnish water to delinquents until all arrearages
6 are paid.

Sec. 64. In addition to all other means for the collection
2 thereof, all taxes and water rents, as well as all other demands
3 due to the city, may be recovered by an appropriate suit or

4 proceeding, in the name of the city, before any justice of Ohio
5 county, if the amount be within his jurisdiction, or in the
6 circuit court of said county, if within the jurisdiction of said
7 circuit court.

Sec. 65. No disbursing officer of the city shall issue any
2 order or check for the payment of money for any work, mat-
3 ter or thing contracted for or ordered by the council or any
4 officer or employee of the city, which shall have been so con-
5 tracted for or ordered wholly or in part in excess of the
6 amount which shall have been previously set by ordinance or
7 resolution as the limit of expenses of the department to which
8 such work, matter or thing belongs, or in excess of the amount
9 previously appropriated for the payment thereof, or in the
10 city treasury available for such payment. The foregoing pro-
11 vision of this section is intended as a restraining provision,
12 and it is further declared that no act of such disbursing offi-
13 cer shall be in anywise held to render valid any debt contracted
14 by or on behalf of the city in violation of the constitution and
15 laws of the state. If any such officer of the city, as is men-
16 tioned in the first sentence of this section, shall violate the
17 provisions thereof, he shall be disqualified from holding his

18 office, and shall forfeit and pay for such violation to the city
19 a fine of not less than twenty dollars, nor more than one hun-
20 dred dollars, or be imprisoned for a term not exceeding one
21 year, or both.

Sec. 66. No debt shall be incurred by said city even with
2 the consent of the voters, to an amount, including existing
3 indebtedness, in the aggregate exceeding the amount fixed
4 by law of the state of West Virginia.

Sec. 67. The city of Wheeling is hereby authorized to issue
2 and sell its bonds: *Provided*, That the said city shall not by
3 such issue and sale of bonds cause the aggregate of its debts
4 of every kind whatsoever to exceed five per centum of the
5 valuation of the taxable property therein, which value shall be
6 ascertained by the last assessment for state and county taxes
7 previous to the issue of said bonds, nor shall said city make
8 such issue and sale without at the same time providing for the
9 collection of a direct annual tax of an amount sufficient to pay
10 the annual interest of such debt and the principal thereof
11 within and not exceeding thirty-four years.

12 No bonds shall be issued by said city unless all questions
13 connected with the same shall have been first submitted to the

14 qualified voters of said city and have received three-fifths of
15 all the votes cast for and against the same.

16 When the council shall deem it expedient to issue bonds,
17 an ordinance specifying the purpose and amount for which
18 such bonds are to be issued, shall be adopted by them at a
19 regular meeting and it shall then be the duty of the mayor
20 of the city to issue a proclamation reciting said ordinance and
21 appointing a day at which an election shall be held by the
22 qualified voters of the city to decide whether they will ratify
23 or reject said ordinance. Any bond ordinance may be voted
24 on at the time of holding any general municipal election or a
25 special election may be held for the purpose of submitting said
26 ordinance to a vote of the people. If a bond ordinance is
27 submitted to a vote at the time of a general municipal election,
28 separate ballots shall be provided therefor. Such proclama-
29 tion shall be published in two morning newspapers published
30 in the city, once a week for two successive weeks previous to
31 the day of the election.

32 More than one ordinance may be submitted at any election,
33 but each ordinance shall be separately voted upon; any ordi-
34 nance may specify more than one purpose for which said bonds

35 are to be issued: *Provided, however,* That the amount to be
36 appropriated for each purpose is also specified therein. The
37 proclamation issued by the mayor, as hereinbefore provided,
38 shall specify the aggregate amount of indebtedness, outstand-
39 ing and authorized, of the city existing at the date of the
40 proclamation.

41 Bonds issued by the city shall be of the denomination of
42 one hundred dollars or multiples thereof, not exceeding one
43 thousand dollars. They shall be payable not less than one nor
44 more than thirty-four years after date. They shall bear not
45 more than six per cent interest and the interest shall be pay-
46 able annually or semi-annually. No debt shall be created by
47 the city as a bonded debt except when issued under the pro-
48 visions of this charter.

49 It shall be unlawful for the officers of the city to privately
50 issue or sell directly or indirectly any bond or bonds to be
51 used in payment for work or material to be furnished, but all
52 such bonds shall be publicly sold to the highest bidder in
53 writing to be approved by the officers conducting the sale, for
54 cash, or its equivalent in bonds previously issued by the city,
55 and the money arising therefrom shall be used for the purpose

56 specified in the ordinance providing for the issuing of same;
57 before any sale of such bonds, said sale shall be advertised in
58 some newspapers, not exceeding four, in or out of said city,
59 once a week for four weeks previous to said sale.

60 The treasurer of the city of Wheeling and his sureties shall
61 be liable for the sinking fund and the amount levied for may
62 be levied for a sinking fund and to pay interest on the bonded
63 debt, and it shall be applied to the purposes for which it was
64 levied or for investment in United States bonds or bonds of
65 the city, as the council may direct, to be used for the payment
66 of principal and interest of any bonded debt of the city.

67 Bonds of the city shall not be sold at less than their par
68 value. The council shall provide in its ordinance that bonds
69 of the city be signed by the mayor and city clerk and sealed
70 with the seal of the city.

71 Should any of the fund derived from the issuance and sale
72 of bonds of the city be diverted by the council or any officer
73 or officers of the city from the purpose for which said bonds
74 were issued and sold, such councilman or city officer using
75 same or consenting to or aiding in the use thereof for such
76 other purpose, shall be guilty of a misdemeanor and punished

77 by a fine or not less than one hundred dollars nor more than
78 five hundred dollars, or by imprisonment for not less
79 than thirty days nor more than one year, or both fine and
80 imprisonment.

81 The city may issue and sell its bonds for any purpose for
82 which a municipality may issue bonds. After the council shall
83 have passed an ordinance providing for the submission of a
84 bond issue to the voters of the city, the mayor, with the con-
85 sent and approval of council, shall appoint a committee con-
86 sisting of not less than five residents and citizens of the city
87 of Wheeling, which committee shall act in an advisory
88 capacity, with the city council in all matters relating to the
89 issuance and sale of such bonds, and with the city manager in
90 the awarding of contracts and expenditures of the funds de-
91 rived from a sale of such bonds. The names of the members
92 of such committee shall be published in the proclamation issued
93 by the mayor prior to the holding of the election on any such
94 bond issue.

Sec. 68. The council shall provide by ordinance for the
2 deposit of all public moneys of the city, in such bank or banks,
3 situated within the city, as offer, at competitive bidding, the

4 highest rate of interest and give a good and sufficient bond to
5 the city, to secure the accounting for and due payment over
6 of such public money, with security approved by the council.
7 The security shall always be in a sum not less than ten per
8 cent in excess of the maximum amount at any time deposited,
9 but there shall not be deposited in any one bank an amount
10 in excess of the paid-in capital stock and surplus of such
11 bank, and not in any event to exceed one million dollars. In such
12 ordinance the council may determine the method by which
13 such bids shall be received, the authority which shall receive
14 them, the duration of the contracts respecting deposits of
15 public money, and all details for carrying this section into
16 effect. Proceedings in connection with such competitive bid-
17 ding and the deposit of money shall be conducted in such
18 manner as to insure full publicity, and shall be open at all
19 times to the inspection of any citizen. As to any deposits made
20 under authority of an ordinance of the council, passed pur-
21 suant to this section, neither the depositing officer, nor other
22 persons so depositing, nor such officers, sureties shall be liable
23 for any loss occasioned by the deposit, or in any wise growing
24 out of it.

