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Text of Proposed Charter Amendments

A Bill to amend and re-enact Chapter 144 of the Acts of the Legislature passed January 4, 1901, entitled "An Act to Create the Municipal Corporation of 'The City of Morgantown,'" in the County of Monongalia, to grant a charter thereto and to amend the charter of the Town of Morgantown, the town of South Morgantown, the town of Greenmont and the town of Seneca," as amended by Chapter 11 of the Acts of the Legislature, passed February 21st, 1905.

Be it enacted by the Legislature of West Virginia:

That Chapter one hundred forty-four of the Acts of one thousand nine hundred and five, of the Legislature of West Virginia, be amended and re-enacted so as to read as follows:

The City of Morgantown.

SECTION I. The inhabitants of the portion of the county of Monongalia, in the state of West Virginia, within the limits of The City of Morgantown as they are, or as they may hereafter be, shall be and continue a body politic and corporate, by the name and style of "The City of Morgantown," and as such, and by that name, shall have perpetual succession and may contract and be contracted with, sue and be sued, plead or be impleaded, answer and be answered unto, and may purchase, acquire by condemnation proceedings for public use, take, receive, hold and use goods and chattels, lands and tenements and chooses in action, or any interest, right or estate, therein either for the proper use of said city, or in trust for the benefit of any person or association therein; and the same may grant, sell, convey, transfer and assign, let, pledge, mortgage, charge and encumber, in any case and in any manner in which it would be lawful for private individuals so to do, except where its power may be limited by law; and may have and use a common seal, and alter and renew the same at pleasure; and generally shall have all the rights, franchises, capacities and powers appertaining to municipal corporations in this state.

All real and personal estate, and all funds, rights, titles, taxes, credits and claims and rights of action owned by the City of Morgantown immediately before this charter takes effect or which are then held in trust or have been appropriated for the use or bene-

fit of said city or of the inhabitants thereof, shall be and the same are hereby transferred to and vested in the city of Morgantown under this charter.

All lawful contracts with and all lawful rights, claims and demands against the city of Morgantown, at the time this charter takes effect, shall be good in law against the said city under this charter.

Boundaries:

SECTION 2. (a) The corporate boundaries of the said city shall be as follows, that is to say:

Beginning at Target Rock a rock in the Monongahela river below Morgantown, said Target Rock being nearest the right bank of said river, thence north fifty-six degrees east, two hundred and three and eight-tenth poles to a locust on the northeast side of the Collins' ferry road, opposite to the entrance to a lane leading to Oliver H. Dille's farm house; thence south sixty-one degrees and fifteen minutes east, two hundred, - fifty-three and seven tenth poles to a post on the southeast side of the Stewartstown road, opposite the intersection of a lane leading to the Hoffmand farm house, and the intersection of the old and new Stewartstown roads; thence south fifty-eight degrees and two minutes east, two hundred one and five tenth poles to a stone on the southeast side of the Ice's ferry pike; at its intersection with the old Robinson road; thence south eleven degrees and nine minutes east, two hundred nineteen and five-tenth poles to a stone on the southwest side of the Decker's creek road, opposite its intersection with the Sturgiss road; thence south thirty-four degrees and fifteen minutes west, two hundred thirty-one and five-tenth poles to a large stone on the top of the hill on land of George Harner; thence south fifty-eight degrees and twenty-five minutes west, two hundred twenty seven and five-tenth poles, to a stone on the north-east side of the Kingwood pike at its intersection with a lane leading to the William Will's farm house; thence south sixty-seven degrees and fifty-three minutes west, three hundred and forty-four poles to a stone at the intersection of the Evansville pike, with the Morgantown and Fairmont road; thence north eighty-eight degrees and twenty-five minutes west, seventeen and eighty-eight one

hundredths poles to a sycamore on the right bank of the Monongahela River; thence with the shore line of said river and down the same to Target Rock, the place of beginning.

(b) The City of Morgantown may from time to time hereafter enlarge the boundaries of the city only by and with the consent of a majority of the inhabitants of the territory proposed to be annexed, who are qualified voters of the state of West Virginia, voting upon the subject at a general election held in Monongahela County, West Virginia, for state, county, judicial or district officers, the votes upon the question of annexation to be by ballots for the purpose of voting on such question only, to be deposited in a ballot box or boxes separate and distinct from the others used at such election, and the election to be held after a notice thereof published in two newspapers published in said city of Morgantown, once a week for four successive weeks, and to be conducted, and the result thereof duly ascertained, declared, certified and made a matter of record, by the same officers who perform the like duties in relation to the votes upon the matters at such general election, and the ballots shall be prepared for voting upon such question by the same officers as the other ballots for use at such election and so far as applicable all the provisions of chapter three of the code of West Virginia shall apply to the election upon such annexation question.

Provided, however, that all expenses of holding such election in so far as pertaining to such annexation of territory not already separately incorporated, the payment whereof is not now provided for by law, shall be paid by the city of Morgantown, and, provided, further, that, if the territory proposed to be annexed is part or all of the land embraced within the boundaries of any other municipal corporation, before the election on such annexation question is held, the city of Morgantown and such other municipal corporation shall agree upon the terms upon which the annexation is to be made and such terms shall be inserted in the published notice of election; the vote taken on such question of annexation in a municipal corporation in which part or all of the territory proposed to be annexed is located, and the vote on annexation in territory not within a municipal corporation, must be taken separately and not together.

A majority of the votes cast upon the question of annexation in any municipal corporation must be in the affirmative to authorize the annexation

of any of the territory thereof, and a majority of the votes cast upon such question in territory not in such a corporation must be in the affirmative to authorize the annexation of any of the last mentioned territory.

In the event that a majority of the votes upon the question of annexation shall be in the affirmative, the council of the said city of Morgantown shall by ordinance carry out the terms of agreement upon which the annexation is to be made.

Any territory annexed must be contiguous to a boundary or boundaries of the city of Morgantown existing at the time of the annexation.

Wards.

