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CHARTER
AND
ORDINANCES
OF THE
TOWN of FAIRMONT.



ORDINANCES REVISED, AMENDED AND
ADOPTED NOVEMBER 26, 1877.



FAIRMONT:
FLEMING & POWELL, PRINTERS.

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CHARTER

Acts 72 & 73

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CHARTER OF THE TOWN OF FAIRMONT.

[Passed February 28, 1865.]

An ACT to amend and re-enact the Charter of the Town of Fairmont, in the county of Marion.

Be it enacted by the Legislature of West Virginia:

The charter of the town of Fairmont, in the county of Marion, is hereby amended and re-enacted so as to read as follows:

1. The corporate limits and boundaries of the town of Fairmont shall be as follows: Beginning at the mouth of Coal run; thence up said run, north fifty-six and a quarter degrees west, thirty-five poles; north eighty-eight degrees west, thirty-five poles; north thirty-one and a half degrees west, up the eastern branch of said run, thirty-three poles, to a point near bridge across said branch of said run; north eighteen and two-thirds degrees east, sixteen poles; north twelve and a half degrees west, twenty-four and a half poles; north twenty-three and a quarter degrees west, crossing Maryland and Ohio river turnpike, eighteen poles, to stone near red oak; thence leaving said run north seventy-eight degrees east,

eighty-eight poles, to post; south sixty-seven degrees east, twenty-five poles, to post on said Maryland and Ohio river turnpike; north eighty-seven degrees east, twenty and a quarter poles, to stone, corner of lot formerly owned by Oliver Jackson; thence south fifteen degrees east, eighty-eight poles, to stone on Monongahela river; thence up said river, with its meanderings to the beginning.

2. The municipal authorities of said town shall be a mayor, recorder, and five councilmen, who, together, shall form a common council.

3. The mayor, recorder and councilmen, so soon as they have been elected and qualified as hereinafter provided, shall be a body politic and corporate, by the name of "The Town of Fairmont;" and shall have perpetual succession and a common seal; and by that name may sue and be sued, implead and be impleaded; may purchase and hold real estate necessary to enable them the better to discharge their duties, and needful for the good order, government and welfare of said town.

4. All the corporate powers of said corporation shall be exercised by the said council, or under their authority, except where otherwise provided.

5. There shall be a town sergeant, a treasurer and commissioner of the revenue, appointed by the council, to continue in office at its

pleasure, and perform the duties respectively as hereinafter prescribed, or as may be required by the council.

6. The duties of the office of recorder, treasurer and commissioner of the revenue may be discharged by the same person, or otherwise, as the council may from time to time determine.

7. The mayor, recorder and councilmen shall be elected by the citizens of the said town who may be entitled to vote under this act, and (except when elected to fill vacancies), for the term of one year, and until their successors shall have been elected and qualified, and shall be freeholders and residents in said town and entitled to vote for members of its common council.

8. The first election under this act shall be held on the third Saturday in March, eighteen hundred and sixty-five, at the court house in said town under the supervision of a justice of Fairmont township; and annually thereafter there shall be an election on the same day in each year, at such place and under such supervision, rules and regulations as the council of said town may prescribe. The person conducting the first election shall grant certificates to the persons elected, which shall be entered upon the records with the ordinances of said council, and their term of office shall com-

mence on the first day of April next after their election.

9. All persons resident in said town and entitled to vote for county and township officers, shall be entitled to vote for mayor, recorder and councilmen.

10. When a vacancy shall occur from any cause in the office of mayor, recorder, or in council, the vacancy shall be filled by appointment by the council.

11. At all elections the vote shall be by ballot, and when two or more persons for the same office at any election shall receive an equal number of votes, the person or persons conducting such an election shall decide which of said persons shall be returned elected. And all contested elections shall be heard and determined by the council for the time being.

12. The mayor, recorder, councilmen, sergeant, treasurer and commissioner of the revenue shall each, before entering upon the duties of his office, and within ten days after being furnished with a certificate of his election, take and subscribe the oath of loyalty prescribed for county and township officers, and that they will truly, faithfully and impartially discharge the duties of their said offices, respectively, to the best of their abilities so long as they continue therein. The recorder shall take such oath or affirmation before a justice or other officer authorized to administer oaths, and

thereupon he shall administer the oaths aforesaid to the other officers and councilmen. Certificates of the said oaths or affirmations shall be recorded in the journal of the proceedings of the council.

