

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



ENROLLED

COMMITTEE SUBSTITUTE FOR

HOUSE BILL No. 308

Originating in the Committee on
the Judiciary
(By Mr. _____)



PASSED March 8, 1941

In Effect from Passage

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COMMITTEE SUBSTITUTE FOR

House Bill No. 308

[Originating in the House Committee on the Judiciary.]

[Passed March 8, 1941; 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, as amended and reenacted by chapter sixty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and as last amended and reenacted by an act of the Legislature, regular session, one thousand nine hundred forty-one, known as house bill number fifty-six, 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, as amended and reenacted by chapter sixty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and

as last amended and reenacted by an act of the Legislature, regular session, one thousand nine hundred forty-one, known as house bill number fifty-six, be amended and reenacted to read as follows:

Section 10. *General Powers of Council; Extra-territorial*

2 *Operation of Powers.*—The council shall have plenary
3 power and authority therein by ordinance or resolution as
4 the case may require (so far as such power or authority is
5 not in conflict with the constitution and laws of this state
6 or the constitution of the United States) to lay off, vacate,
7 close, open, alter, curb, recurb, pave or repave and keep
8 in good repair roads, streets, alleys, sidewalks, crosswalks,
9 drains and gutters, for the use of the public, and to improve
10 and light the same, and have them kept free from ob-
11 structions on or over them; to prevent by proper fines and
12 penalties the throwing, depositing or permitting to re-
13 main on any street, sidewalk, alley, lane, square or other
14 public place any glass, scrap iron, nails, tacks, wire, other
15 litter, or any offensive matter or anything likely to injure
16 the feet of persons or animals or the tires of vehicles; to
17 regulate the use of streets, alleys, lanes and sidewalks for

18 vehicles propelled by man power, and for other vehicles
19 the use of which is not regulated by general laws; to regu-
20 late the width of sidewalks on the streets, and, subject to
21 the provisions of article eight of this chapter, to order the
22 sidewalks, footways and crosswalks to be curbed, paved,
23 repaved, and kept in good order, free and clean, by the
24 owners or occupants thereof, or of the real property next
25 adjacent thereto; to establish and regulate markets, and
26 prescribe the time of holding the same; to prevent injury
27 or annoyance to the public or individuals from anything
28 dangerous, offensive or unwholesome; to prevent hogs,
29 cattle, horses, sheep or other animals, and fowls of all
30 kinds, from going at large in such town; to protect places
31 of divine worship and to preserve peace and order in and
32 about the premises where held; to arrest, convict and
33 punish any persons for keeping a house of ill-fame, or for
34 letting to another person any house or other building for
35 the purpose of being used or kept as a house of ill-fame, or
36 for knowingly permitting any house owned by him or
37 under his control, to be kept or used as a house of ill-
38 fame, or for loafing, boarding or loitering in a house of

39 ill-fame, or frequenting same; to arrest, convict and punish
40 any person for importing, printing, publishing, selling or
41 distributing any pornographic publications; to arrest, con-
42 vict and punish any person for cruelly, unnecessarily or
43 needlessly beating, torturing, mutilating, killing or over-
44 loading or over-driving, or wilfully depriving of neces-
45 sary sustenance, any horse or other domestic animal; to
46 arrest, convict, and punish any person for gambling or
47 keeping gaming tables, commonly called "A, B, C", or
48 "E, O", table or faro bank or keno table, or table of like
49 kind, under any denomination, whether the gaming table
50 be played with cards, dice or otherwise, or any person who
51 shall be a partner or concerned in interest, in keeping or
52 exhibiting such table or bank, or keeping or maintaining
53 any gaming house or place, or betting or gambling for
54 money or anything of value; to license, or for good cause
55 to refuse to license in a particular case, or at its discre-
56 tion to prohibit in all cases, the operation of pool and bil-
57 liard rooms and maintaining for hire of pool and billiard
58 tables notwithstanding the general law as to state li-
59 censes for such business. When the council, in the exer-

60 cise of its discretion, shall have refused to grant a license
61 to operate a pool or billard room mandamus shall not lie
62 to compel the council to grant such license, unless it shall
63 clearly appear that the refusal of the council to grant such
64 license is discriminatory or arbitrary. In the event that
65 the council decides to license any such business, the coun-
66 cil shall have power, and it shall be the duty of the council,
67 to make and enforce reasonable ordinances regulating the
68 licensing and operating of such businesses; the council
69 shall also have such power and authority to arrest, con-
70 vict and punish any person for carrying about his person
71 any revolver or other pistol, dirk, bowie-knife, razor, sling-
72 shot, billy, metallic or other false knuckles, or any other
73 dangerous or other deadly weapon of like kind or charac-
74 ter, within such town; to arrest, convict and punish any
75 person for driving or operating, within such town, a motor
76 vehicle when intoxicated or under the influence of liquor,
77 drugs or narcotics; to provide penalties for the offenses and
78 violations of law mentioned herein in addition to the
79 penalties provided in section twenty-three of this article,
80 but which shall not exceed the penalties provided for like