SECTION 3. (a)—The territory included in the said city shall, from time to time, be divided into wards by the common council thereof. The wards shall be as nearly equal as may be in area and population, and when the wards and the boundaries thereof shall have been once established by an ordinance of the common council, the wards shall thereafter be entitled to elect an equal number of councilmen; but until such establishment of wards by an ordinance of the common council, the wards shall be as follows, and shall be entitled to elect the number of councilmen provided for the twelfth section of this act:

The first ward shall comprise all that portion of said city which lies between the southwestern boundary line of said corporate limits, the Monongahela River, Decker's Creek and the following divisional lines between the first ward and the second ward of said city, which divisional line is as follows, to-wit: Beginning at a beech tree on the south bank of Deckers Creek in a line between the lands of John J. Brown and Mary E. Brown, and thence with their said divisional line S. 8½ E. 81½ poles crossing the road leading to the old fair grounds, now known as Wilson or White avenue, and thence in a westerly direction with said White avenue to Willey Driveway, and thence with the center line of said Willey Driveway to its first intersection with Jefferson street, and thence with the center line of said Jefferson street in a southerly direction to Jackson avenue at its intersection with Logan avenue, and thence with the center line of said Logan avenue around the sharp bend of said avenue to its intersection with King street, and thence with the center line of said King street in a southwesterly direction to the end of said street, where it merges into Sheldon avenue, and thence with the center

line of said Sheldon avenue, to its intersection with Ross street, and thence with the center line of said Ross street to its intersection with the Morgantown & Kingwood Pike, and thence with the center line of said pike in an easterly direction to the corporate limits.

The second ward shall comprise all that portion of said city included within the following boundaries, viz: Beginning at the beech tree on the southern bank of Deckers creek, and thence in a southerly direction, with the eastern boundary of the first ward to a point where the southeastern boundary line of the corporate limits of said city intersects the Morgantown & Kingwood pike, and thence with the said southeastern boundary line of the corporate limits to a point where the said boundary line crosses Decker's creek near the intersection of the Decker's creek road and the Sturgiss road at a large stone and thence with the center line of the Decker's creek road in a westerly direction to the iron bridge across the Decker's creek near the plant of the Ever-Bright Mirror company, and thence with the center line of said creek to the place of beginning.

The third ward shall comprise all that portion of said city which lies within the following boundaries, viz: Beginning at the junction of Decker's creek with the Monongahela river and thence along the eastern shore of said river to Hough street, and thence along the center line of said Hough street to its intersection with Willey street, and thence along the center line of said Willey street to the deep ravine known as Deep Hollow, lying between the old Town of Morgantown and what is known as East Morgantown at the point where the street or road leading from Willey street to East Morgantown crosses said ravine; thence along the small stream in the said ravine and down the same to Decker's Creek, and thence down the center of said Decker's creek to the place of beginning.

The fourth ward shall comprise all that portion of said city which lies within the following boundaries viz: Beginning at the northwestern corner of the corporate limits of said city at a point on the bank of the Monongahela river known as Target Rock; and thence with the eastern shore of said river and up the same in a southeasterly direction to the mouth of Falling Run; and thence in a northeasterly direction up the center line of said Falling Run to a point where the same is crossed or intersected by the northern boundary of said city; and then in a westerly direction with the said

northern boundary line or corporate limits of said city to the place of beginning.

The fifth ward shall comprise all that portion of said city included within the following boundaries, viz: Beginning at a point on the east shore of the Monongahela River, at the mouth of Falling Run and a corner in the boundary line of the fourth ward, and thence up the said eastern shore of said river in a southerly direction to a point in the center line of Hough street, and with the boundary lines of the third ward of said city to a point in Decker's creek at the mouth of Deep Hollow ravine, a corner to both the second and third wards of said city, and thence in an easterly direction with the northern boundary line of the second ward of said city to the corporate limits, and thence with the northwestern boundary lines of said city in a northwesterly direction to a point in the center of Falling Run ravine, a corner in the boundary lines of said fourth ward, and thence with the southeastern boundary lines of said fourth ward in a southwesterly direction to the place of beginning.

Municipal Authorities.

SECTION 4. (a) The municipal authorities of the said city shall consist of not less than ten councilmen, which shall constitute the common council of said city. The word "council" in this act shall be construed as synonymous with common council. All councilmen shall serve for a term of two years and until their successors are elected and have qualified, unless sooner removed from office as hereinafter provided. They shall be residents of the city and qualified voters therein. No one elected a member of such city council shall be eligible to hold office as such member, who shall be directly or indirectly, a holder or owner of any bond or stock of any corporation, owning or interested in a municipal franchise, privilege, or easement in or from such city; or be an officer, agent, trustee, servant or employee of such a corporation. If any such person shall serve or attempt or continue to serve as a member of such city council who is not eligible for such membership, he shall be guilty of a misdemeanor and upon conviction thereof, be confined in the county jail for not more than one year, or be fined not more than \$1,000.00. And no member of city council who shall be interested directly or indirectly or be the owner of more than five shares of the capital stock of any corporation interested in the profits or emoluments of any contract, job, work or service

for the city on any sale to it of any property, real or personal, shall vote or participate in the consideration of any such contract, work, service or sale. The council shall appoint, within ten days after their election, one of their number as their chairman or presiding officer, who shall be known officially as mayor of the city and recognized as such for ceremonial purposes and for the purpose of being served with civil processes against the city, and for the performance of all duties imposed upon him by this charter. A majority vote of all the councilmen elected shall be necessary for the election of such mayor. The mayor shall hold this office as such at the pleasure of the council.

Exercise of Corporate Powers.

SECTION 5. (a)—All the corporate powers and functions pertaining to the said city shall be exercised by its common council or under its authority, in the corporate name of the city, unless otherwise provided herein by state law or by municipal ordinance.

(b)—The council shall have authority to pass all ordinances not in conflict with the constitution and laws of the United States, or of this state, which shall be necessary and proper to carry into full effect any power, authority, capacity or jurisdiction which is or shall be granted to, or vested in, the said city, or in the council or any officer of said city; and to provide for the enforcement of any or all of their ordinances by reasonable fines and penalties, or by imprisoning the offender or offenders violating such ordinances, and by compelling them to labor without compensation, at any of the public works or improvements undertaken or to be undertaken by said city, or by any or all of the said modes; provided however, that no person shall be imprisoned or compelled to labor as aforesaid more than one year or fined more than one hundred dollars for any one offense.

Subordinate Officers.

SECTION 6. (a)—The council shall appoint the following named officers of the city, to-wit: A city manager, who shall be the administrative head of the municipal government and who shall be responsible for the efficient administration of all departments; a clerk, who shall be known as city clerk, who shall keep all records of the meetings of the city council, all of the financial and other records of the city, and shall act as clerk of the police court and perform such other duties

as may be required by this charter or by the council; a judge of police court. All appointees of council shall hold office at the pleasure of the council and receive such compensation therefor as council may determine. But none of the above mentioned officials shall be removed by council, until and only after the presentation of written charges and specifications of misfrance, mal-france or non-france lodged against them, and after they have been given every opportunity to present their defense. After a full hearing of the matter including the right to appear before council in person or by counsel council shall have the right to remove such appointee for cause only.