13. When any four of the newly elected councilmen shall have been so qualified, they shall enter upon their said offices and supersede the former councilmen.

14. If any one elected mayor, recorder or councilman shall not have been eligible, or shall fail or refuse to take the oath or affirmation required under this act, within the ten days aforesaid, such office shall be declared vacant, and the vacancy filled as hereinbefore prescribed, but in all cases from among the citizens of the town eligible to such office or position under this act.

15. The council shall be presided over at its meetings by the mayor, or, in his absence, by one of the councilmen selected by a majority of the council present, and a majority of the council shall be necessary to constitute a quorum to do business.

16. The council shall cause to be kept in a journal, an accurate record of all its proceedings, by-laws, acts and orders, which shall be fully indexed and opened to the inspection of the voters of the town.

17. The proceedings of the last meeting shall be read to the council, corrected where

necessary, and signed by the person presiding for the time being. Upon the call of any member, the ayes and noes on any question shall be called and recorded in the journal. The mayor, though voting as a member of the council in cases of a tie, shall have the casting vote.

18. The council so constituted shall have power within said town to lay off, open, curb and pave streets, alleys, walks and gutters for the public use, and to alter, improve and light the same, and have them kept in good order and free from obstructions on or over them; to regulate the width of side-walks and streets, and to order the side-walks, foot-ways and gutters to be curbed, paved and kept in good order, free and clean, by the owners or occupants of the adjacent property; to lay off public grounds and provide, contract for and take care of public buildings proper to the town; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome; 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 gun-powder and other combustibles; to provide for the burial of the dead; and for this purpose may purchase and hold the necessary land for a cemetery, near or convenient to said town, and provide for its improvement and security; to

provide for the regular building of houses and other structures in or for said town; for the making of division fences, and to provide for shade and ornamental trees, and against danger or damage from fires or contagious diseases; to provide a revenue for the town and appropriate the same, and to provide the annual assessment of taxable persons and property of the town; to adopt rules for the transaction of business and the government regulations of its own body; to promote the general welfare of the town, and protect the property and preserve peace and good order therein; to keep a town guard; appoint and order out a patrol for the town when deemed necessary; to appoint such officers as they may deem proper, including a sergeant, commissioner of the revenue and treasurer; to define their powers, prescribe their duties, fix their term of service and compensation, require and take from them bonds, with such sureties and in such penalty as the council may determine, conditioned for the true and faithful discharge of their duties, and remove them at pleasure (all bonds to be made payable to the town by its corporate name); to erect or authorize, or prohibit the erection, of gas works or water works, in or near the town; to prevent injuries to or pollution of the same, for all which purposes named in this clause, except that of taxation, the council shall have jurisdiction for one mile

beyond the borough; to regulate and provide for weighing and measuring of hay, coal and other articles sold or for sale in said town, and to regulate the transportation thereof through the streets, and generally to do such things as the council shall deem necessary for the interests, prosperity, peace and good order of the citizens of said town; Provided, that the streets and alleys shall not be extended east of Quincy street without the consent of the owners of the lands through which the streets and alleys are sought to be extended.

19. To carry into effect these enumerated powers and all others conferred upon the said town or its council, expressly or by implication, in this or any other acts of the legislature, the council shall have power to adopt and enforce all needful orders, by-laws and ordinances not contrary to the constitution and laws of this State, and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment for a term not exceeding thirty days, under the judgment and order of the mayor of the said town, or the person lawfully exercising his functions. The council, with the consent of the supervisors of Marion county, entered of record, may have the right to use the jail of said county for any purpose necessary in the administration of its affairs.

20. The annual levy ordered by the council

may be upon all male persons within said town over sixteen years of age, dogs, hogs and other animals, and on all real estate within said town which is not exempt from state taxation, and all such other subjects in said town as may at the time be assessed with state taxes, provided the tax do not exceed one dollar on every one hundred dollars of value of unimproved lots, and seventy-five cents on every one hundred dollars of the value of real and personal property, or two dollars per head on each taxable person.