81 offenses and violations in this chapter, and in chapter
82 sixty-one of this code; to abate or cause to be abated any-
83 thing which, in the opinion of a majority of the whole
84 council, shall be a nuisance; to regulate the keeping of
85 gunpowder and other combustibles; to establish and main-
86 tain a library and/or museum for the public use; to ac-
87 quire, establish, equip and maintain a recreation park for
88 the public use; to acquire, by purchase, condemnation and
89 otherwise, land in or near the town for providing and
90 maintaining proper places for the burial of the dead and
91 to regulate interments therein upon such terms and con-
92 ditions as to price and otherwise as may be determined
93 by the council, and, in order to carry into effect such pro-
94 visions the council may acquire any cemetery or ceme-
95 teries already established; to acquire, construct, equip and
96 maintain incinerator plants and equipment; to provide for
97 the regular building of houses or other structures, and for
98 making of division fences by the owners of adjacent prem-
99 ises and the drainage of lots by the proper drains and
100 ditches; to make regulations guarding against danger or
101 damage by fire; to prevent the illegal sale of intoxicating

102 liquors, drinks, mixtures and preparations therein; to pro-
103 tect the persons and property of the inhabitants of such
104 town, and to preserve peace and good order therein, and,
105 for this purpose, to appoint when necessary, a police force
106 to assist the sergeant in the discharge of his duties; ex-
107 cept as otherwise provided, to prescribe the powers and de-
108 fine the duties of the officers appointed by the council, fix
109 their terms of service and compensation, and require and
110 take from them bonds, when deemed necessary, payable
111 to such town, in its corporate name, with such sureties and
112 in such penalty as the council may see fit, conditioned for
113 the faithful discharge of their duties; to require and take
114 from employees and contractors bonds in such penalties,
115 with such sureties and with such conditions, as council
116 may see fit; to erect, or authorize or prohibit the erection
117 of gas works, electric light works, water works, and sew-
118 age treatment and disposal works within or without the
119 town, or partly within and partly without the town, ex-
120 cept that it shall not erect or authorize the erection of any
121 such works partly without the town to serve persons al-
122 ready obtaining service from existing works of the charac-

123 ter proposed, and where such works are by the municipal-
124 ity erected, or have heretofore been so erected, partly
125 within and partly without the town, it shall have the right
126 to lay and collect charges for service rendered to those
127 served within and those served without the town, and to
128 prevent injury to such works or the pollution of the wa-
129 ter and its maintenance in a healthful condition for pub-
130 lic use within the town; to regulate and provide for the
131 weighing of hay, coal and other articles sold or for sale in
132 the town; to provide a revenue for the town and appropri-
133 ate the same to its expenses, which power shall include
134 the power to tax dogs; to impose a license tax upon per-
135 sons or companies keeping for hire carriages, hacks, bug-
136 gies or wagons, or for carrying passengers for pay in any
137 such vehicles, in such town; to adopt rules for the trans-
138 action of business, and the government and regulation of
139 its own body.

140 Wherever the powers herein granted cannot be reason-
141 able and efficiently exercised by confining the exercise
142 thereof within the corporate limits, the powers of the cor-
143 poration shall extend beyond the corporate limits to the

144 extent necessary to the reasonably efficient exercise of
145 such powers within the corporate limits. But such pow-
146 ers, unless otherwise provided, shall not extend more
147 than one mile beyond the corporate limits, except that in
148 the erection and extension of water works, water mains,
149 sewerage works and sewers, the powers may be extended
150 to ten miles beyond the corporate limits. Such powers
151 shall not extend into the corporate limits of another mu-
152 nicipal corporation.

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

E. H. McKown
Chairman Senate Committee

Leon Rice
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Abel Watkins
Clerk of the Senate

Farrell
Clerk of the House of Delegates

Byron B. Randolph
President of the Senate

Malcolm R. Arnold
Speaker House of Delegates

The within approved this the 14th
day of March, 1941.

Matthew M. Neely
Governor.

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Filed in the office of the Secretary of State
of West Virginia MAR 17 1941

Wm. S. O'BRIEN,
Secretary of State