(b)—The duties and powers of the city manager shall be:

(1)—To see that the laws and ordinances are enforced;

(2)—To appoint all officers of the city, except members of the city council and the officers such city council is hereby authorized to appoint, and to employ, or cause to be employed, all employees of the city; the officers by him appointed and such employees as he shall appoint or, cause to be appointed, to continue in their offices or employment during his pleasure or that of his successor as such city manager; but all appointees or employments shall be upon merit and fitness alone;

(3)—To exercise supervision and control over all departments and divisions created herein or that hereafter may be created by the council, except the council and other officers by it appointed;

(4)—To attend all meetings of council with the right to take part in discussion, but having no vote;

(5)—To recommend to the council for adoption such measures as he may deem necessary or expedient;

(6)—To keep the council fully advised as to the financial condition and needs of the city;

(7)—To approve for payment all vouchers prepared by the city clerk when the expenditures has been authorized by proper appropriations, and the payment is otherwise to be made.

(8)—To supervise the conduct and performance of their duties by other officers and employes of the city except the members of the city council, reporting to such council any failure of performance of duty by any of the other appointees of such council, and enforcing the proper performance of their duties by the officers appointed by him and by the city employes, to the end that the city's business shall

be efficiently and economically transacted; and,

(9)—To perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the council. The city manager shall devote his whole working time to the performance of the duties of his office, and while occupying such office he is not to be engaged, directly or indirectly, or be actively interested in any business other than the performance of his duties concerning the affairs of the city of Morgantown.

(c)—The City Manager shall have authority to provide for the appointment of such officers, the appointment of whom is not vested in the council, as shall be necessary or proper to carry into full effect any authority, power, capacity or jurisdiction which is or shall be vested in the city of Morgantown, or in the council thereof, or in such city manager; to grant, in writing, to the officers so appointed the powers necessary or proper for the purposes above mentioned; to define their duties in writing, to allow them reasonable compensation (said compensation to be approved by council) and to require and take of all or any of them such bonds, obligations, or other writings as he shall deem necessary or proper to insure the proper performance of their several duties.

All bonds, obligations or other writings taken in pursuance of this section, as well as all other bonds given to the city of Morgantown, shall be made payable to such city, and the respective persons or corporations, their heirs, executors, administrators and successors bound thereby, shall be subject to the same proceedings on the said bonds, obligations or other writings for enforcing the conditions and terms thereof, by motion or otherwise, before any court of record whose sessions are or shall be held in said city of Morgantown, that collectors of the county levies and their securities are or shall be subject to on their bonds for the enforcing the payment of such levies.

(d)—The duties and powers of the City Clerk shall be:

(1)—To keep all records of the city, including the records of the meetings of the City Council.

(2)—To act as auditor and to keep all records of the finances of the city.

(3)—To keep all other records pertaining to the city and to all departments thereof, including the records pertaining to the office of city manager and the other departments of said city.

(4)—To act as clerk of the police court and to perform duties required in connection therewith by the provisions

of this charter, ordinances of council or the police judge himself.

(5)—To act as Treasurer of said city by collecting all funds due it and depositing the same in such bank or banks as shall be named as city depository by council, but he shall pay out no money except upon voucher approved for payment by endorsement thereon by the city manager.

(6)—To make up the assessment rolls for the city, utilizing therefor the facts and data available from all sources including the board of appraisers hereinafter provided for, assessment rolls and records of the County assessor; and having made up the assessment rolls of the city, he shall prepare the tax tickets or receipts and collect the same from the tax payers in accordance with paragraph 8 of this section hereof.

(7)—The city clerk shall report to and be under the direction of the city manager, but the city manager shall not have the right or power to remove him from office, but may prefer charges against the city clerk to council for hearing and action under Section 6-a, hereof.

(8)—The city clerk in person or by deputy shall have charge of the collection of the city taxes and shall account to the city for the same; he shall have the same powers and authority in making such collections of city taxes as is by law vested in a sheriff in making collections of state and county taxes, and should he act by deputy in so collecting said city taxes, his deputies shall have and exercise all the powers of their principal in so doing.

Eligibility of Councilmen.

SECTION 7. (a)—No person shall be eligible to the office of councilman, unless at the time of his election he is legally entitled to vote in the city election for member of the common council.

(b)—No person holding an elective office under this state, the United States, or any foreign government; no member of congress, no person who is a salaried officer of any railroad company, operating or proposing to operate its lines of railroad in said city, or who is a sheriff, constable or clerk of any court of record shall be eligible to a seat in council. No person who has been, or hereafter shall be convicted of bribery, perjury or other infamous crime shall be eligible to a seat in the council. No person who may have collected or been entrusted with public money, whether of a state, county, township, district or any municipal corporation, shall be eligible to the council, or to any office of honor, trust or profit in the city, until he shall

have duly accounted for and paid over such money, according to law.

SECTION 8 (a)—The term of office for members of council shall be two years from the last day of May immediately following their election, and council shall be composed of an equal number of councilmen from each ward of the city to be elected by the voters of such ward for a term of two years, or until their successors are duly elected and qualified, unless sooner removed in the manner required by law.

Tenure of Office.

SECTION 8 (b)—The five members of council elected at the regular election held or to be held in said city, under the act of the legislature hereby amended, on the first Thursday of April, 1921, shall continue in office for the term of two years from the first day of February, 1922, or until their successors are duly elected and qualified; and the five members of council whose term of office to which they were elected will expire on May 1st, 1922, shall continue in office only until the first day of February, 1922 or until their successors are duly elected and qualified; thereafter, and commencing with the election to be held in said city on the first Thursday after the first day of January, and annually thereafter, an equal number of councilmen shall be elected from each ward by the voters thereof for a term of two years from the first day of February following, or until their successors are duly elected and qualified; unless they are sooner removed in the manner required by law.

Compensation of Councilmen.

SECTION 9—Councilmen shall be paid five dollars each for every regular meeting they attend, and the mayor shall be paid six dollars for like attendance, but no compensation shall be allowed for special meetings, nor for any committee meeting of the council.

No extra compensation shall be granted or allowed to any member of council, agent or servant of the city, or contractor therewith after the services shall have been rendered or the contract made; nor shall any payment be made of any claim or part thereof, created against the city, under any agreement or contract made without express authority of law; and all such unauthorized agreements shall be null and void. Nor shall the salary or compensation of any member of council be increased or diminished during his term of office. No member of council shall receive any additional emolument,

save the compensation hereinbefore in allowance or perquisite of any account, save the compensation hereinbefore in this section provided.

Vacancies in Office.

SECTION 10 (a)—A majority of the councilmen elected shall have authority at any meeting of the city council to appoint one of their number to serve pro tempore as chairman or mayor, in the event of the absence from the city or such meeting or disability of the regular mayor. Vacancies in the council shall be filled for the unexpired term by a majority of the remaining members. In the event of the death or resignation of the regular mayor, the vacancy in the office of mayor for the unexpired term shall be filled by council.