21. When anything for which a state license is required is to be done within the said town, the council may require a town license to be had for doing the same, and may impose a tax thereon for the use of the town, and the council may, in any case, require from the person so licensed a bond, with sureties, in such penalty and with such conditions as it may determine.

22. The sergeant shall collect the town taxes, fines, levies and licenses, and after thirty days from the time he may receive the books of the commissioner of the revenue of said town, may distrain and sell therefor in like manner as a sheriff may for state taxes, and shall in all respects have the same powers as a sheriff to enforce the payments and collection thereof, and shall, within the corporate limits of the town, exercise all the duties that a constable can

legally exercise in regard to the collection of claims, executing and levying process, and shall be entitled to the same compensation therefor, and he and his securities shall be liable to all the fines, penalties and forfeitures that a constable is legally held liable to for any failure or dereliction in said office, to be recovered in the same manner and before the same tribunals that the same are now recovered against constables.

23. There shall be a lien on real estate for the town taxes assessed thereon from the commencement of the year for which they are assessed, and the council may order and require the same to be sold or rented by the sergeant at public auction for the arrears, with interest thereon, with such per centum as the council may prescribe for charges and expenses thereof, and may regulate the terms upon and time within which the same may be redeemed. No such sale or renting shall be ordered until such realty shall be returned delinquent, and the sale shall be after twenty days notice, posted at the court-house door and the post-office in said town.

24. The council may prohibit any theatrical or other performance, show or exhibition it may deem injurious to the morals or good order of the town.

25. The mayor shall be the chief executive officer of the town, shall take care that the by-

laws, ordinances and orders of the council are faithfully executed, shall be ex-officio a conservator and justice of the peace in the town, and shall within the same, exercise all the powers and duties vested in justices, except that he shall have no jurisdiction in civil causes; shall have control of the police of the town, and may appoint special police officers; shall see that peace and good order are preserved, and that the persons and property are protected in the town; shall have power to issue execution for all fines and costs imposed by him, or may require the immediate payment thereof, and in default of such payment, may commit the party in default to the jail of the county until the fine and costs be paid, but the term of imprisonment in such case shall not exceed thirty days. He shall from time to time recommend to the council such measures as he may deem needful for the welfare of the town, and shall receive a compensation for his services to be fixed by the council, which shall not be increased or diminished for the term for which he was elected.

26. The recorder shall keep a journal of the proceedings of the council, and have charge of and preserve the records of the town, and shall receive a compensation for his services to be fixed by the council, which shall not be increased or diminished for the term for which he was elected.

27. All moneys belonging to said town shall be paid over to the treasurer, who shall pay out the same upon the order of the mayor, countersigned by the recorder, and not otherwise, and for any default or liability upon the part of the treasurer or sergeant, the council, in the corporate name of said town, may, on motion, after ten days' notice, obtain judgment before the circuit court of said county, on account thereof against them and their securities respectively, or any or either of them, or their heirs or legal representatives.

28. The said town, and taxable persons and property therein, shall be exempt from all expense or liability for the construction or repair of roads or bridges outside the corporate limits of said town.

29. All rights, privileges and properties of the said town heretofore acquired and possessed, owned and enjoyed by any act now in force, shall continue and remain vested in said town in this act, and all laws, ordinances, acts, resolutions, rights and liabilities existing and now in force not inconsistent with this act, shall continue in full force and effect until regularly repealed or cancelled by a council elected as provided under this act.

ORDINANCES OF THE TOWN OF FAIRMONT.

[Adopted November 26, 1877.]

Be it ordained by the Common Council of the Town of Fairmont that the Ordinances of said town be amended and revised so as to read as follows:

1. That any person or persons who shall place any stone coal, brick, lumber, boxes, barrels or wagons, or other incumbrance, or unhealthy nuisance whatever, on any of the streets, alleys, roads or pavements in the town of Fairmont, shall be subject to a fine of not less than one nor more than five dollars, at the discretion of the Mayor, for every twenty-four hours the said incumbrance shall remain, after having been notified by the Mayor or Sergeant to remove the same. And it shall be lawful for the Sergeant to order the removal of any such incumbrance or nuisance at the cost of the offender or offenders: provided, nevertheless, that any person repairing or building within said town may occupy one-half of the street or alley in front of their building, for the purpose of depositing the necessary materials; but the same are not to be so occupied for over three months at any one building.

