WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1941

ENROLLED

HOUSE BILL No. 56

(By Mr. Johnston)

PASSED February 14, 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 by chapter sixty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, 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 by chapter sixty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:
Article 4. Powers, Duties, and Allied Relations of Municipal Corporation, Councils or Officers.

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 of 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 regulate the width of sidewalks
on the streets, and, subject to the provisions of ar-
ticle eight of this chapter, to order the sidewalks, foot-
ways and crosswalks to be curbed, recurved, paved,
repaved and kept in good order, free and clean, by
the owners or occupants thereof, or of the real prop-
erty 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 person 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 pub-
licatation; to arrest, convict and punish any person for
cruelly, unnecessarily or needlessly beating, torturing,
mutilating, killing or overloading or overdriving, or wil-
fully 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 con-
cerned 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 main-
taining for hire of pool and billiard tables, notwithstanding
the general law as to state licenses for such business.
When the council, in the exercise of its discretion, shall
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 council 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, convict and punish any person for carrying about his person any revolver or other pistol, dirk, bowie-knife, razor, sling slot, billy, metallic or other false knuckles, or any other dangerous or other deadly weapon of like kind or character, 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 ma-
ajority of the whole council, shall be a nuisance; to
regulate the keeping of gunpowder and other com-
bustibles; 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 con-
ditions 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 cem-
eteries already established; 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 character proposed, and where such works are by the municipality erected, or have heretofore been so erected partly within and partly without the town, it
shall have the right to lay and collect charges for service rendered to those served within and those served without the town, and to prevent injury to such works or the pollution of the water and its maintenance in a healthful condition for public use within the town; to regulate and provide for the weighing of hay, coal and other articles sold or for sale in the town; to provide a revenue for the town and appropriate the same to its expenses, which power shall include the power to tax dogs; to impose a license tax on persons or companies keeping for hire carriages, hacks, buggies or wagons, or for carrying passengers for pay in any such vehicles, in such town; to adopt rules for the transaction of business, and the government and regulation of its own body.

Wherever the powers herein granted cannot be reasonable and efficiently exercised by confining the exercise thereof within the corporate limits, the powers of the corporation 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, but such extra-
territorial powers, unless otherwise provided, shall not
extend more than one mile beyond the corporate limits:

Provided, however, That extra-territorial powers are
hereby vested in municipal corporations for the purposes
of the installation, construction, repair, maintenance and
operation of water works, water mains, sewer lines and
sewage disposal plants within an area of not to exceed
ten miles beyond the corporate limits, except that such
powers shall in no event 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. McKeown
Chairman Senate Committee

Leon Rice
Chairman House Committee

Originated in the House of Delegates.

Takes effect from passage.

A. J. Williams
Clerk of the Senate

Patterson
Clerk of the House of Delegates

Byron L. Randolph
President of the Senate

M. R. Arnold
Speaker House of Delegates

The within approved this the 20th day of February, 1941.

Matthew Neely
Governor.

Filed in the office of the Secretary of State of West Virginia, FEB 20, 1941

Wm. S. O'Brien,
Secretary of State