ENROLLED

COMMITTEE SUBSTITUTE FOR

HOUSE BILL No. 308

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

PASSED ___________________________ 1941

In Effect ____________________________
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 Operation of Powers.—The council shall have plenary power and authority therein by ordinance or resolution as the case may require (so far as such power or authority is not in conflict with the constitution and laws of this state or the constitution of the United States) to lay off, vacate, close, open, alter, curb, recurb, pave or repave and keep in good repair roads, streets, alleys, sidewalks, crosswalks, drains and gutters, for the use of the public, and to improve and light the same, and have them kept free from obstructions on or over them; to prevent by proper fines and penalties the throwing, depositing or permitting to remain on any street, sidewalk, alley, lane, square or other public place any glass, scrap iron, nails, tacks, wire, other litter, or any offensive matter or anything likely to injure the feet of persons or animals or the tires of vehicles; to regulate the use of streets, alleys, lanes and sidewalks for
vehicles propelled by man power, and for other vehicles
the use of which is not regulated by general laws; to regu-
late the width of sidewalks on the streets, and, subject to
the provisions of article eight of this chapter, to order the
sidewalks, footways and crosswalks to be curbed, paved,
repaved, and kept in good order, free and clean, by the
owners or occupants thereof, or of the real property next
adjacent thereto; to establish and regulate markets, and
prescribe the time of holding the same; to prevent injury
or annoyance to the public or individuals from anything
dangerous, offensive or unwholesome; to prevent hogs,
cattle, horses, sheep or other animals, and fowls of all
kinds, from going at large in such town; to protect places
of divine worship and to preserve peace and order in and
about the premises where held; to arrest, convict and
punish any persons for keeping a house of ill-fame, or for
letting to another person any house or other building for
the purpose of being used or kept as a house of ill-fame, or
for knowingly permitting any house owned by him or
under his control, to be kept or used as a house of ill-
fame, or for loafing, boarding or loitering in a house of
ill-fame, or frequenting same; to arrest, convict and punish any person for importing, printing, publishing, selling or distributing any pornographic publications; to arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing or over-loading or over-driving, or wilfully depriving of necessary sustenance, any horse or other domestic animal; to arrest, convict, and punish any person for gambling or keeping gaming tables, commonly called “A, B, C”, or “E, O”, table or faro bank or keno table, or table of like kind, under any denomination, whether the gaming table be played with cards, dice or otherwise, or any person who shall be a partner or concerned in interest, in keeping or exhibiting such table or bank, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value; to license, or for good cause to refuse to license in a particular case, or at its discretion to prohibit in all cases, the operation of pool and billiard rooms and maintaining for hire of pool and billiard tables notwithstanding the general law as to state licenses for such business. When the council, in the exer-
to operate a pool or billiard room mandamus shall not lie
to compel the council to grant such license, unless it shall
clearly appear that the refusal of the council to grant such
license is discriminatory or arbitrary. In the event that
the council decides to license any such business, the coun-
cil shall have power, and it shall be the duty of the council,
to make and enforce reasonable ordinances regulating the
licensing and operating of such businesses; the council
shall also have such power and authority to arrest, conv-
ict and punish any person for carrying about his person
any revolver or other pistol, dirk, bowie-knife, razor, sling-
shot, billy, metallic or other false knuckles, or any other
dangerous or other deadly weapon of like kind or charac-
ter, within such town; to arrest, convict and punish any
person for driving or operating, within such town, a motor
vehicle when intoxicated or under the influence of liquor,
drugs or narcotics; to provide penalties for the offenses and
violations of law mentioned herein in addition to the
penalties provided in section twenty-three of this article,
but which shall not exceed the penalties provided for like
offenses and violations in this chapter, and in chapter sixty-one of this code; to abate or cause to be abated anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles; to establish and maintain a library and/or museum for the public use; to acquire, establish, equip and maintain a recreation park for the public use; to acquire, by purchase, condemnation and otherwise, land in or near the town for providing and maintaining proper places for the burial of the dead and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined by the council, and, in order to carry into effect such provisions the council may acquire any cemetery or cemeteries already established; to acquire, construct, equip and maintain incinerator plants and equipment; to provide for the regular building of houses or other structures, and for making of division fences by the owners of adjacent premises and the drainage of lots by the proper drains and ditches; to make regulations guarding against danger or damage by fire; to prevent the illegal sale of intoxicating
liquors, drinks, mixtures and preparations therein; to protect the persons and property of the inhabitants of such town, and to preserve peace and good order therein, and, for this purpose, to appoint when necessary, a police force to assist the sergeant in the discharge of his duties; except as otherwise provided, to prescribe the powers and define the duties of the officers appointed by the council, fix their terms of service and compensation, and require and take from them bonds, when deemed necessary, payable to such town, in its corporate name, with such sureties and in such penalty as the council may see fit, conditioned for the faithful discharge of their duties; to require and take from employees and contractors bonds in such penalties, with such sureties and with such conditions, as council may see fit; to erect, or authorize or prohibit the erection of gas works, electric light works, water works, and sewage treatment and disposal works within or without the town, or partly within and partly without the town, except that it shall not erect or authorize the erection of any such works partly without the town to serve persons already 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, bugg-
136  ries 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
extent necessary to the reasonably efficient exercise of such powers within the corporate limits. But such powers, unless otherwise provided, shall not extend more than one mile beyond the corporate limits, except that in the erection and extension of water works, water mains, sewerage works and sewers, the powers may be extended to ten miles beyond the corporate limits. Such powers shall not extend into the corporate limits of another municipal corporation.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

C. H. M. Koon
Chairman Senate Committee

Leon Rice
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Chas. L. Johnson
Clerk of the Senate

Joseph
Clerk of the House of Delegates

Bayard B. Rusholme
President of the Senate

Malachi R. Arnold
Speaker House of Delegates

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

Matthew L. Neely
Governor.

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

Wm. S. O'Brien,
Secretary of State