2. That any person or persons who shall fire a gun, fire-crackers, torpedo, or like article, or any explosive or combustible matter, within the limits of said town, shall be subject to a fine of not less than one nor more than five dollars for each offense.

3. Any person unnecessarily riding or driving any animal or animals at an improper speed through any of the streets, alleys, roads or commons, shall be fined not less than one nor more than five dollars for every such offense.

4. A fine of not less than two nor more than five dollars shall be imposed upon any person or persons who shall exhibit any stallion or jackass, or try to let the same to any mare, on any of the streets, alleys, roads or commons of the said town.

5. Any person or persons who shall be found molesting the buildings or other property, or in any manner injuring, defacing or interfering with the legal and proper use of the same, or who shall engage in any riotous tumult, thereby disturbing the peace and quiet of the citizens, or shall indecently expose his person, or shall indulge in loud and boisterous noises, or profane, obscene or indecent language, or is found drunk upon the streets, or other public place, or shall strike or resist the Sergeant or other lawful officer, or their assistants, when making arrests

in the town, shall be fined not less than one nor more than twenty dollars for each offense.

6. Any person or persons who shall remove, dig, or quarry stone coal, dirt, or sand, or cause the same to be done, from any of the streets, alleys, roads, or other public property, or who shall undermine any of the streets, alleys, roads, or any other public property, shall be fined not less than five nor more than fifty dollars, for every such offense, unless a written permit shall have first been obtained from the Council.

7. No person or persons shall permit any obstruction or filth to be or remain upon the pavements bounding his or her lot, or the tenement occupied by him or her, or upon the half of the alley or street bounding the same. Any person offending herein shall be fined not less than one nor more than five dollars for every day such obstruction shall be suffered to remain, after being notified to remove the same.

8. No person shall cause or permit, on his or her premises, anything to collect calculated to corrupt or render the air offensive to the neighborhood. Any person offending herein shall be fined, for every day of such offense, after being duly notified to abate the same, not less than one nor more than five dollars.

9. Hereafter the erection on any lot within 65 feet of the line of Adams street of wooden buildings, or of wooden additions to buildings

already erected, shall not be permitted. Any person or persons who shall hereafter attempt to erect any building in violation of this ordinance, shall be fined \$10 for each and every day the building thereof shall be in progress; and should the fines in any one case for violations of this ordinance reach the sum of \$100, exclusive of costs, and such building or addition shall still be in progress, then the Sergeant shall, at the expense of the owner of the lot, tear down and remove the building.

10. Every owner or occupant of property within town shall make, or have made, when required by the Council, good, smooth and substantial brick or flag-stone pavements, at least nine feet wide, in front of such property, upon the streets bounding the same; said brick and flag-stone pavements to be curbed with good and substantial stone curbing. And they shall see that the side ditches of the streets are kept open, clean and unobstructed, and shall keep such pavements and side ditches clean and in good condition; and where water is carried on to the pavement by spouting or otherwise, shall make and keep good and sufficient stone, brick or metallic crossings to convey the water to the side ditches, and shall keep good and substantial doors or coverings over all cellar doorways, or other openings in the side walls or adjacent walls, and shall keep the streets and alleys to the center thereof in front of the

property owned or occupied by them clean and clear of all dirt or filth that may accumulate thereon; and when default is made as to anything required in this ordinance, it shall be the duty of the Sergeant to have done, at the cost of the party or parties, what is required of him or them, and the same shall be a charge upon the said property, and the amount shall be declared by resolution of the Council, and entered of record, and then if the same is not paid at once, the Town Sergeant shall charge the amount so ascertained and declared by the Council in and as a part of the town taxes against the owner or owners of said property for the same or next succeeding year, and collect the same as taxes on said property. The property may be sold for the payment of the same as sales are made for the non-payment of town real estate taxes.

