

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



ENROLLED

HOUSE BILL No. 56

(By Mr. Johnston)



PASSED February 14 1941

In Effect from Passage

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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

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

20 by general laws; to regulate the width of sidewalks
21 on the streets, and, subject to the provisions of ar-
22 ticle eight of this chapter, to order the sidewalks, foot-
23 ways and crosswalks to be curbed, recurbed, paved,
24 repaved and kept in good order, free and clean, by
25 the owners or occupants thereof, or of the real prop-
26 erty next adjacent thereto; to establish and regulate
27 markets, and prescribe the time of holding the same; to
28 prevent injury or annoyance to the public or individuals
29 from anything dangerous, offensive or unwholesome; to
30 prevent hogs, cattle, horses, sheep or other animals, and
31 fowls of all kinds, from going at large in such town; to
32 protect places of divine worship and to preserve peace
33 and order in and about the premises where held; to
34 arrest, convict and punish any person for keeping a house
35 of ill-fame, or for letting to another person any house or
36 other building for the purpose of being used or kept as a
37 house of ill-fame, or for knowingly permitting any house
38 owned by him, or under his control, to be kept or used as
39 a house of ill-fame, or for loafing, boarding or loitering
40 in a house of ill-fame, or frequenting same; to arrest,

41 convict and punish any person for importing, printing,
42 publishing, selling or distributing any pornographic pub-
43 lication; to arrest, convict and punish any person for
44 cruelly, unnecessarily or needlessly beating, torturing,
45 mutilating, killing or overloading or overdriving, or wil-
46 fully depriving of necessary sustenance, any horse or
47 other domestic animal; to arrest, convict, and punish any
48 person for gambling or keeping gaming tables, commonly
49 called "A, B, C", or "E, O," table or faro bank or keno
50 table, or table of like kind, under any denomination,
51 whether the gaming table be played with cards, dice or
52 otherwise, or any person who shall be a partner or con-
53 cerned in interest, in keeping or exhibiting such table or
54 bank, or keeping or maintaining any gaming house or
55 place, or betting or gambling for money or anything of
56 value; to license, or for good cause to refuse to license
57 in a particular case, or at its discretion to prohibit in all
58 cases, the operation of pool and billiard rooms and main-
59 taining for hire of pool and billiard tables, notwithstand-
60 ing the general law as to state licenses for such business.
61 When the council, in the exercise of its discretion, shall

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

83 for like offenses and violations in this chapter, and
84 in chapter sixty-one of this code; to abate or cause
85 to be abated anything which, in the opinion of a ma-
86 jority of the whole council, shall be a nuisance; to
87 regulate the keeping of gunpowder and other com-
88 bustibles; 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
94 provisions the council may acquire any cemetery or cem-
95 eteries already established; to provide for the regular
96 building of houses or other structures, and for making
97 of division fences by the owners of adjacent premises and
98 the drainage of lots by the proper drains and ditches;
99 to make regulations guarding against danger or damage
100 by fire; to prevent the illegal sale of intoxicating liquors,
101 drinks, mixtures and preparations therein; to protect the
102 persons and property of the inhabitants of such town, and
103 to preserve peace and good order therein, and, for this

104 purpose to appoint, when necessary, a police force to as-
105 sist the sergeant in the discharge of his duties; except as
106 otherwise provided, to prescribe the powers and define
107 the duties of the officers appointed by the council, fix
108 their terms of service and compensation, and require and
109 take from them bonds, when deemed necessary, payable
110 to such town, in its corporate name, with such sureties
111 and in such penalty as the council may see fit, conditioned
112 for the faithful discharge of their duties; to require and
113 take from employees and contractors bonds in such pen-
114 alties, with such sureties and with such conditions, as
115 council may see fit; to erect, or authorize or prohibit the
116 erection of gas works, electric light works, water works,
117 and sewage treatment and disposal works within or with-
118 out the town, or partly within and partly without the
119 town, except that it shall not erect or authorize the erec-
120 tion of any such works partly without the town to serve
121 persons already obtaining service from existing works
122 of the character proposed, and where such works are by
123 the municipality erected, or have heretofore been so
124 erected partly within and partly without the town, it

125 shall have the right to lay and collect charges for serv-
126 ice rendered to those served within and those served
127 without the town, and to prevent injury to such works or
128 the pollution of the water and its maintenance in a health-
129 ful condition for public use within the town; to regulate
130 and provide for the weighing of hay, coal and other
131 articles sold or for sale in the town; to provide a revenue
132 for the town and appropriate the same to its expenses,
133 which power shall include the power to tax dogs; to im-
134 pose a license tax on persons or companies keeping for
135 hire carriages, hacks, buggies or wagons, or for carrying
136 passengers for pay in any such vehicles, in such town;
137 to adopt rules for the transaction of business, and the
138 government and regulation of its own body.

139 Wherever the powers herein granted cannot be rea-
140 sonable and efficiently exercised by confining the exer-
141 cise thereof within the corporate limits, the powers of the
142 corporation shall extend beyond the corporate limits to
143 the extent necessary to the reasonably efficient exercise
144 of such powers within the corporate limits. But such
145 powers, unless otherwise provided, shall not extend more

146 than one mile beyond the corporate limits, but such extra-
147 territorial powers, unless otherwise provided, shall not
148 extend more than one mile beyond the corporate limits:
149 *Provided, however,* That extra-territorial powers are
150 hereby vested in municipal corporations for the purposes
151 of the installation, construction, repair, maintenance and
152 operation of water works, water mains, sewer lines and
153 sewage disposal plants within an area of not to exceed
154 ten miles beyond the corporate limits, except that such
155 powers shall in no event extend into the corporate limits
156 of another municipal corporation.

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

C. H. McRae

Chairman Senate Committee

Leon Rice

Chairman House Committee

Originated in the *House of Delegates*

Takes effect *from* passage.

A. J. Watkins

Clerk of the Senate

J. R. Kliff

Clerk of the House of Delegates

Byron R. Randolph

President of the Senate

M. R. Arnold

Speaker House of Delegates

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

Matthew M. Neely
Governor.

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

Wm. S. O'BRIEN,
Secretary of State