Sec. 69. All officers of the city of Wheeling, who shall collect
2 or receive, or whose official duty it is, or shall be, to collect,
3 receive, hold or pay out any money belonging to, or which is
4 or shall be, for the use of said city, shall make annual account
5 and settlement therefor. Such settlement, when made, shall
6 be subject to exceptions, and take such direction, and have
7 only such force and effect as may be provided by law; but in
8 all cases, such settlements shall be recorded and be open to
9 examination of the people, at such convenient place or places
10 as may be appointed by ordinance of the city.

11 Any person violating any of the provisions of this section
12 shall be guilty of a misdemeanor, and fined not less than fifty
13 dollars nor more than one hundred dollars, or imprisoned not
14 less than two nor more than twelve months, or punished by
15 both such fine and imprisonment.

Sec. 70. All elections for councilmen shall be conducted by
2 the election authorities prescribed by the general election laws
3 of the state, and the provisions of the general election laws,
4 in so far as they are not inconsistent with the provisions of
5 this charter, shall apply to all such elections except as to the
6 counting of the ballots, and the canvassing of the votes cast,

7 and except as otherwise provided in this charter or by ordi-
8 nance. The duties imposed by the general laws upon county
9 clerks and circuit clerks shall devolve upon the city clerk, and
10 the duties imposed by the general laws upon the county courts
11 shall devolve upon the mayor and council. Each precinct shall
12 have a single election board, regardless of the number of voters
13 therein, and commissioners of election and poll clerks shall be
14 appointed without regard to political party affiliation.

Sec. 71. The registration of voters for all city elections shall
2 be done in the manner provided by the general laws of the
3 state appertaining to the registration of voters for municipal
4 elections; that is to say, chapter fifty of the acts of the second
5 extraordinary session of one thousand nine hundred thirty-
6 three: *Provided, however,* That the political party affiliations
7 of the persons registered shall not be designated on the registra-
8 tion list prepared by the city clerk for any municipal election.

Sec. 72. All elections on questions submitted to the voters
2 of the city shall be conducted by the election authorities pre-
3 scribed by the general election laws of the state, and the pro-
4 visions of the general election laws of the state, in so far as
5 they are not inconsistent with this charter, shall apply to all

6 such elections, except as otherwise provided by this charter or
7 by ordinance. The duties imposed by the general election laws
8 of the state upon circuit clerks and county clerks shall devolve
9 upon the city clerk, and the duties imposed by said laws upon
10 county courts shall devolve upon the mayor and council. Each
11 precinct shall have a single election board, regardless of the
12 number of voters therein, and commissioners of election and
13 poll clerks shall be appointed without regard for political party
14 affiliation. When an election on a question or questions sub-
15 mitted to the voters is held concurrently with an election for
16 councilmen, the ballots for councilmen shall be cast in boxes
17 other than those in which the ballots on such question or ques-
18 tions are cast. On the closing of the polls, the commissioners
19 of election and poll clerks in each precinct shall proceed to
20 count the votes cast on such question or questions in accord
21 with the provisions of the general election laws of the state,
22 and if one of the commissioners of election is absent from such
23 count by reason of having taken the precincts ballot box con-
24 taining the ballots cast for councilmen to the central counting
25 place, the count shall not be invalidated by reason thereof.
26 The votes cast on questions submitted to voters shall be can-

27 vassed by council in the manner prescribed by the general
28 election laws of the state.

Sec. 73. Every person qualified by law to vote for members
2 of the legislature of the state, who shall have been a resident
3 of the city for at least one year preceding the election, shall
4 be entitled to vote at elections for councilmen and on questions
5 authorized by law to be determined by popular vote.

Sec. 74. Any person eligible to the council may be placed
2 in nomination therefor only by a petition filed in his behalf
3 with the city clerk and signed by not less than three hundred
4 nor more than five hundred electors. The signatures to nomi-
5 nating petitions need not be appended to one paper, but to
6 each separate paper there shall be attached the affidavit of the
7 circulator thereof, stating that each signature thereto was made
8 in his presence and is the genuine signature of the person
9 whose name it purports to be and that, to the best of his
10 knowledge and belief, such persons are qualified voters of the
11 city. Each signer of a petition shall sign his name in ink or
12 indelible pencil and, after his name shall designate his residence
13 by street and number, or other description sufficient to identify
14 the place, and give the date when his signature was made. If

15 any elector signs petitions for more than two candidates, his
16 signature shall be invalid except as to the first two petitions
17 signed by him.

Sec. 75. The form of nominating petition papers shall be
2 substantially as follows:

3 We, the undersigned, here present.....whose
4 residence is....., Wheeling, West Virginia,
5 as a candidate for the council, to be voted for at the election
6 to be held on the day of May, 19.....; and we in-
7 dividually certify that we are qualified to vote for candidates
8 for the council; that we have not signed more than one petition
9 nominating any other person for the council to be voted for
10 at such election, and we believe that the person whose name
11 we are hereby presenting is qualified to serve as a member
12 of council.

| 13 | Name | Street and Number | Date |
|----|-------|-------------------|-------|
| 14 | | | |
| 15 | | | |
| 16 | | | |

17 State of West Virginia,

18 Ohio county, ss,:

19 being duly sworn, deposes and says
20 that he is the circulator of this petition paper and that the
21 signatures appended thereto were made in his presence, and
22 are the genuine signatures of the persons they purport to be ; and
23 that, to the best of his knowledge and belief they are qualified
24 voters of Wheeling.

25

26 Taken and sworn to before me this.....day of
27, 19.....

28

Sec. 76. All separate papers comprising a nominating
2 petition shall be assembled and filed with the city clerk as one
3 instrument at least 45 days prior to the election. Within 8 days
4 after the filing of a nominating petition the city clerk shall
5 notify the person named therein as a candidate whether the
6 petition is found to satisfy all the prescribed conditions. Any
7 eligible person placed in nomination as hereinbefore provided,
8 shall have his name printed on the ballots if within 7 days
9 after such notification, he shall have filed with the city clerk
10 a written acceptance of the nomination. All nominating
11 petitions shall be examined by the city clerk in the manner pro-

12 vided in this charter for the examination of petitions. If a
13 nominating petition is insufficient or invalid for any reason,
14 the city clerk shall notify the person named therein as a can-
15 didate, and such person shall then have three days in which
16 to cause to be filed a valid petition and if such valid petition
17 then be filed along with the candidate's acceptance of nomina-
18 tion, such person if eligible, shall have his name printed on the
19 ballots.

