

12<sup>th</sup>

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1935**



**ENROLLED**

**SENATE BILL No.**

4

(By Mr.

Greene)



PASSED

February 26,

1935

In Effect

from

Passage

12<sup>th</sup>

**ENROLLED**  
**Senate Bill No. 4**

(By MR. GREENE)

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[Passed February 26, 1935; in effect from passage.]

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AN ACT to amend and reenact section ten, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the general powers of municipal councils, and the extra territorial operation of such powers.

*Be it enacted by the Legislature of West Virginia:*

That section ten, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the general powers of municipal councils and the extra territorial operation of such powers, be amended and reenacted so as to read as follows:

Section 10. The council shall have plenary power and

2 authority therein by ordinance or resolution as the case may  
3 require, (so far as such power or authority is not in conflict  
4 with the constitution and laws of this state or the constitution  
5 of the United States) to lay off, vacate, close, open, alter,  
6 curb, recurb, pave or repave and keep in good repair roads,  
7 streets, alleys, sidewalks, crosswalks, drains and gutters, for  
8 the use of the public, and to improve and light the same, and  
9 have them kept free from obstructions on or over them; to  
10 prevent by proper fines and penalties the throwing, depositing  
11 or permitting to remain on any street, sidewalk, alley, lane,  
12 square or other public place any glass, scrap iron, nails, tacks,  
13 wire, other litter, or any offensive matter or anything likely  
14 to injure the feet of persons or animals or the tires of vehicles;  
15 to regulate the use of streets, alleys, lanes and sidewalks for  
16 vehicles propelled by man power, and for other vehicles the  
17 use of which is not regulated by general laws; to regulate the  
18 width of sidewalks on the streets, and, subject to the pro-  
19 visions of article eight of this chapter, to order the sidewalks,  
20 footways and crosswalks to be curbed, recurbed, paved, re-  
21 paved and kept in good order, free and clean, by the owners  
22 or occupants thereof, or of the real property next adjacent

23 thereto; to establish and regulate markets, and prescribe the  
24 time of holding the same; to prevent injury or annoyance to  
25 the public or individuals from anything dangerous, offensive  
26 or unwholesome; to prevent hogs, cattle, horses, sheep or other  
27 animals, and fowls of all kinds, from going at large in such  
28 town; to protect places of divine worship and to preserve  
29 peace and order in and about the premises where held; to  
30 arrest, convict and punish any person for keeping a house of  
31 ill-fame, or for letting to another person any house or other  
32 building for the purpose of being used or kept as a house of  
33 ill-fame, or for knowingly permitting any house owned by  
34 him, or under his control, to be kept or used as a house of  
35 ill-fame, or for loafing, boarding or loitering in a house of  
36 ill-fame, or frequenting same; to arrest, convict and punish  
37 any person for importing, printing, publishing, selling or  
38 distributing any pornographic publication; to arrest, con-  
39 vict and punish any person for cruelly, unnecessarily  
40 or needlessly beating, torturing, mutilating, killing  
41 or overloading or overdriving, or wilfully depriving of  
42 necessary sustenance, any horse or other domestic animal;  
43 to arrest, convict, and punish any person for gambling or

44-49 keeping gaming tables, commonly called "A, B, C", or "E,  
50 O," table or faro bank or keno table, or table of like kind,  
51 under any denomination, whether the gaming table be played  
52 with cards, dice or otherwise, or any person who shall be a  
53 partner or concerned in interest, in keeping or exhibiting  
54 such table or bank, or keeping or maintaining any gaming  
55 house or place, or betting or gambling for money or anything  
56 of value; to license, or for good cause to refuse to license in  
57 a particular case, or at its discretion to prohibit in all cases,  
58 the operation of pool and billiard rooms and maintaining for  
59 hire of pool and billiard tables, notwithstanding the general  
60 law as to state licenses for such business. When the council,  
61 in the exercise of its discretion, shall have refused to grant a  
62 license to operate a pool or billiard room mandamus shall not  
63 lie to compel the council to grant such license, unless it shall  
64 clearly appear that the refusal of the council to grant such  
65 license is discriminatory or arbitrary. In the event that the  
66 council decides to license any such business, the council shall  
67 have power, and it shall be the duty of the council, to make  
68 and enforce reasonable ordinances regulating the licensing  
69 and operating of such businesses; the council shall also have

