

12th

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

SENATE BILL No. 4

(By Mr. Greene)



PASSED February 26, 1935

In Effect from Passage

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Senate Bill No. 4

(By MR. GREENE)

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

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

Ronald M. Vickers
Chairman House Committee

Originated in the Senate

Takes effect from passage.

Frank M. ...
Clerk of the Senate

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

Chas. E. ...
President of the Senate

John S. ...
Speaker House of Delegates

The within is approved this the 11th
day of March, 1935.

H. B. ...
Governor

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

Wm. S. O'BRIEN,
Secretary of State