Sec. 77. Ballots used in electing members of the city council
2 shall be without party mark or designation, and shall be marked
3 by the electors according to the instructions printed thereon
4 under the heading "Directions to Voters," as specified in this
5 section. The ballots shall be in form substantially as follows:

6 REGULAR CITY ELECTION

7 May, 19.....

8 Direction to Voters

9 Put the figure 1 in the square opposite name of your first
10 choice. Express your second, third, and other choices by
11 putting the figure 2 opposite the name of your second choice,
12 the figure 3 opposite the name of your third choice, and so on.
13 You may express thus as many choices as you please without

14 any regard to the number being elected.

15 Your ballot will be counted for your first choice if it can
16 be used to help elect him. If it cannot help elect him, it will
17 be transferred to the highest of your other choices whom it
18 can help.

19 You cannot hurt any of those you prefer by marking lower
20 choice for others. The more choices you express, the surer
21 you are to make your ballot count for one of them. But do not
22 feel obliged to express choices which you do not really have.

23 Do not put the same figure opposite more than one name.

24 If you spoil this ballot, tear it across once, return it to the
25 election officer in charge of the ballots and get another from
26 him.

27 CANDIDATES FOR THE COUNCIL

28 A. B.....

29 C. D.....

Sec. 78. A blank space shall be left on the ballots below
2 the printed names of the candidates. In any such space an
3 elector may write the name of any person eligible to the coun-
4 cil, and votes cast for such person shall be counted as though
5 for candidates whose names are printed on the ballot.

6 The names of candidates for the council shall be printed on
7 the ballots in rotation as follows :

8 The ballots shall be printed in as many series as there are
9 candidates for the council. The whole number of ballots to
10 be printed shall be divided by the number of series and the
11 quotient so obtained shall be the number of ballots printed
12 in each series. In printing the first series of ballots the names
13 of candidates shall be arranged in the alphabetical order of
14 their surnames. After printing the first series the first name
15 shall be placed last and the next series printed, and this pro-
16 cess shall be repeated until each name shall have been printed
17 first in one series. The ballots so printed shall be combined in
18 tablets to be supplied to the various voting places. Each
19 tablet shall contain substantially the same number of ballots
20 from each series, and so far as practicable, the ballots shall
21 be combined in such manner that two or more from the same
22 series shall not be together in a tablet.

Sec. 79. Previous to every election of the council the city
2 manager, with the advice and consent of the council, shall
3 designate a central counting place, where the ballots shall
4 be brought together and counted publicly, appoint a compe-

5 tent person to act as director of the count; employ a suffi-
6 cient staff of assistants, and make suitable arrangements for
7 the counting of the ballots, subject only to the provisions of
8 this charter. Such director and his assistants shall constitute
9 the central counting board.

Sec. 80. As soon as the polls have closed, the election
2 officials at each polling place shall seal the ballot box used for
3 ballots for the council without opening it, and shall send it at
4 once by the commissioner of election designated for such pur-
5 pose, to the central counting place with a record of the number
6 of ballots for the council which they have given out to be voted,
7 less those returned to them as spoiled and unused. At the
8 central counting place the ballot boxes shall be opened by the
9 central counting board and the numbers of ballots found therein
10 recorded and compared with the record sent from the voting
11 places. Any discrepancies discovered shall be recorded and
12 dealt with according to the principles laid down by the general
13 election laws of the state as far as such principles may be appli-
14 cable.

Sec. 81. Ballots cast for the election of members of the
2 council shall be counted and the results determined by the

3 central counting board according to the following rules:

4 (a) On all ballots a cross without other mark shall be con-
5 sidered equivalent to the figure 1. So far as may be consistent
6 with the general election laws, every ballot from which the first
7 choice of the voters can be clearly ascertained shall be con-
8 sidered valid.

9 (b) The ballots shall first be sorted and counted according
10 to the first choices of the voters. The ballots from each
11 precinct cast for each candidate as first choice shall be put up
12 in a separate package, which shall be properly marked on the
13 outside to show the number of ballots therein, the precinct
14 from which they were received and the name of the candidate
15 for whom they were cast. The ballots declared invalid shall
16 also be put up in a separate package, properly marked on the
17 outside.

18 (c) The central counting board shall first determine which
19 ballots are invalid. A ballot shall be set aside as invalid if it
20 does not show clearly which candidate the voter prefers to all
21 others, or if it contains words or marks apparently intended
22 to identify the voter. All ballots, including those found invalid
23 by the central counting board, shall be set aside and preserved

24 until thirty days after the count is finished, and thereafter,
25 upon request of any candidate, until controversy arising there-
26 on shall have been terminated.

27 (d) The central counting board shall thereupon place to-
28 gether all the precinct packages of first choice ballots cast for
29 each candidate and shall then, in the case of each candidate,
30 number the said first choice ballots, as they come, consecutively
31 (1, 2, 3, 4, etc.). Council may, by ordinance establish the
32 order in which the precinct packages shall be taken for this
33 purpose. In default of such provision, the central counting
34 board may adopt any convenient order, but the same order
35 shall be followed as to all the candidates. All ballots received
36 by each candidate during the entire course of the counts, shall
37 be consecutively numbered, so that the last number at all times
38 shall correspond to the total vote of the candidate.

39 (e) The whole number of valid ballots cast shall then be
40 divided by a number greater by one than the number of seats
41 to be filled. The next whole number larger than the resulting
42 quotient is the quota or constituency that suffices to elect a
43 member.

44 (f) All candidates the number of whose ballots on the first

45 count equals or exceeds the quota shall then be declared elected.

46 (g) All votes obtained by any candidate in excess of the
47 quota shall be termed his surplus.

48 (h) Any surpluses there may be shall next be transferred,
49 the largest surplus first, then the next largest, and so on, ac-
50 cording to the following rules:

51 (i) In the transfer of the surplus, transferable ballots up to
52 the number of votes in the surplus shall be transferred to the
53 continuing candidates marked on them as the next choice, in
54 accordance with the rule (m). The omission of any con-
55 secutive figure in the designation of choices shall not invalidate
56 the ballot as to subsequent choices; the choices shall be taken
57 in the order of the figures used. The particular ballots to be
58 taken for transfer as the surplus of a candidate shall be ob-
59 tained according to the following rule:

60 The ballot marked by the central counting board with the
61 figure corresponding to the integer nearest that fraction of
62 which the numerator is the total vote of the candidate, and the
63 denominator the surplus of said candidate, as, for example, 5
64 or 6, shall be first taken if transferable. Then each next
65 higher multiple of said figure such as 10, 15, 20, etc., or 12,

66 18, 24, etc., until the entire surplus is taken. If the multiples
67 do not produce sufficient transferable ballots, the ballots with
68 the figures next succeeding the multiples shall be taken, as 6,
69 11, 16, etc., or 7, 13, 19, etc., as the case may be. This shall be
70 done until the entire surplus is taken. Any ballot so selected
71 that is not a "transferable ballot" shall be left to the credit
72 of the candidate whose surplus is being transferred.

73 (j) "transferable ballots" means ballots from which the
74 next choice of the voter for some continuing candidate can be
75 clearly ascertained. A "continuing candidate" is a candidate
76 as yet neither elected nor defeated.