70 such power and authority to arrest, convict and punish any  
71 person for carrying about his person any revolver or other  
72 pistol, dirk, bowie-knife, razor, sling shot, billy, metallic or  
73 other false knuckles, or any other dangerous or other deadly  
74 weapon of like kind or character, within such town; to arrest,  
75 convict and punish any person for driving or operating, within  
76 such town, a motor vehicle when intoxicated or under the  
77 influence of liquor, drugs or narcotics; to provide penalties  
78 for the offenses and violations of law mentioned herein in  
79 addition to the penalties provided in section twenty-three of  
80 this article, but which shall not exceed the penalties provided  
81 for like offenses and violations in this chapter, and in chapter  
82 sixty-one of this code; to abate or cause to be abated anything  
82-a which, in the opinion of a majority of the whole council, shall  
83 be a nuisance; to regulate the keeping of gunpowder and  
84 other combustibles; to acquire, by purchase, condemnation and  
85 otherwise, land in or near the town for providing and main-  
86 taining proper places for the burial of the dead and to regulate  
87 interments therein upon such terms and conditions as to price  
88 and otherwise as may be determined by the council, and, in  
89 order to carry into effect such provisions the council may

90 acquire any cemetery or cemeteries already established; to  
91 provide for the regular building of houses or other structures,  
92 and for making of division fences by the owners of adjacent  
93 premises and the drainage of lots by the proper drains and  
94 ditches; to make regulations guarding against danger or dam-  
95 age by fire; to prevent the illegal sale of intoxicating liquors,  
96 drinks, mixtures and preparations therein; to protect the per-  
97 sons and property of the inhabitants of such town, and to  
98 preserve peace and good order therein, and, for this purpose,  
99 to appoint, when necessary, a police force to assist the ser-  
100 geant in the discharge of his duties; except as otherwise  
101 provided, to prescribe the powers and define the duties of the  
102 officers appointed by the council, fix their terms of service  
103 and compensation, and require and take from them bonds,  
104 when deemed necessary, payable to such town, in its corporate  
105 name, with such sureties and in such penalty as the council  
106 may see fit, conditioned for the faithful discharge of their  
107 duties; to require and take from employees and contractors  
108 bonds in such penalties, with such sureties and with such  
109 conditions, as council may see fit; to erect, or authorize or  
110 prohibit the erection of gas works, electric light works, water

111 works, and sewer treatment and disposal works within or with-  
112 out the town, or partly within and partly without the town, ex-  
113 cept that it shall not erect or authorize the erection of any such  
114 works partly without the town to serve persons already ob-  
115 taining service from existing works of the character proposed,  
116 and where such works are by the municipality erected, or  
117 have heretofore been so erected, partly within and partly  
118 without the town, it shall have the right to lay and collect  
119 charges for service rendered to those served within and those  
120 served without the town, and to prevent injury to such works  
121 or the pollution of the water and its maintenance in a healthful  
122 condition for public use within the town; to regulate and  
123 provide for the weighing of hay, coal and other articles sold  
124 or for sale in the town; to provide a revenue for the town  
125 and appropriate the same to its expenses, which power shall  
126 include the power to tax dogs; to impose a license tax on  
127 persons or companies keeping for hire carriages, hacks, bug-  
128 gies or wagons, or for carrying passengers for pay in any  
129 such vehicle, in such town; to adopt rules for the transaction  
130 of business, and the government and regulation of its own  
131 body.

132   Wherever the powers herein granted cannot be reasonably  
133 and efficiently exercised by confining the exercise thereof  
134 within the corporate limits, the powers of the corporation shall  
135 extend beyond the corporate limits to the extent necessary to  
136-7 the reasonably efficient exercise of such powers within the  
138 corporate limits. But such powers, unless otherwise provided  
139 shall not extend more than one mile beyond the corporate  
140 limits, nor shall such powers extend into the corporate limits  
141 of another municipal corporation.

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

*Clinton Howard*  
Chairman Senate Committee

*Arnold M. Vickers*  
Chairman House Committee

Originated in the

*Senate*

Takes effect

*from*

passage.

*Franklin Smith*  
Clerk of the Senate

*Geo. S. Hance*  
Clerk of the House of Delegates

*Chas. E. Hodge*  
President of the Senate

*John J. Belter*  
Speaker House of Delegates

The within *is approved* this the *11<sup>th</sup>*  
day of *March*, 1935.

*H. B. Kump*  
Governor

Filed in the office of the Secretary of State  
of West Virginia. **MAR 6 1935**

Wm. S. O'BRIEN,  
Secretary of State