11. Any person who shall place or hitch a horse or other animal upon or in such place or manner as to obstruct any of the pavements or crossings within the town, shall be fined not less than one nor more than five dollars for each offense.

12. No swine of any sort or size shall be permitted to run at large within the limits of said town; and it shall be the duty of the Sergeant to take up and impound any and all swine at any time found at large within the town, and to keep the same, and he shall im-

mediately post a notice at the Court-house door, describing the swine, and giving notice that unless the owner shall, within eight days thereafter, come and claim the property, and pay the charges, the same will be sold therefor; and if not claimed and the charges paid by the time named, the same shall be sold at public auction, and any surplus that may remain after paying said cost and charges, and the costs of sale, shall be kept by the treasurer six months from the day of sale, subject to the order of any one who may appear and show himself entitled thereto. And if no rightful claimant appears within said time, the same shall be forfeited to the town for the use of the same. The Sergeant, as compensation for services rendered under this section, shall be entitled to receive and retain fifty cents for each head of swine taken up by him, and whatever amount it may cost him to keep or have the same kept; and for every sale made shall have twenty-five cents per head therefor.

13. No cur, spaniel, or other animal of the canine species shall, after the first day of December, in the year 1877, be permitted to be or remain within the limits of the town, unless the owner thereof, or some person for him, shall first call upon the Sergeant and exhibit or describe to him the animal proposed to be kept; and if the same be a female pay him five dollars, if a male pay him one dollar, which shall

entitle the owner thereof to keep said dog in town one year; and if a dog for which such tax has not been paid be found in said town after the first day of December in any year, it shall be the duty of the Sergeant to take up and confine the same, and give notice personally to the owner, or by posting the same for five days at the front door of the Court-house in said town; and if the owner, or some person for him, shall not, within five days from the date of such notice, pay the Sergeant the tax aforesaid, fifty cents for taking up and ten cents per day for keeping the same, it shall be the duty of the Sergeant to proceed by warrant before the Mayor and have said animal condemned and killed. For moneys received under this section (other than his fees) the Sergeant shall give his receipt, describing therein the dog for which it was paid.

14. It shall be the duty of the Sergeant to examine, at least quarterly, and oftener, if deemed necessary by the Mayor, all chimneys, hearths, stoves, stove-pipes, roofs, &c., in the town, and to see that all necessary precautions are taken in their construction, arrangement and condition to guard against fires, and to forbid and prohibit the occupants of property from keeping fire in any that are deemed unsafe, until they are made safe and secure, to his satisfaction; and he shall see that all cellars are kept properly drained, dry and clean,

and, when necessary, limed. And he shall also procure six good, long ladders, and one dozen good fire-hooks, for the use of the town, which shall be distributed and placed at suitable places within the town, to be ready for use; and any person removing or using any of said articles, unless in the case of fire, shall be fined not less than five nor more than ten dollars for each offense.

15. No cow or other cattle shall be permitted to be or remain upon any street or alley of the town in the night time; and it shall be the duty of the Sergeant to take up and impound all cows or other cattle found upon any of the streets or alleys of the town during the night, and to keep and dispose of the same in the manner prescribed for keeping and disposing of swine in section No. 12, for which service he shall be entitled to the same compensation that is fixed in said section No. 12 for impounding, keeping and selling swine.

16. No person shall, on or after the first day of May in each year, without paying the license tax prescribed by this ordinance, keep a hotel or tavern; keep for public use or resort a bowling alley, billiard table, bagatelle table, or any table of like kind; sell, offer or expose for sale spirituous liquors, wine, porter, ale or beer, or any drink of a like nature; act as a hawker or peddler, or as an auctioneer, within said town. There shall be assessed

and collected on every license to keep a hotel or tavern, ten dollars for one year; to sell, offer or expose for sale spirituous liquors, wine, porter, ale or beer, or any drink of a like nature, one hundred dollars for one year; to sell, offer or expose for sale wine, porter, ale or beer, or any drink of a like nature, fifty dollars for one year; to keep for public use or resort a bowling alley, billiard table, bagatelle table, or any table of like kind, twenty dollars for one year; to act as a hawker or peddler, or to act as an auctioneer, ten dollars for one year, or five dollars for six months or less time. If granted for less time than one year, the town tax thereon (except as to a hawker or peddler, or as to an auctioneer) shall be computed from the annual tax in proportion to the time such license has to run. Every person offending herein shall be fined not less than five nor more than twenty-five dollars and costs for each offense. None of the licenses issued under this section shall extend beyond the 30th day of April next after the commencement thereof.