77 (k) The votes standing to the credit of each candidate shall
78 be added and a tabulation of results made whenever a com-
79 parison of the votes of the several candidates is necessary to de-
80 termine the next step in the procedure.

81 (l) After the transfer of all surpluses (or after the first
82 count if no candidate received a surplus) every candidate who
83 has no votes to his credit shall be declared defeated. There-
84 upon the candidate lowest on the poll as it stands shall be de-
85 clared defeated and all his transferable ballots transferred to
86 continuing candidate, each ballot being transferred to the

87 credit of that continuing candidate next preferred by the voter
88 in accordance with rule (m). Thereupon the candidate then
89 lowest shall be declared defeated and all his transferable ballots
90 transferred in the same way. Thus the lowest candidate shall
91 be declared defeated one after another and their transferable
92 ballots transferred to continuing candidates.

93 (m) Whenever in the transfer of a surplus or of the ballots
94 of a defeated candidate the vote of any candidate becomes
95 equal to the quota he shall immediately be declared elected and
96 no further transfer to him shall be made.

97 (n) When candidates to the number of seats to be filled have
98 received a quota and have therefore been declared elected, all
100 other candidates shall be declared defeated and the election
101 shall be at an end; or when the number of continuing candi-
102 dates is reduced to the number of seats still to be filled, those
103 candidates shall be declared elected whether they have received
104 the full quota or not, and the election shall be at an end; but
105 in such event, the ballots of the candidate last declared de-
106 feated shall be distributed among the candidates last declared
107 elected up to the amount of their quotas, according to the rules
108 herein set forth.

109 (o) If, when a candidate is to be declared defeated, two or
110 more candidates at the bottom of the poll have the same num-
111 ber of votes, that one of the tied candidates shall first be de-
112 clared defeated who was credited with the fewest votes at the
113 end of the count next preceding, and any further tie shall be
114 decided on the same principle. Any tie not otherwise pro-
115 vided for shall be decided by lot.

116 (p) When the election is at an end, the central counting
117 board shall prepare a statement of election returns, certify to
118 the correctness thereof, and file same with the city clerk, as a
119 public record, within three days after the count is concluded.

120 (q) Any recount of the ballots shall be made by the central
121 counting board in accordance with this section except that the
122 reference to voting precincts may be disregarded. In any re-
123 count every ballot shall be made to take the same course it took
124 in the original counting, unless there is discovered a mistake
125 that requires its taking a different course. In such case any
126 required changes shall be made in the course taken by the
127 ballot. These principles shall apply also to the correction of
128 any error that may be discovered during the original counting.
129 Any defeated candidate may demand a recount within five

130 days after the filing of the election returns with the city clerk,
131 but if such recount does not result in the election of such de-
132 feated candidate, he shall pay the costs of such recount.

Sec. 82. At each municipal election any six or more can-
2 didates for council who shall file a written application with
3 the city clerk at least ten days before said election, shall be
4 entitled to exercise all the rights granted by the election laws
5 of the state to a political party in regard to the appointment
6 of witnesses, challengers and inspectors of election at the poll-
7 ing booths. In addition to such rights, said group of candi-
8 dates shall be entitled to appoint two witnesses to the count
9 in the central counting board. Application for the appoint-
10 ment of such witnesses to the count must be in writing to the
11 city clerk at least ten days before the election. Credentials
12 shall be issued by the city clerk, to such witnesses to the count
13 which shall grant such witnesses full power and authority to
14 move anywhere within the central counting quarter, to in-
15 spect all activities of the count and to exercise all rights and
16 powers, which may be conferred on witnesses and inspectors
17 of election under the election laws. The candidates or their
18 agents, and representatives of the press, shall be afforded

19 every facility for being present and witnessing these opera-
20 tions; also the public so far as may be consistent with good
21 order and with convenience in counting and transferring of
22 the ballots.

Sec. 83. The council shall have power to provide for the
2 the use of mechanical or other devices for making and sort-
3 ing the ballots and tabulating the results, and to modify the
4 form of the ballot, the directions to voters, and the details in
5 respect to the method of counting and transferring ballots
6 accordingly: *Provided, however,* That no change shall be made
7 which will alter the principles of the voting or of the counting.

Sec. 84. Any city councilman may be removed from office
2 by the following procedure: A petition signed by at least two-
3 thousand qualified voters of Wheeling shall be filed with the
4 city clerk, which petition shall contain a general statement
5 of the grounds for which the removal is sought. Such peti-
6 tion shall be submitted, examined and certified in a manner
7 provided in this charter, and if such petition be deemed suffi-
8 cient by the city clerk, he shall certify the same to the city
9 council without delay. Upon receipt of such petition, the
10 council shall order and fix a date for holding a special recall

11 election, not less than thirty days nor more than 50 days from
12 the date of the clerk's certificate. The council shall publish
13 notice of said election once a week for three successive weeks
14 in two newspapers of general circulation in the city; all ar-
15 rangements for holding such election shall be made and the
16 same shall be made and the same shall be conducted, and the
17 results ascertained, as is provided in section 72 of this charter.
18 The ballot for such recall election shall be substantially of the
19 following form and effect:

20 OFFICIAL BALLOT

21day of....., 19.....

22 Special recall election for the removal of A. B.....

23 ☐ For the recall of A. B.

24 ☐ Against the recall of A. B.....

25 Should a majority of the votes cast be in favor of recalling
26 the councilman, subject to this provision, such councilman
27 shall forewlih forfeit his seat and the council shall, at its next
28 meeting following said recall election, appoint a successor
29 to such office for the unexpired term of same. If a recall
30 petition bears the signatures of five thousand qualified voters
31 of the city, when certified to council, the councilman named

32 therein shall be suspended from office pending the result of
33 the recall election.

34 The said method of removal shall be cumulative and in ad-
35 dition to any other methods of removal provided by law. No
36 recall petition shall be filed within ninety days succeeding or
37 preceding any regular council election.

Sec. 85. Any person who shall bribe, by directly or indi-
2 rectly giving to or bestowing upon a member of the council
3 of the city, or other officer thereof, any money, testimonial or
4 other valuable thing, or do any act beneficial to such officer,
5 in order to influence him in the performance of any of his
6 official or public duties, shall be deemed guilty of a felony,
7 and, upon conviction thereof, shall be imprisoned in the peni-
8 tentiary of the state of West Virginia, for a term of not less
9 than two years nor more than five years, and shall, moreover,
10 be forever disqualified from holding any office or position of
11 honor, trust or profit in said city.

Sec. 86. Any person attempting to bribe, by offering or
2 proposing to give any officer or member of council of the
3 said city of Wheeling money, testimonial, or other valuable
4 thing, or to do any act beneficial to such officer or member of

5 council in the performance of his official or public duties,
6 shall be deemed guilty of a felony, and, upon conviction
7 thereof, shall be imprisoned in the penitentiary of the state
8 of West Virginia, for not less than one year, nor more than
9 three years, and shall, moreover, be forever disqualified from
10 holding any office of honor, trust or profit in said city.