(b)—The filling of any vacancy, except that of mayor, shall take into account the ward of the member whose place has been vacated and his successor must reside in such ward. Removal from a ward shall vacate the seat of a councilman residing in such ward at the time of his election.

Who Are Voters.

SECTION 11—Every person who has been a bona fide resident of the city for six months next preceding the city election therein and who is a qualified voter under the constitution and laws of this state shall be entitled to vote at any city election, in the ward in which he actually resides. But no person shall be deemed a resident of such city by reason of being a student of any school or college therein, or by reason of being stationed therein for any temporary purpose.

First Election of Officers.

SECTION 12. No election for council shall be held hereunder before the first Thursday after the first day of January 1922, but the members of council holding office at the time this charter goes into effect shall continue in office as provided for under section 8-a hereof. On and after the election to be held on the first Thursday after the first day of January 1922 one-half of the councilmen from each ward shall be elected annually by the voters of such ward for a term of two years from the first day of February following, or until their successors are duly elected and qualified, unless sooner removed in the manner provided by law.

Regular Elections.

SECTION 13. (a) The regular annual election in said city shall be held

on the first Thursday after the first day of January in each year, at which there shall be elected an equal number of councilmen from each ward, as hereinbefore provided for. The elections shall be held, conducted, and the results thereof ascertained, certified, returned and finally determined, under an ordinance of the common council of such city, which shall not be inconsistent with the general statutes of the State governing municipal elections, and shall conform as nearly as practicable to such statutes. Whenever two or more persons receive an equal number of votes for the same office, if such number be the highest cast for such office, the persons under whom the supervision of the election is held shall decide by lot which of them shall be returned elected, and shall make their return accordingly. All contested elections shall be heard and decided by the common council.

(b)—All other elections or votes on any question by the qualified voters of said city shall be held or taken at such places under the superintendency of such persons and subject to such regulations as are by the council ordained and consistent with the laws of the state.

(c)—The council shall by ordinance provide for the adoption and use by the city in all city elections of the regular biennial county registration, and any person who shall become a resident of the city, after such annual registration lists have been filed by the county authorities, and who shall establish his right to vote in city elections may register with the city clerk at any time until the third day before the day on which a city election is held and his name shall be entered on such registration list.

(d)—In all city elections for councilmen the names of the candidates for council in each ward shall be arranged alphabetically without party designation or symbol, whether such candidates are nominated by political parties or by petition, or such other methods as are provided by law.

Qualification of Officers.

SECTION 14. (a)—Every city officer before he enters upon the duties of his office, shall make, before some one authorized by law to administer oaths, and file with the city clerk, an oath or affirmation to support the constitution of the United States, and of the State of West Virginia, and to perform faithfully, honestly and impartially the duties of his office, to the best of his skill and judgment. No person except citizens entitled to vote in said

city shall be elected or appointed to any municipal office therein.

(b)—Such officers and employees of the city as the council may determine by ordinance, shall, respectively, furnish and file, after approval thereof by the council, as to form and security, their bonds with the city clerk in such penalties, respectively, and with such conditions as are fixed by such ordinance, with such corporate or other surety or securities hereinbefore mentioned, payable to the city. The furnishing of such bond shall be a necessary part of the qualification of such officers or employees. The bonds of all appointive officers required to give bond shall also be approved, as to form, by the city solicitor. No officer or employee of the city of whom a bond is required, shall enter into the discharge of his official duties or of the duties which he is employed to discharge, until his bond has been approved and duly filed.

Meetings of Council.

SECTION 15. (a)—The first meeting of council shall be held on the Tuesday next after this charter shall become effective and members of council as provided herein be elected, or as soon thereafter as practicable, commencing at 7 o'clock p. m., or as soon thereafter as a quorum of members shall be in attendance, in the room or chamber in the city hall in said city, known as the council chamber, or, if the meeting cannot be held in such chamber, it shall be held at such other convenient place in said city as the majority of such members shall elect, the residue of such members having first received reasonable notice of the time and place of the meeting.

Subsequent meetings shall be held at such place in said city hall or elsewhere in said city, and (commencing at such hour as the council shall from time to time determine), on Tuesday of each week, unless a legal holiday shall occur on that day, in which event the meeting shall be held on the succeeding Wednesday. Council may hold special meetings at the place selected for their regular meetings, commencing at such hour as they shall determine. Special meetings of council may be called by the mayor or any three members thereof.

(b)—The council shall be presided over at its meetings by the mayor or in his absence, by one of the councilmen selected by the majority of the council present. A majority of the council shall be necessary to form a quorum for the transaction of business.

VOTES OF MEMBERS.

SECTION 16. (a)—The council shall be judge of the election and qualifications of its members, subject to the provisions of section four of this charter. A majority of all members elected shall constitute a quorum to do business, and the affirmative votes of a majority of all members elected shall be required for the adoption of any ordinance or resolution. Every ordinance or resolution passed by the council shall be signed by the mayor, or mayor pro tempore, and filed by him with the clerk within two days and by him recorded.

(b)—No member of the council shall vote upon any order, measure, resolution, or proposition, in which he may be interested otherwise than as an inhabitant of such city. Upon the call of any member the yeas and nays on any question shall be taken and recorded in the journal.

(c)—The mayor shall have a vote as a member of the common council but in case of a tie the motion shall fail. The City Clerk shall have no vote but act as clerk of said body only.

Records of Council.

SECTION 17.—The council shall cause to be kept in a well bound book called the "Council Journal" an accurate record of all its proceedings, by-laws, ordinances, orders and resolutions, which shall be fully indexed, and shall be open to the inspection of any one who is required to pay taxes to such city. The records of the former towns of Morgantown, South Morgantown, Seneca and Greenmont, shall remain with the council of said city, and it shall make suitable provision for the safe-keeping and preservation of the same. At each meeting of the council the proceedings of the last meeting shall be read, corrected if erroneous, and signed by the presiding officer for the time being.

Powers and Duties of Council.