17. No horse or animals of like kind shall be permitted to run at large within the limits of the town, and if so found they shall be taken up by the Sergeant, kept at the owner's expense, and be disposed of as in the case of swine, so far as the same is applicable, and the owner shall be fined not less than fifty cents

nor more than one dollar for each violation of this ordinance.

18. Any person who shall hitch a horse or other animal to any ornamental or shade tree, or to any private fence within the said town, without the consent of the owner or occupant of the premises, shall be subject to a fine of not less than twenty-five cents nor more than one dollar for each offense.

19. Any person who shall throw stones, or play ball upon any of the principal streets, alleys or side-walks of the said town, shall be subject to a fine of not less than fifty cents nor more than five dollars for each offense, or imprisonment not exceeding twenty-four hours, at the discretion of the Mayor.

20. In any case of conviction under the ordinance of the town, if the fine imposed be not paid at once, the Mayor shall have power to imprison the offender until the fine and costs be paid, but not exceeding thirty days, or, if the fine and costs be not paid within forty-eight hours after conviction, the Mayor shall have power to compel the offender to labor on the streets and alleys of the town with a ball and chain attached to his leg, at the rate of \$1.50 per day, until the fine and costs, including boarding and jail fees, if any, be discharged. In case the offender refuse so to work it shall be the duty of the Sergeant, under the direction of the Mayor, to cause such

contumacious offender to be restricted, in his diet, to bread and water, until such time as he shall consent to work.

21. When any person, not an officer of the town, shall make complaint to the Mayor of the violation of any ordinance, the Mayor shall order the arrest of the accused, if, in his opinion, there is probable cause to suspect his guilt; but in all cases where he doubts that the complaint can be sustained by proof, he shall notify the person making complaint that if the accused be acquitted the complainant will be liable to costs, and if the case be then proceeded with, and the accused acquitted, the Mayor shall give judgment for costs against the person who made the complaint.

22. Each member of the council shall have authority, and it shall be his duty, to order any person found violating any ordinance of the town to be arrested and carried before the Mayor for trial, and such member may order any citizen of the town to make such arrest without warrant. Any citizen refusing to obey the orders of members of the council, hereunder, shall be fined not exceeding five dollars.

23. It shall be the duty of the Sergeant to enquire diligently into all violations of the ordinances and regulations of the town, and in the name of "The Town of Fairmont" to prosecute all offenders against the same. He shall superintend such work as may be ordered, and

perform such other duties as may be enjoined on him by order of the Council. For every neglect to prosecute any such offender he shall be fined not less than one nor more than twenty dollars.

24. Prosecutions for penalties incurred, under any ordinance, shall be in the name of "The Town of Fairmont," before the Mayor; costs of prosecution, in case of conviction, shall be added to the penalty.

25. A person attending as a witness before the Mayor shall be entitled to fifty cents per day in each case, to be paid by the party for whom he appears.

26. The compensation of the Sergeant shall be the same as that allowed by law to Constables for similar services; in all cases not specially provided for in these ordinances, his fee for an arrest shall be one dollar. He shall also receive such *per centum* for the collection of the revenue of the said town as the Council may from time to time prescribe.

27. The regular meetings of the Council of said town shall be held at such place as the Council may from time to time select, at seven o'clock P. M. on the first Tuesday of every month, and the Mayor shall have power to call special meetings whenever he deems it necessary, but he shall cause at least a majority of the Council to be personally notified thereof.

23. These ordinances and regulations shall be fairly transcribed, attested by the Mayor and Recorder, and one hundred copies thereof, together with the charter of the town, printed at the cost of the town.

THOMAS A. FLEMING, Mayor.

LINDSAY B. HAYMOND, Recorder.

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