Sec. 87. If any member of the council of the city of Wheel-
2 ing, or other officer of the said city shall demand or receive
3 from any corporation, company, firm or person, any money,
4 testimonial or other valuable thing, for the performance of any
5 of his official or public duties, or for refusal or failure to per-
6 form the same, or for any vote or influence he may give or
7 withhold as such member of council or other officer, or for
8 making any particular nomination or appointment, he shall
9 be deemed guilty of felony, and, upon conviction thereof, shall
10 be imprisoned in the penitentiary of the state of West Vir-
11 ginia, for not less than five years, nor more than ten years;
12 and shall, moreover, be forever disqualified from holding any
13 office or position of honor, trust or profit in said city.

Sec. 88. Any person bribing or attempting to bribe, or
2 demanding or receiving a bribe, fee, reward or testimonial,

3 as set forth in any of the three next preceding sections, shall
4 be compelled to testify against any person or persons who have
5 committed any of the offenses in said sections mentioned:
6 *Provided*, That any persons so compelled to testify shall be
7 exempted from trial and punishment for the offense of which
8 he may have been guilty, and concerning which he is com-
9 pelled to testify.

Sec. 89. Any person who shall violate any of the provisions
2 of this charter, for the violation of which no punishment has
3 been provided herein, shall be deemed guilty of a misdemeanor,
4 and upon conviction thereof, shall be punished by a fine not
5 exceeding one hundred (\$100) dollars, or by imprisonment in
6 the county jail not exceeding one year, or by both such fine
7 and imprisonment.

Sec. 90. The city of Wheeling may from time to time
2 hereafter enlarge the boundaries of the city only by and with
3 the consent of a majority of the inhabitants of the territory
4 proposed to be annexed, who are qualified voters of the state
5 of West Virginia, voting upon the subject at a general election
6 held in Ohio county, West Virginia, for state, county, judicial
7 or district officer, the votes upon the question of annexation

8 to be by ballots for the purpose of voting on such question
9 only, to be deposited in a ballot box or boxes separate and
10 distinct from the others used at such election, and the election
11 to be held after a notice thereof published in two newspapers
12 published in said city of Wheeling, once a week for four
13 successive weeks, and to be conducted, and the result thereof
14 duly ascertained, declared, certified and made a matter of
15 record, by the same officers who perform the like duties in
16 relation to the votes upon other matters at such general election,
17 and the ballots shall be prepared for voting upon such question
18 by the same officers as the other ballots for use at such election
19 and so far as applicable all the provisions of chapter three of
20 the code of West Virginia shall apply to the election upon
21 such annexation question.

22 *Provided, however,* That all expenses of holding such
23 elections, in so far as pertaining to such annexation, the pay-
24 ment whereof is not now provided for by law, shall be paid
25 by the city of Wheeling: *Provided further,* That, if the
26 territory proposed to be annexed is part or all of the land
27 embraced within the boundaries of any other municipal corpo-
28 ration, before the election on such annexation question is held

29 the council of the city of Wheeling and such other municipal
30 corporation must agree upon the terms upon which the annexa-
31 tion is to be made and such terms shall be inserted in the
32 published notice of election, the vote taken on such question of
33 annexation in a municipal corporation in which part or all
34 of the territory, proposed to be annexed, is located, and the
35 vote on annexation in territory not within a municipal corpo-
36 ration, must be taken separately and not together.

37 A majority of the votes cast upon the question of annexation
38 in any municipal corporation must be in the affirmative to
39 authorize the annexation of any of the territory thereof, and
40 a majority of the votes cast upon such question in territory
41 not in such corporation must be in the affirmative to authorize
42 the annexation of any of the last mentioned territory.

43 In the event that a majority of the votes upon the question
44 of annexation shall be in the affirmative, the council of the
45 said city of Wheeling shall by ordinance carry out the terms
46 of agreement upon which the annexation is to be made.

47 Any territory annexed must be contiguous to a boundary
48 or boundaries of the city of Wheeling existing at the time of
48 the annexation.

Sec. 91. The council may by ordinance purchase both toll
2 bridges now existing (but not one thereof only), or build a
3 bridge, over the east channel of the Ohio river, connecting
4 Wheeling island with the other portions of the city; but no
5 debt shall be created in the making of such purchase, except
6 upon full compliance with the provisions of this charter, and
7 of the constitution of this state. Upon acquiring such bridges,
8 or building such bridge, the city may maintain the same and
9 make all needful and reasonable regulations in regard to the
10 care thereof, and may, if it desires so to do, charge and collect
11 reasonable tolls for the use thereof. The city shall have the
12 right to enter into contracts with the two bridge companies
13 owning such existing bridges, charging toll for passage over
14 same, for free passage of pedestrians over such bridges (but
15 not over one only); but such contract shall be entered into
16 only when petitioned for, as provided in the initiative and
17 referendum section of this charter, and after ratification by
18 the voters of said city.

Sec. 92. It shall be the duty of any owner or owners of
2 any land in the city desiring to lay out or divide such land
3 into lots, with streets, alleys, ways or lanes, to first submit to

4 the council a plat showing the proposed lots, streets, alleys,
5 ways, or lanes, and the proposed grades, sewers and drainage
6 thereof, as well as the municipal improvements which may be
7 required thereto, for its approval before filing the same for
8 record, or selling any of such lots. Before the council shall
9 approve the same, the owner or owners of such land shall
10 dedicate the proposed streets, alleys, ways or lanes on such
11 plat to public use; and the clerk of the county court shall
12 not record such plat, nor shall any of the lots be sold or con-
13 veyed until the council shall have caused an endorsement of
14 its approval to be placed thereon. If any land in said city
15 shall have been heretofore laid out or divided and a plat there-
16 of recorded, or lots sold therefrom, before the approval of
17 the council, it shall be the duty of the council and other officers
18 of the city, before making any improvements on or in the
19 streets, alleys, ways or lanes laid out on such land; to require
20 from the owner or owners of the land, or from purchasers
21 of lots therein, the payment of such sum or sums as will in
22 the opinion of the council; compensate the city for the increased
23 cost or decreased value, or both, of the municipal improvements
24 the city may desire to make on such land, occasioned by the

25 imperfect or improper plan of such laying out, or division,
26 before any such improvements are made by the city.

Sec. 93. The council may cause any street or alley to be
2 paved between the sidewalks, with cobble, asphalt, stone,
3 brick, or other suitable materials, under such regulations as
4 shall be fixed by ordinance upon the lowest and best terms to be
5 obtained by advertisement for bids or proposals therefor by
6 the council as herein provided; or the council may provide
7 that such work be done without the intervention of con-
8 tractors or middlemen; and two-thirds of the cost of such
9 paving, shall be assessed against the owners of the lots or
10 fractional parts of lots abutting or bounding on that part of the
11 street or alley so paved in proportion to the distance of the
12 frontage owned by each, except in the case of a street where-
13 on a railway of any kind is being operated, the railway com-
14 pany, or owner of such railway shall upon thirty days' notice
15 in writing from the city, pave with like material and in a
16 like manner as the city paves the residue of the streets, or pay
17 for the new paving if done by the city, between the rails and
18 a foot outside of the rails, and the residue of the space be-
19 tween the tracks where more than one are on the street, and

20 the remaining two-thirds by the owners of the abutting prop-
21 erty on both sides of said street or alley on which said rail-
22 way is being operated, the intersections of two streets, or of
23 a street and alley, or of two alleys, to be paved at the expense
24 of the city. But where the intersection is crossed by a railway
25 track or tracks of any kind, the railway company or owner
26 of such tracks shall pay for the paving of so much of such
27 intersection as is between its rails and one foot outside of
28 such rails, as well as the residue of the space between double
29 tracks.