SECTION 18. (a)—The council of said city shall have power therein to lay off, vacate, close, open, alter, curb, pave and keep in good repair, roads, streets, alleys, sidewalks, cross-walks, drains and gutters for the use of the inhabitants thereof, and of the public, and to improve and light the same, and to have them kept free on and over them; to regulate the width of sidewalks on the streets, roads and alleys, and to order the sidewalks, drains and gutters to be curbed and paved and kept in good order, free and clean, by

the owners or occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the time of holding the same, provide suitable and convenient buildings therefor, and prevent the forestalling of such markets; to prevent injury or annoyance to the public or individuals from any thing dangerous, offensive, or unwholesome; to regulate, or prohibit slaughter houses, tan houses, tan yards, soap factories, and all other structures for carrying on any business trade or employment in said city that is unhealthy, offensive, or dangerous; to abate any nuisance within the city limits, or to require and compel the abatement or removal thereof by the person causing the same, or at his expense, or by the owner or occupant of the ground on which such nuisance exists or at the expense of the owner of such ground; to cause to be filled up, raised, or drained, by the owner thereof or at his expense, any lot or tract of land covered with stagnant water; to prevent hogs, horses, cattle, sheep, and other animals, and fowls of all kinds from going at large in such city; to provide for impounding and confining all kinds of cattle, dogs, animals, and fowls running at large within said city, until the fines and penalties therefor have been paid, and in default of such payment to make sale of the cattle, animals, or fowls impounded to satisfy such fines and penalties; to protect places of divine worship, and to preserve order in and about the places where held; to regulate the keeping of gun-powder and other inflammable or dangerous substances; to provide in or near the city places for burial of the dead, and to regulate the interment therein; to provide for the regular building of houses or other structures; to provide for the making and maintenance of division fences and party walls by the owners of lots or other parcels of land, by the owner or occupant thereof, or at his expense; to make regulations for guarding against danger by fire; to impose punishment for assault, assault and battery, and breach of the peace; to prohibit maintaining, loitering in or visiting houses of ill fame, or loitering in saloons, upon the streets, or in any public place; to define offenses against good morals and decency and provide penalties therefor; to prevent the illegal sale of all intoxicating liquors, mixtures, and preparations; to make use of the county jail of Monongalia County for a city prison, and to provide a separate prison for the city; to erect, own, control, and maintain, or authorize or prohibit the erection of any waterworks

in the said city or any gas plant, or electric light plant, for light, heat, and power, or for either of said purposes; to prevent and punish any pollution of the water supply within said city and to prevent and punish any injury to any gas plant, electric plant or water-works within said city; to provide for and regulate the weighing or measuring of hay, coal, lumber and other articles sold or kept for sale in the city, and to establish rates and charges therefor; to protect the person of the inhabitants of the city; and to protect all property, public and private, within the city; to preserve the peace and good order therein; to preserve and promote the health, safety, comfort, and well being of the inhabitants thereof; to provide for the appointment of a suitable police force; to provide for the examination, regulation and licensing of stationary engineers, and others having charge or control of stationary engines, boilers, or steam generating apparatus within said city; to provide a revenue for the city and apply the same to its purpose; to provide for the annual assessment of taxable property therein; to impose a license tax on persons or companies keeping for hire carriages, buggies, wagons, or vehicles of any kind, or for carrying passengers for pay in such city; to require and take from any officer when deemed necessary a bond, payable according to law, with such sureties, and in such penalty as the council may see fit, conditioned for the faithful discharge of the duties of the office; to adopt rules for the transaction of business and for the government and regulation of its own body.

(b)—The enumeration of certain powers of council herein shall not be construed to limit the power of council to those powers enumerated to the exclusion of all or any other powers which are not contrary to the constitution or any general law of this state or of the United States; and all such powers not in such conflict are hereby granted to said council whether enumerated herein or not.

Enforcement of Powers.

SECTION 19—To carry into effect these enumerated powers, and all other powers conferred upon such city, or its council, by this act or by any other future act of the legislature of this state, the council shall have power to make and pass all needful orders, by-laws, ordinances, resolutions, rules and regulations, not contrary to the constitution and laws of this State; and to prescribe, impose, and enact reasonable fines, penalties, and imprison-

ments in the county jail or other place of imprisonment in said corporation, if there be one, for a term not exceeding thirty days for a violation thereof. Such fines, penalties and imprisonments shall be recovered and enforced under the judgment of the mayor of such city, or the person lawfully exercising his function.

Annual Estimate of Expenditures.

SECTION 20—The council shall cause to be annually made up and entered upon its journal not later than the first day of July in each year, an accurate estimate of all sums that are, or may become, chargeable to such city, which ought to be paid, within one year; and it shall order a levy of so much as may in its opinion, be necessary to pay the same.

Annual Levy.

SECTION 21.—The levy so ordered shall be upon all dogs in the said city, and upon all real and personal property therein subject to state taxes, upon the basis of the valuation of such property as fixed for city purposes; but the taxes so levied upon property shall not exceed the rate of one dollar on every one hundred dollars of the valuation thereof, in any one year for current purposes, unless authorized by ordinance in the manner prescribed by law.

CITY ASSESSMENTS

Sec. 22. The Council shall appoint three citizens of the city who are free holders and entitled to vote, not more than two of whom shall belong to the same political party, who shall constitute for the City a Board of Review and Equalization; but no two of said Board shall be appointed from the same ward; said Board shall annually elect one of their member as President and two of the members of said Board shall constitute a quorum for the transaction of business; the salary of the members shall be fixed by Council at a reasonable amount per day for each day actually in session of not less than six hours, and for such number of days as council shall deem necessary, and shall be provided for and paid out of the City levy for the current year. Term of office of such members shall begin at the date of appointment and shall con-

tinue for the term of three years, except that at the first meeting of such members they shall designate by lot, or otherwise, in such manner as they may determine, one of their Board who shall hold his office for the term of one year, one for two years and one for three years, so that one shall be appointed every year; any member may be removed for cause by the Council and the vacancy filled by it. Every member so appointed shall within ten days after his appointment take the oath or affirmation prescribed by Section 5 of Article 4, of the Constitution of West Virginia, and such oath shall be certified by the person who administers the same and filed with the City Clerk. The Board of Review and Equalization shall annually, not later than the 1st day of August, meet at the municipal hall for the purpose of reviewing and equalizing the assessments of the City as returned by the Assessor, and shall not adjourn said session for longer than three days at a time until the work of review and equalization is completed; at which time the County Assessor shall submit to the said Board for its inspection the land books, covering the real estate in the City of Morgantown, for the current year as prepared by him, and approved by the Board of Review and Equalization of the County; said Board shall proceed to examine and review the land books and have the same copied for the city. Said Board for the purpose of equalization, shall for city purposes, have the power and authority to change the assessed valuation of any lot or parcel of ground in the City, and the buildings and improvements thereon, but the aggregate assessed valuation of the real estate and buildings and improvements thereon within the City as fixed by the said City Board of Review and Equalization shall not exceed the aggregate valuation of the same as fixed and determined by the Assessor, after the review thereof by the County Board of Review and Equalization. And for

the purpose of aiding the City Board of Review and Equalization in ascertaining and fixing the valuation of real estate of the City, the Board shall have authority to employ such clerical and other assistance as it may deem necessary and proper. The said Board shall have authority of its own motion or on sufficient cause being shown by any person, to add to said land books the names of persons, the description and value of real estate liable to assessment in the City omitted from said assessment books by the Assessor; they shall correct all errors in names of persons, in the description of property upon such books and in the assessment and valuation of property thereon, and they shall cause to be done whatever else may be necessary to make said assessment as returned by the Assessor comply with this provision of the charter; the Board shall pass upon each valuation and each interest and shall enter the valuation of each as fixed by it in a separate column in the city land books prepared for the purpose; if it shall be determined by said Board that any property or interest is assessed too high or too low, it shall reduce or increase the value of such property as in the judgment of the Board is necessary to equalize valuations in the City, but in no event shall the aggregate assessed valuations of the real estate of the City, as fixed and determined by the Board, exceed the aggregate assessed valuation of said real estate as fixed and reported by the Assessor.

