

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

SENATE BILL No. 131

(By Mr. Hannig)



PASSED February 19 1947

In Effect from Passage

131

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Senate Bill No. 131

(By MR. HANNIG)

[Passed February 19, 1947; in effect from passage.]

AN ACT to amend section ten, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, 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, 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)

7 to lay off, vacate, close, open, alter, curb, recurb, pave or
8 repave and keep in good repair roads, streets, alleys, side-
9 walks, crosswalks, drains and gutters, for the use of the
10 public, and to improve and light the same, and have
11 them kept free from obstructions on or over them; to
12 prevent by proper fines and penalties the throwing, de-
13 positing or permitting to remain on any street, sidewalk,
14 alley, lane, square or other public place any glass, scrap
15 iron, nails, tacks, wire, other litter, or any offensive mat-
16 ter or anything likely to injure the feet of persons or
17 animals or the tires of vehicles; to regulate the use of
18 streets, alleys, lanes and sidewalks for vehicles propelled
19 by man power, and for other vehicles the use of which
20 is not regulated by general laws; to regulate the width
21 of sidewalks on the streets, and, subject to the provisions
22 of article eight of this chapter, to order the sidewalks,
23 footways and crosswalks to be curbed, paved, repaved
24 and kept in good order, free and clean, by the owners
25 or occupants thereof, or of the real property next adja-
26 cent thereto; to establish and regulate markets, and pre-
27 scribe the time of holding the same; to prevent injury

28 or annoyance to the public or individuals from anything
29 dangerous, offensive or unwholesome; to prevent hogs,
30 cattle, horses, sheep or other animals, and fowls of all
31 kinds, from going at large in such town; to protect places
32 of divine worship and to preserve peace and order in
33 and about the premises where held; to arrest, convict
34 and punish any persons for keeping a house of ill-fame,
35 or for letting to another person any house or other build-
36 ing for the purpose of being used or kept as a house of
37 ill-fame, or for knowingly permitting any house owned
38 by him, or under his control, to be kept or used as a
39 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 lications; to arrest, convict and punish any person for
44 cruelly, unnecessarily or needlessly beating, torturing,
45 mutilating, killing or overloading or overdriving, or will-
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 bil-
63 liard room mandamus shall not lie to compel the council
64 to grant such license, unless it shall clearly appear that
65 the refusal of the council to grant such license is dis-
66 criminatory or arbitrary. In the event that the council
67 decides to license any such business, the council shall
68 have power, and it shall be the duty of the council, to
69 make and enforce reasonable ordinances regulating the

70 licensing and operating of such businesses; the council
71 shall also have such power and authority to arrest, con-
72 vict and punish any person for carrying about his person
73 any revolver, or other pistol, dirk, bowie-knife, razor,
74 sling shot, billy, metallic or other false knuckles, or any
75 other dangerous or other deadly weapon of like kind or
76 character, within such town; to arrest, convict and pun-
77 ish any person for driving or operating, within such
78 town, a motor vehicle when intoxicated or under the
79 influence of liquor, drugs or narcotics; to provide pen-
80 alties for the offenses and violations of law mentioned
81 herein in addition to the penalties provided in section
82 twenty-three of this article, but which shall not exceed
83 the penalties provided for like offenses and violations
84 in this chapter, and in chapter sixty-one of this code; to
85 abate or cause to be abated anything which, in the opin-
86 ion of a majority of the whole council, shall be a nui-
87 sance; to regulate the keeping of gunpowder and other
88 combustibles; to establish and maintain a library and/or
89 museum for the public use; to acquire, establish, equip
90 and maintain a recreation park for the public use; to

91 acquire, by purchase, condemnation and otherwise, land
92 in or near the town for providing and maintaining proper
93 places for the burial of the dead and to regulate inter-
94 ments therein upon such terms and conditions as to price
95 and otherwise as may be determined by the council, and,
96 in order to carry into effect such provisions the council
97 may acquire any cemetery or cemeteries already estab-
98 lished; to acquire, construct, equip and maintain incin-
99 erator plants and equipment; to provide for the regular
100 building of houses or other structures, and for making
101 of division fences by the owners of adjacent premises
102 and the drainage of lots by the proper drains and ditches;
103 to make regulations guarding against danger or damage
104 by fire; to prevent the illegal sale of intoxicating liquors,
105 drinks, mixtures and preparations therein; to protect the
106 persons and property of the inhabitants of such town,
107 and to preserve peace and good order therein, and, for
108 this purpose, to appoint, when necessary, a police force
109 to assist the sergeant in the discharge of his duties; ex-
110 cept as otherwise provided, to prescribe the powers and
111 define the duties of the officers appointed by the council,

112 fix their terms of service and compensation, and require
113 and take from them bonds, when deemed necessary, pay-
114 able to such town, in its corporate name, with such sure-
115 ties and in such penalty as the council may see fit, con-
116 ditioned for the faithful discharge of their duties; to
117 require and take from employees and contractors bonds
118 in such penalties, with such sureties and with such con-
119 ditions, as council may see fit; to erect, or authorize or
120 prohibit the erection of gas works, electric light works,
121 water works, and sewage treatment and disposal works
122 within or without the town, or partly within and partly
123 without the town, except that it shall not erect or author-
124 ize the erection of any such works partly without the
125 town to serve persons already obtaining service from
126 existing works of the character proposed, and where
127 such works are by the municipality erected, or have
128 heretofore been so erected, partly within and partly
129 without the town, it shall have the right to lay and col-
130 lect charges for service rendered to those served within
131 and those served without the town, and to prevent injury
132 to such works or the pollution of the water and its main-

133 tenance in a healthful condition for public use within
134 the town; to regulate and provide for the weighing of
135 hay, coal and other articles sold or for sale in the town;
136 to provide a revenue for the town and appropriate the
137 same to its expenses, which power shall include the
138 power to tax dogs; to impose a license tax upon persons
139 or companies keeping for hire carriages, hacks, buggies
140 or wagons, or for carrying passengers for pay in any
141 such vehicles, in such town; to adopt rules for the trans-
142 action of business, and the government and regulation
143 of its own body.

144 Wherever the powers herein granted cannot be reason-
145 ably and efficiently exercised by confining the exercise
146 thereof within the corporate limits, the powers of the
147 corporation shall extend beyond the corporate limits to
148 the extent necessary to the reasonably efficient exercise
149 of such powers within the corporate limits. But such
150 powers, unless otherwise provided, shall not extend more
151 than one mile beyond the corporate limits, and such pow-
152 ers shall not extend into the corporate limits of another
153 municipal corporation; however, in the erection and ex-

154 tension of water works, water mains, sewerage works
155 and sewers, such powers may, without regard to whether
156 or not such extension of powers is necessary to the rea-
157 sonably efficient exercise of such powers within the cor-
158 porate limits be extended to fifteen miles beyond the cor-
159 porate limits, and within the corporate limits of another
160 municipal corporation if the latter by ordinance requests
161 such extension.

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

Frank L. Menden

Chairman Senate Committee

W. D. Matthews

Chairman House Committee

Originated in the

Senate

Takes effect

from

passage.

Howard Myers

Clerk of the Senate

J. R. Cluff

Clerk of the House of Delegates

Donald M. Tucker

President of the Senate

John E. Arroy

Speaker House of Delegates

The within

Appears

this the

75th

day of

Feb

, 1947.

Calvin M. DeLoach

Governor.



Filed in the Office of the Secretary of State

FEB 26 1947

DEPARTMENT OF STATE