29 In case two street railway tracks belonging to different
30 owners are on a street, the cost of paving between such tracks
31 on such street shall be paid one-half by the owner or owners
32 of each of such tracks.

33 The sum or sums of money thus assessed for paving shall
34 be a lien on the lots or fractional parts of lots upon which
35 they are assessed, which lien may be enforced by a suit in
36 equity in the name of the city, in the circuit court of Ohio
37 county, West Virginia, or the same, or any installment there-
38 of, may be collected by a suit at law before such court, or
39 before any justice of the peace of said county if the amount

40 involved does not exceed three hundred dollars exclusive of
41 interest and costs.

42 Immediately upon the completion and acceptance of any
43 such paving, the council shall direct the city clerk to cause
44 to be published a notice, which shall name and describe the
45 location of the portion of the street or alley upon which said
46 paving shall have been constructed; give the name or names
47 of the owners of each lot abutting or bounding upon such
48 portion of the street or alley, if known, and if the name or
49 names of the owners of any lot or fractional part of a lot
50 are unknown, such lot shall be described with reasonable
51 certainty in order that the same may be identified; and the
52 number of feet that each lot or fractional part of a lot abuts
53 upon such paved portion, as well as the amount assessed
54 against each lot or fractional part of a lot, for the cost of
55 paving. Said notice shall cite all owners of lots or fractional
56 parts of lots, abutting upon the portion of the street or alley
57 which has been paved, to appear before the council at a reg-
58 ular meeting thereof, within thirty days from the first pub-
59 lication of the notice, and show cause, if they can, why the
60 assessment aforesaid should not become final, which notice

61 shall be published once a week for two successive weeks in
62 one or more newspapers of general circulation published in
63 said city. The council shall, upon the request of any one or
64 more of the owners of said lots or fractional parts of lots,
65 appoint a day to hear the grievances of said owner or owners,
66 and may alter or amend any assessment made against any one
67 or more of said owners for good cause shown. The city clerk
68 shall give notice to all persons claiming to be injured by said
69 assessment, of the time and place of holding the meeting of
70 the council to hear such grievances, which meeting shall be
71 held within ten days after the clerk shall have given the last
72 mentioned notice. The council may adjourn the hearing from
73 time to time. In case any owner or owners of abutting prop-
74 erty fail within such thirty days to complain to the
75 council of any grievance or injury they may have suffered,
76 by reason of the assessment aforesaid or to appear before the
77 council for the purpose of having the same corrected on the
78 day appointed by the council for the hearing of such griev-
79 ances as have been complained of, the assessment as laid shall
80 be final. The findings of said council shall be subject to
81 correction by said circuit court, upon appeal, which must be

82 taken and perfected within thirty days from the finding and
83 be heard and determined by such court without delay, having
84 precedence of other cases on the court's docket. The rights
85 conferred by this section are cumulative and shall not be
86 exhausted as to any particular street or alley by reason of
87 having been once exercised.

88 One-tenth of the amount assessed against the property
89 owner of the cost of the paving shall be paid within one year
90 after the completion and acceptance of the work, and the re-
91 maining nine-tenths thereof shall be paid in nine equal an-
92 nual installments, with interest; payable annually, payable at
93 such times as the city shall collect taxes for other purposes.
94 Where the city does the paving which is required to be
95 done by the traction companies under their franchise rights
96 of this charter one-tenth of the costs thereof shall be due and
97 payable within one year after the completion and acceptance
98 of the work, and the remaining nine-tenths thereof shall be
99 paid in nine equal installments, with interest payable an-
100 nually, payable at such times as the city shall collect taxes
101 for other purposes.

102 The cost of such work shall constitute a lien on all of the

103 property of the traction companies, which lien may be en-
104 forced by a suit in equity in the name of the city in the cir-
105 cuit court of Ohio county, West Virginia, or the same or any
106 installments thereof may be collected by a suit at law before
107 such court.

108 But a lien upon any real estate created by virtue of this
109 section shall be void as to any purchasers of any such real
110 estate unless the city shall, within sixty days after the com-
111 pletion and acceptance of the paving by the city, cause to
112 be recorded in the office of the clerk of the county court an
113 abstract of such assessment, giving the location of the real
114 estate affected, the name of the owner and the date and
115 amount of the assessment, which recordation shall be in a
116 well bound book to be furnished by the city and be preserved
117 in said clerk's office.

118 And it is hereby made the duty of said county clerk to
119 record said abstracts; for the recordation of each of which
120 said clerk shall receive a fee of twenty-five cents to be paid
121 by the city.

122 All moneys appropriated for the paving, repaving or re-
123 pairing of streets or alleys shall be used for that purpose

124 only, and the revenue received by the city from assessments
125 against any and all property or property owners shall be
126 placed in a "street paving" fund and shall be considered and
127 treated the same as moneys appropriated for that purpose.

Sec. 94. If two-thirds, or more, of the owners of the property
2 abutting on any street or alley, or any section thereof which
3 shall lie between intersecting streets or alleys shall desire same
4 to be paved or repaved between the curbs, and shall present a
5 petition to the council, setting forth their desire and describing
6 the street or alley, or the section thereof desired to be paved or
7 repaved, the council shall, within a reasonable time cause the
8 said work to be done, after the method set forth in the next
9 preceding section, the provisions of which section shall apply
10 to the last named paving or repaving.

Sec. 95. Permission may be given to a person, firm or private
2 corporation, not engaged in conducting a public utility business,
3 to place a switch or tramway on a part of a public street or
4 alley, at grade, for his own or its own use, but the grant shall be
5 so limited as not to exceed ten years, and a charge, in the nature
6 of an annual rental or license charge for the same, payable to
7 the city, may be fixed by the council.

8 All grants under this section shall be subject to the following
9 restrictions and conditions:

10 If no time is expressly provided in the grant, it shall be for
11 one year only.

12 It shall provide that the grantee shall indemnify and save
13 harmless the city against all suits, loss or damage, by reason of
14 the construction or maintenance of such switch or tramway, and
15 that said grant may be altered, amended or repealed upon satis-
16 factory evidence that the grantee has failed to comply with its
17 provisions. Reasonable provisions must be made to protect the
18 public from unnecessary damage or inconvenience by reason of
19 such switch or tramway and the operation or maintenance
20 thereof.

Sec. 96. All copies purporting to be copies of the ordinances
2 of said city or extracts from the journal or minutes of the
3 council, which shall be printed by the authority of the council,
4 or which shall be certified to be correct by the mayor of said
5 city under the seal thereof, shall be received by all courts and
6 magistrates of this state as prima facie evidence of the tenor of
7 such ordinances, and of the acts and proceedings of the council
8 therein set forth.