After said Board shall complete the review and equalization of the land books of the city, a majority of said Board shall endorse and sign a statement to the effect that the same is the completed real estate assessment of said City for the year for which it has been prepared and approved by the City Board of Review and Equalization; then said land books shall be delivered to the City Clerk and the levies upon same extended and the tax tickets or receipts prepared as provided. If any tax payer of the

City be dissatisfied with the valuation of his property as fixed by the Board, he shall have the right to apply to the Board for relief and may within thirty days after adjournment of the Board of Review and Equalization apply for relief to the Circuit Court of the County; but he shall before any such application is heard, give ten days notice to the City Solicitor, whose duty it shall be to attend to the interests of the City in the matter. And in case of appeal from the decision of the Board, the party taking such appeal shall have the evidence taken at the hearing of such application before the Board of Review and Equalization, certified by said Board. If upon the hearing of such appeal it is determined that the assessment of any such real property is unequal and not uniform, with other real property in said city similarly situated, the court shall by an order entered of record correct every such assessment, so that the assessed value of such real property shall be equal and uniform with the assessed value of other real estate in said city similiary situated.

LICENSES.

Sec. 23 (a.)—The council may by ordinance require that suitable magazines or places shall be provided in or near said city for the storage of gun powder, dynamite, petroleum and the volatile products thereof, and all explosives and combustible and dangerous articles, make and enforce such regulations as it may deem necessary respecting the place and manner of transporting the same, and assess and collect an annual license tax for the keeping and selling of any or all such articles.

(b.)—The council may by ordinance regulate theatrical exhibitions, and all performance to which admission is obtained by the payment of money or other reward, and grant or refuse license for any of such performances, and levy and collect taxes on the same.

(c.) The council may grant license to owners and keepers of horses,

hacks, carts, wagons, drays, automobiles, bicycles and every description of wheeled vehicles kept within the said city; levy and collect license taxes as well as other taxes thereon, and subject the same to such regulations as the interest or convenience of the inhabitants of said city, in the opinion of the council, may require. The council shall also have authority to license and collect license taxes from hawkers and peddlers within said city, and persons who rent temporary quarters or who temporarily station themselves upon a street to sell or exhibit articles, must take out and pay the license required by the city of hawkers and peddlers.

(d.)—It shall be unlawful for any person, in said city, to hold himself or herself out as a fortune teller, clairvoyant, mindreader or palmist, and purport and claim to tell the future or the past by the above or any other hidden and secret methods or science, or to practice the above callings, avocations or professions, and the council may pass an ordinance prohibiting the same and perscribing penalties for its violation. Nothing in this section contained shall be construed so as to regulate or control any religious association or body.

(e.)—The council may by ordinance regulate sales at auction within said city, and levy and collect taxes upon such sales; grant or refuse licenses to auctioneers, and loan agencies, and levy and collect taxes upon such licenses, in addition to any tax which may be payable to the state; provided, however, that nothing herein contained shall be construed to authorize any interference by the corporate authorities of the city with, or the imposition of any tax upon any sale made under the judgment or decree of any court of justice in this state, or made by a trustee under a deed of trust given bona fide in this state to secure debt.

(f.)—The council shall have exclusive authority within said city, by ordinance, to grant or refuse license to the keepers of hotels,

inns and taverns, houses of public or private entertainment, not used for immoral purposes, boarding houses, public eating houses, places of public amusement, and boarding stables or stables for keeping and feeding horses and mules for compensation; provided, however, that persons keeping an inn, hotel or tavern, with stabling attached, shall not be required to have any other license than the license to keep an inn, hotel or tavern, by reason of their keeping and feeding horses and mules for compensation. The council shall further have authority, by ordinance, to regulate the manner in which such horses or places shall be kept, and to levy and collect a license tax from every person licensed under the authority of this section, in addition to all other taxes imposed upon him or his property.

(g.)—The council may by ordinance require city license from persons conducting the business of pawn broker or loan agent in the city by lending money or other thing of value for profit for or on account of personal property deposited with the lender in pledge or left in the possession of the borrower and secured to the lender by lien, pledge, mortgage, or deed of trust.

(h.)—The council may also, by ordinance, restrict or regulate fees to be charged to patrons by money brokers, pawn brokers, loan agents, private bankers and others engaged in like business, in said city, for examinations of title, applications, examinations of property, appraisements, renewals, transfers, or any other paper writing to be signed by such patrons, or for anything else connected with a loan, and may safeguard the public against unscrupulous, unfair or exorbitant charges by any such brokers, loan agents, bankers and others engaged in like business, in said city.

(i.)—The council may by ordinance require city license for persons conducting and carrying on any business or vocation in the city

for which the state may now or hereafter require license.

(j.)—The council may by ordinance subject any person or persons, who without having obtained a city license therefor, shall do any act, or follow any employment of business in said city, for which the council is or shall be authorized to grant license, to any fine or punishment which they are authorized to impose or inflict for the enforcement of their ordinance.

SIDEWALKS, STREET PAVING, ETC.

Sec. 24 (a.)—The council may, by ordinance within said city lay out and cause to be opened any streets, walks, alleys, market grounds, and public squares, or extend or widen the same, first having obtained title to the ground necessary for the purpose, and grade any street, walk, alley, market ground or public square which is or shall be established within said city, pave or otherwise improve the same, and cause them to be kept open in good repair, and generally ordain and enforce such regulations respecting the same, or any of them, as shall be proper for the health, interest of convenience of the inhabitants of said city.

(b.)—The council may by ordinance have all work done without the intervention of contractors or middlemen, but shall not be compelled so to do.

(c.)—The council may cause to be taken or damaged for the use of the city, for streets, alleys, markets, public squares, parks, playgrounds and other municipal purposes including occupation by sewer, water pipes, gas pipes, heating pipes, compressed air pipes and electric or other subways, any private property within the city, (and where such use is to secure or improve the water supply, or for park, playground, sanitary or cemetery purposes, outside the limits of the city,) but no such property shall be taken or damaged without just compensation. The compensation, if it cannot be determined

by agreement with the owner of the property so taken or damaged, shall be ascertained in such manner as is, or may be, prescribed by general law for the condemnation of land for public purposes.

(d.)—Council shall have full power and authority to make and provide, by ordinance, laws, rules and regulations for the establishing or changing of the grades of any sidewalk, footway or gutter in said city to grade, regrade, curb, pave and repave any such sidewalk, footway or gutter and keep the same clean, in such manner and time as the council shall provide by ordinance, and to provide for such work to be done at the expense of the city and to assess the amount of such expense upon such real property or the owner or occupant thereof, and to provide for the collection of the same, either in cash or in yearly interest bearing payments not exceeding ten years, in the same manner as herein provided for the collection of city taxes.

(e.)—The council shall have full power and authority to provide by ordinance for the establishment of a method to be followed in all street grading, paving and repaving from time to time with any suitable material therefor, depending upon the character of the traffic and the grades and other conditions upon any particular street, and such ordinance may provide for the assessment of one-half of the cost of such grading, regrading, paving and repaving to the owners of lots, the fractional parts of lots abutting on that part of streets or alleys so paved in yearly interest bearing payments, not exceeding a period of ten years, in proportion to the distance such lot or part of lot abuts on such street or alley so graded, regraded, paved or repaved, subject however, to the following provisos:

(1.)—That, where any part of said street or alley so paved or about to be paved is occupied or used by any public service or public utility company, the council shall provide for assessing such

portion of the total cost of such grading, regrading, paving or repaving, as may be provided for in the respective franchises, for the distance such street is so occupied by such public service or public utility company, including the intersections of cross streets and alleys, and shall provide for assessing the remainder of the cost of such grading, regrading, paving or repaving, including such cross streets, alleys, etc., to the abutting property owners on both sides of such street, in proportion to their frontage thereon, taking the entire distance such street is traversed by such public service or public utility company as the basis for such assessment.

(2.)—Council shall have power and authority to provide by ordinance for the issuing by said city of temporary interest bearing certificates of indebtedness, payable in from one to ten years from the date thereof, to cover cost of such grading or regarding, paving or repaving; but the amount thereof issued in any one year shall not exceed the amount of the assessments remaining unpaid by property owners hereunder for such year.

(3.)—Nothing herein contained however, shall authorize and empower council to cause the owner or occupant of any lot or parcel of ground abutting on such street or alley to pay for or be assessed with the cost of such grading, or regrading, paving or repaving, within fifteen years after such street or alley has been graded and paved or repaved, at the cost and expense of the property owners abutting hereon.

(4.)—Council shall have the power and authority to provide for a reasonable amount of grading at the city's expenses upon any street or alley ordered by it to be graded and paved for the first time, in order to equalize the cost of paving in the first instance and repaving those streets and alleys heretofore graded and paved at the city's expense.

(5.)—Nothing herein contained however, shall prevent the council

from including the grading of any street or alley, or part thereof, and the paving of the cross streets or cross alleys and the assessment of the entire cost thereof against the property owners adjacent thereto in proportion to their frontage upon upon both sides of such street, whenever the owners of a majority of the frontage abutting upon both sides of said street shall petition council so to do and for the purposes of this section the distance to be paved as a unit shall not be limited to one city block between cross streets, but shall be for the entire distance, petitioned to be paved.

(6.)—Immediately upon the completion and acceptance of any such paving, the council shall direct the city clerk to cause to be published a notice, which shall name and describe the location of the portion of the street or alley upon which said paving shall have been constructed; give the name or names of the owners of each lot abutting or bounding upon such portion of the street or alley, if known, and if the name or names of the owner or any lot or fractional part of a lot are unknown, such lot shall be described with reasonable certainty in order that the same may be identified; and the number of feet that each lot or fractional part of a lot abuts upon such paved portion, as well as the amount assessed against each lot or fractional part of a lot for the cost of the paving. Said notice shall cite all owners of lots or fractional parts of lots, abutting upon the portion of the street or alley which has been paved, to appear before the council at a regular meeting thereof within thirty days from the first publication of the notice, and show cause, if they can, why the assessment aforesaid should not become final, which notice shall be published once a week for two successive weeks in one or more newspapers of general circulation published in said city. The council shall, upon the request of any one or more of the owners of said lots or fractional parts of lots, appoint a day to hear

the grievances of said owner or owners, and may alter or amend any assessment made against any one or more of said owners for good cause shown. The city clerk shall give notice to all persons claiming to be injured by said assessment, of the time and place of holding the meeting of the council to hear such grievances, which meeting shall be held within ten days after the clerk shall have given the last mentioned notice. The council may adjourn the hearing from time to time. In case any owner or owners of abutting property fail within such thirty days to complain to the council of any grievance or injury they may have suffered by reason of the assessment aforesaid, or to appear before the council for the purpose of having the same corrected on the day appointed by the council for the hearing of such grievances as have been complained of, the assessment as laid shall be final. The findings of such council shall be subject to correction by said circuit court upon appeal, which must be taken and perfected within thirty days from the finding and be heard and determined by such court without delay, having precedence of other cases on the courts docket. The rights conferred by this section are cumulative and shall not be exhausted as to any particular street or alley by reason of having been once exercised.

(7.)—All moneys appropriated for the paving, repaving or repairing of streets or alleys shall be used for such purposes only, and the revenue received by the city from assessments against any and all property or property owners shall be placed in special funds, and shall be applied to the city's liabilities on that particular improvement.

(8.)—In any case however, where any street or alley in said city shall be paved by the State, County or District, thereby making it unnecessary for the City to pave the same under any of the provisions of this section, the City shall have the power to assess a special main-

tenance assessment against the properties abutting on so much of said street or alley so paved to be applied to the maintenance of all streets and alleys of the city, and the amount of which shall be the approximate cost of the said paving based upon the frontage of each particular property abutting thereon.

(f.)—The council may by ordinance establish the width of any sidewalk along any street, alley or part thereof, and require the owner or owners of any ground fronting on such sidewalks adjacent to their property to pave or repave the same; and in case of the failure or refusal of such owners so to do, the city may cause same to be properly paved or repaved at the expense of such owner or owners; and the council shall have power by ordinance, in like manner, to require the owner or owners of property adjacent to any paved sidewalk whether heretofore or hereafter constructed, to keep such sidewalk in repair, and in default of his or their so doing, to cause the same to be repaired, and assess the cost thereof upon such owner or owners. It shall be lawful for the officer authorized by the council to collect any such tax or assessment for the cost of such paving or repaving to collect the same from the owner or owners of such grounds at once by distress and sale as provided in section 25 of this charter, and such assessment shall be a lien upon such adjacent property, which may be enforced as taxes assessed upon the real estate for the benefit of the city.