Sec. 97. All fees and money paid to an officer of the city, for
2 an official service, shall belong to the city and be paid at once
3 into the city treasury by such officer, the salary or compensa-
4 tion given by the city to its officers respectively, being all the
5 compensation they shall be entitled to for any official service.

Sec. 98. Signatures to petitions provided in this charter need
2 not be appended to one paper, but each paper bearing signatures
3 shall state, at the top thereof, the purpose of the petition, and
4 there shall be attached thereto the affidavit of the circulator
5 thereof stating that each signature was made in his presence
6 on the date specified, and is the genuine signature of the per-
7 son whose name it purports to be, and, in cases required signa-
8 tures of qualified voters, that such person is to the best of his
9 knowledge and belief a qualified voter of the city of Wheeling.
10 Opposite each signature is to be given the place of residence in
11 Wheeling of each signer, by street and number where possible,
12 and the date such person signed the petition. All separate
13 papers comprising a petition shall be assembled and filed with
14 the city clerk as one instrument. Upon receiving any petition,
15 the city clerk shall immediately examine the same, and if found
16 to contain the number of valid signatures requisite for the pur-

17 pose specified therein and that it complies with the require-
18 ments hereof, he shall certify such petition to be in good form
19 and shall forthwith transmit such petition to the council. If
20 such petition does not contain the requisite number of valid
21 signatures or fails to comply with the requirements hereof in
22 any other respect, the city clerk shall state in writing the de-
23 fects or defects therein and shall return it to the party who
24 filed it. If the petition is returned to the city clerk within ten
25 days thereafter, and then is found to meet the requirements
26 hereof, the city clerk shall certify same to be in good form, and
27 shall transmit same to the council forthwith. The council may
28 allow the city clerk such reasonable sum as may be necessary
29 to secure any additional help required to assist him in the ex-
30 amination of any petition or petitions, or the city manager may
31 be directed to assign to the city clerk competent city employ-
32 ees for such purpose. This section shall not apply to nomi-
33 nating petitions except as to the examination thereof.

Sec. 99. If any provision of this charter be held to be un-
2 constitutional, this shall not affect the validity, force or effect
3 of any other provision.

Sec. 100. All acts and parts of acts inconsistent herewith are

2 hereby repealed.

PART II

Section 1. When the words "this charter" are used anywhere
2 in this act, they shall be construed to mean the charter pro-
3 vided in Part I of this act.

Sec. 2. The question of ratification or rejection of this
2 charter shall be submitted to the electorate of the city of
3 Wheeling at a special election which shall be held within the city
4 on the third Thursday in April of 1935. The general election
5 laws of the state shall be applicable to the said special election,
6 as to the preparation therefor, the conduct thereof and the de-
7 termination and declaration of the result, and also as to offenses
8 and penalties; except where otherwise provided in this act or
9 where by the nature of the provisions of this act, the general
10 election laws could not consistently be applicable. The city
11 clerk shall be charged with all duties and responsibilities which
12 under the general election laws of the state devolve upon ballot
13 commissioners and upon the clerks of the county courts and the
14 circuit courts, and the manager-mayor and council shall be
15 charged with all the duties and responsibilities which under the
16 general election laws of the state devolve upon the board of
17 canvassers and upon the county courts, and they shall be subject

18 to all the penalties and offenses relating to elections.

Sec. 3. On or before the first day of April, 1935, the clerk
2 of the city of Wheeling shall cause the whole of this act to be
3 published in two daily newspapers of general circulation within
4 the city together with the following notice: "Notice to the
5 Citizens of Wheeling. Printed herewith is a copy of an act
6 of the legislature of....., 1935, being Senate
7 Bill Number 204, which proposes a new charter for the city
8 of Wheeling. Part I of the following act constitutes the pro-
9 posed charter. All qualified voters of Wheeling will be afforded
10 the opportunity of voting on the question of ratification of this
11 proposed charter at a special election to be held within the
12 city on April 18. A majority vote shall be necessary for
13 ratification. Part II of the said act provides for the special
14 election, and part III of the said act provides when and how
15 the new charter shall become effective in the event that it is
16 ratified by the electors of Wheeling at the said special election."
17 Said notice shall be signed by the city clerk and shall be followed
18 by a full copy of this act. No further publication shall be
19 required.

Sec. 4. The ballots to be used at the said special election

2 shall be in form and effect as follows:

3 OFFICIAL BALLOT

4 On the question of ratification of the proposed charter for
5 the City of Wheeling contained in the act of the legislature of
6, 1935, Senate Bill No. 204:

7 ☐ For ratification of the proposed charter.

8 ☐ Against ratification of the proposed charter.

9 On the reverse side thereof shall be printed two blank lines
10 with the words "poll clerks" printed underneath. Ballots
11 shall be printed only in the amount of 1 1/8 times the number
12 of registered voters.

Sec. 5. The council of the city of Wheeling, at its regular
2 meeting on the second Tuesday in April, 1935, shall appoint
3 two commissioners of election and two poll clerks for each
4 election precinct within the city, and such appointments shall
5 be made without respect for the political party affiliation of
6 the appointees; but the appointment shall be made in so far as
7 possible so that to have in each precinct, one commissioner of
8 election and one poll clerk known to be in favor of ratification
9 of this charter, and one commissioner of election and one poll
10 clerk known to be against ratification of this charter, and for

11 that purpose, council may require that prospective commis-
12 sioners of election and poll clerks shall submit their affidavits
13 setting forth whether they are in favor of, or against ratifica-
14 tion of this charter. The commissioners of election and poll
15 clerks so appointed shall constitute the election boards of the
16 several precincts and no precinct shall have more than one
17 election board, regardless of the number of registered voters
18 therein. The commissioners of election and poll clerks so ap-
19 pointed shall conduct the election within their respective pre-
20 cincts and shall be vested with such authority as is prescribed
21 in the general election laws of the state. Each commissioner
22 of election and poll clerk shall receive \$4.00 as compensation
23 for his services and no more.

Sec. 6. On or before the second Tuesday in April, 1935, the
2 council of the city of Wheeling shall, in open session, designate
3 the polling places in each precinct for the special election
4 herein provided. The regular polling places as heretofore es-
5 tablished by custom shall be designated in every case in which
6 this direction shall be practicable. The council shall provide
7 all equipment and supplies necessary to hold the election and
8 to ascertain the results thereof, and shall compensate all

9 election officials as herein provided.

Sec. 7. Chapter 50 of the acts of the second extraordinary
2 session, 1933, shall apply as to the registration of voters for
3 the election herein provided, and council shall, before the first
4 day of April, 1935, provide for two sessions of council one
5 week apart, between the dates of April first and April fifteenth,
6 1935, for the purpose of registration of voters as provided in
7 said act of the legislature. Notice of such sessions, and the
8 purpose, time and place thereof shall be published at least once
9 in two newspapers of general circulation in Wheeling on April
10 1, 1935.

Sec. 8. Any twenty qualified voters of the city of Wheeling
2 shall have all the rights granted by general election laws of the
3 state to a candidate, in regard to recounts: *Provided, however,*
4 That each of such twenty voters shall post a bond with the city
5 clerk in the amount of two hundred dollars, payable to the city
6 of Wheeling, and conditioned upon the payment of costs of such
7 recount if the result of said election is not changed thereby.
8 Each bond shall have corporate surety and shall be approved
9 as to form and sufficiency by one of the judges of the circuit
10 court of Ohio county.

Sec. 9. The third Thursday of April, 1935 shall not be a legal holiday in the city of Wheeling, and offices and places of business of all city of Wheeling and Ohio county officials and employees shall be open for business as usual, and such officials and employees shall perform their usual duties throughout said day: *Provided, however,* That every city and county official and employee who is qualified to vote at the said election, shall be given a reasonable opportunity to do so.

PART III

Section 1. If a majority of the ballots legally cast at the special election provided in Part II of this act shall be marked "for ratification of the proposed charter" this charter shall be declared to have been ratified, and Part I of this act shall become effective on the first day of July, 1935, and shall then and thereafter constitute the charter of the city of Wheeling. But if a majority of the ballots legally cast at said election shall be marked "against ratification of the proposed charter" this charter shall be declared to have been rejected, and it shall have no force and effect whatsoever, and the provisions of the present charter shall continue in full force and effect.

Sec. 2. If this charter be ratified as aforesaid, nine council-

2 men shall be elected from the city at large, for a term of four
3 years and until their successors are elected and qualified, in the
4 manner provided hereinafter in this act. Said nine councilmen
5 shall take office on the first day of July, 1935, and shall then
6 constitute the first council under this charter; and the primary
7 and general elections required by the present charter shall be
8 dispensed with.

Sec. 3. If this charter be ratified, a general election for the
2 election of nine councilmen shall be held on the first Tuesday in
3 June, 1935. At their regular meeting on the third Tuesday in
4 May, 1935, the council shall appoint three commissioners of elec-
5 tion and two poll clerks for each voting precinct, without regard
6 to political party affiliations. Council shall, at the same meeting,
7 designate a polling place for each precinct, and the regular
8 polling places as established by custom shall be designated in all
9 cases where it is practicable to follow this direction. The com-
10 missioners of election and poll clerks so appointed shall con-
11 stitute the election boards for the several precincts, and they
12 shall have all powers and authority conferred on election boards
13 by general laws; but no precinct shall have more than one elec-
14 tion board. At the same council meeting aforesaid, the council

15 shall designate a large hall, centrally located within the city, as
16 the central counting place; and the manager-mayor shall design-
17 ate a qualified person as director of the count, and a sufficient
18 number of qualified persons as assistants to the director of the
19 count, and said director of the count and his assistants shall
20 constitute the central counting board, and shall have all the
21 powers and authority vested by law in commissioners of election,
22 poll clerks, and boards of canvassers. In selecting the director
23 of the count and his assistants, the manager-mayor may choose
24 qualified persons who may be non-residents of the city or the
25 state.

Sec. 4. Council shall provide all supplies and equipment
2 necessary to hold the said election on the first Tuesday in June,
3 1935, and to ascertain the result thereof; and shall compensate
4 all election and counting board officials in such amounts as may
5 be provided by law, or if no provision be made, in such amounts
6 as shall be just and reasonable, as shall be provided by ordi-
7 nance, after consideration of recommendations of the manager-
8 mayor.

Sec. 5. In conducting the said election and in ascertaining
2 the result thereof, the provisions of this charter and of the gen-

3 eral laws of the state shall be applicable insofar as they are con-
4 sistent with the provisions of Part III of this act, and in cases
5 of conflict between the general law and this charter, the pro-
6 visions of this charter shall prevail and control. The powers
7 and duties prescribed by law for clerks of county court and
8 clerks of circuit courts, and for ballot commissioners, shall de-
9 volve upon the city clerk, and the powers and duties prescribed
10 by law for county courts shall devolve upon the manager-mayor
11 and council; except that the central counting board shall count
12 and canvass all votes cast.

Sec. 6. The registration lists used in the special election of
2 April 18, 1935, shall be used in the election herein provided,
3 but council shall sit as a board of registrars during the after-
4 noon of of May 28, 1935, and at least once prior thereto, for the
5 purpose of completing the registration.

Sec. 7. Candidates for the new council shall be nominated by
2 petition, as provided in this charter, except that nominating
3 petitions shall be filed with the city clerk before noon of the 4th
4 of May, 1935, and the city clerk shall have until noon May 11th
5 to examine such petitions and to notify the persons named there-
6 in as candidates. Acceptances of candidacies, (and amended

7 petitions, accompanied by acceptances of candidacies, in cases
8 requiring such action) must be filed with the city clerk before
9 noon on the 16th day of May, 1935. The names of all persons
10 duly nominated shall be printed on the ballots, which shall be
11 prepared by the city clerk, in accord with the provisions of
12 this charter.

Sec. 8. All ordinances and resolutions of council in force
2 immediately prior to the time this charter takes effect, and not
3 not inconsistent with its provisions or with the laws of the state,
4 shall continue in force until amended or repealed by council.

Sec. 9. All contracts, grants, easements, rights, privileges or
2 consents on, in or relative to any street, alley or public ground
3 or property of said city made by the council of said city or by
4 any board or officer thereof immediately prior to this charter
5 taking effect (in the event of the ratification of this charter) and
6 all other contracts, grants, easements, rights, privileges or con-
7 sents entered into or granted by the said city or its council, at
8 any time prior to this charter taking effect, and which are in
9 effect immediately prior thereto shall continue in full force
10 and effect and be respected and complied with by the city of
11 Wheeling; and all indebtedness incurred by the said city prior

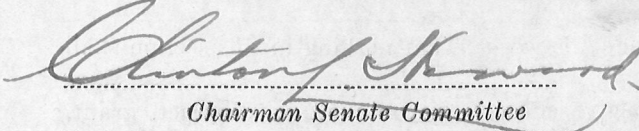
12 to this charter going into effect shall be binding upon the city
13 of Wheeling under this charter and be paid by it out of its
14 revenues: *Provided, however,* That nothing in this section shall
15 be construed to give effect to any obligation, contract, grant,
16 easement, right, privilege or consent which shall be void or not
17 binding upon the city of Wheeling immediately prior to the
18 time this charter takes effect.

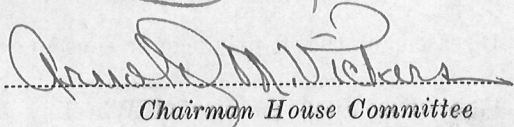
I certify that the foregoing act,
having been presented to the Governor for
his approval, and not having been returned
by him to the House of the Legislature in
which it originated within the time pre-
scribed by the constitution of the state, has
become a law without his approval.

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.

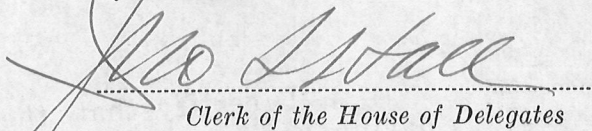

 Chairman Senate Committee

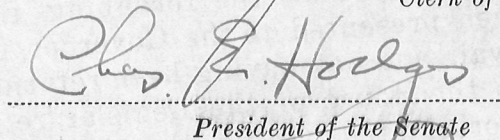

 Chairman House Committee

Originated in the Senate

Takes effect from 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