(g.)—In all cases where the city is compelled to construct or lay sidewalks under this section, it shall include a commission of not exceeding twenty per cent for the time of its employees in supervising such construction, laying the assessment, and collecting the same over and above the actual cost to it of such improvement.

Lien for Taxes, Assessments, Etc.

SECTION 25—There shall be a lien on all real estate within the city for the city taxes assessed thereon, from

the day fixed by law for the commencement of the assessment of such taxes in each year, and the interest upon such taxes, at the rate of six per centum per annum from the first day of January next after such assessment until payment, which may be enforced by the council in the same manner now provided by law for the enforcement of the lien for State or county taxes or in such other manner as the council may by ordinance prescribe. There shall also be a lien on all real estate within the city for other assessments, fines, and penalties assessed or imposed upon the owners thereof by the authorities of the city from the time the same are so assessed or imposed, which shall have priority over all other liens except the lien for taxes, and may be enforced by the council by suit in equity, in the corporate name of the city, in the same manner now prescribed by law for the enforcement of the lien for State or county taxes, or in such other manner as the council may by ordinance prescribe. If any real estate within the city be returned delinquent for the non-payment of the taxes thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for the taxes, interest and commissions thereon, in the same manner, at the same time and by the same officer as real estate is sold for the non-payment of State taxes.

Garbage Removal and Disposal.

SECTION 26—Council shall provide by ordinance for the systematic collection, removal and disposal of all garbage of every kind and character under the control, management and at the expense of the city, and for such rules and regulations as shall by it be deemed necessary, advisable or expedient in the collection, removal and disposal of all garbage of every kind and character under the control, management and at the expense of the city, and for such rules and regulations as shall by it be deemed necessary, advisable or expedient in the collection, removal and disposal of the same; and should the expense thereof be found to be excessive for the revenue of the city, the council shall have the power to provide by ordinance for the laying of a special levy for that purpose sufficient to provide funds therefor.

Annual Audit of Accounts.

SECTION 27—At the end of each year the city shall cause a full and complete examination and audit of all the books and accounts of the city to

be made by competent accountant or accountants and shall publish in two daily newspapers of said city the fact that such audit has been made and is on file in the office of the city clerk where the same shall be constantly open during reasonable office hours to the inspection of anyone at any time thereafter.

And such right to such audit shall be in lieu of the provision of the general law requiring the publication of an annual statement of receipts and disbursements of the city.

Exemption From District Poor and Road Levies.

SECTION 28.—The city shall support its own poor, and shall conduct and maintain its own roads and streets, and by reason thereof shall not be required to pay any district poor levies for the support of the poor outside of the city limits, or any district road taxes for the construction and maintenance of roads outside of the city limits; but the county shall remain at present chargeable for the construction and maintenance of bridges within the city.

Street Maintenance, Sewers, etc.

SECTION 29. (a)—It shall be unlawful for any person, firm or corporation to subject any of the streets of the city of Morgantown to a use, which will destroy, impair or injure the use of such street or streets for ordinary travel in ordinary modes. The council shall carry this provision into effect by appropriate ordinance or ordinances.

(b)—Council shall have full power and authority to provide by ordinance certain of the streets and alleys of the city as routes for the transportation and haulage of commodities and to classify such commodities and to specify the streets and alleys over which certain classes shall be hauled and transported, and otherwise to regulate the traffic of the city in such manner as in its judgment will protect the streets and alleys of the city and promote the public interest.

(c)—Council shall have full power and authority to provide by ordinance for the construction, maintenance and repair of all streets and alleys in said city, and to provide rules and regulations for the laying of water and gas lines and street car tracks thereon, and for the construction of sewer pipe and sewer system thereon, and to provide rules and regulations for the manner in which said pipes and tracks shall be laid and relaid in such streets and alleys, and to provide for the future

needs of such pipes and their connections, and such street car tracks, and excavations therefor, and to provide rules and regulations for excavations in such streets or alleys under the supervision of such city officials as council may by ordinance provide, and the council shall have full power and authority to provide by ordinance for the laying of gas, water and sewer pipes, and street car tracks in any such street or alley, and to provide that no such street or alley or part thereof, after being paved, shall be opened, excavated, or in any manner interfered with, except upon such conditions and terms as council may by ordinance prescribe, and council shall have full power and authority to provide by ordinance for the relaying and relocation of such pipes and their connections, and such street car tracks prior to the paving or repaving of any such street or alley.

(d)—Council shall provide by ordinance for the requirement upon all public utilities or public service corporations to place or renew all pipes, conduits or other underground appliances, including all connections therewith to the curb upon any street to be paved sufficient to provide for the reasonably anticipated requirements of such company or companies for the probable life of such paving and notice to that effect shall be given by the city council a sufficient time in advance of the commencement of such paving not to exceed 90 days to enable such public service corporation or public utilities corporation fully to comply therewith, and upon their failure so to do, such public utility corporation or public service corporation shall thereafter be deprived of any rights under its franchise or franchises from the city or otherwise of disturbing such paving to install such improvements to its plant, and council may at the expiration of the time fixed in said notice, proceed with its said paving and not before.

(e)—And before any streets of said city shall hereafter be paved and as preliminary to the paving thereof, council shall provide reasonably adequate sewers, both main and lateral, and including the connections to the property line of said street.

(f)—The council may by ordinance prohibit the disturbance of any streets or alleys of the city, including the sidewalks or public grounds of said city, caused by digging therein for the benefit of any private person, firm or corporation other than the city itself, except by city employees under the city supervision at the expense of such

private person, firm or corporation, or under the superintendence and control of the city itself; and may charge a service fee to cover the permanent injury to such streets, alleys, sidewalks or public grounds impossible to repair, and the council shall by ordinance require the enforcement of these provisions including the duty of making repeated repairs as often as the defect so caused shall reappear.

(g)—Council shall have full power and authority to provide by ordinance for the issue and sale of bonds for the construction of sewers in said city and for the construction of a municipal building or city hall, and for refunding the actual existing unsecured debt at the time of the enactment of this charter, in the amount of five percent of the value of all taxable property lying within the limits of said city, which value shall be ascertained by the last city assessment of the taxable property within said city previous to the issuing of such bonds; and council shall have full power and authority to provide by ordinance for the collection of a direct annual tax, sufficient to pay annually, the interest on such bonded indebtedness and the principal thereof, within not exceeding 34 years from the date of the issue of said bonds.

The Police Officers.

SECTION 30—The chief of police shall be ex-officio a constable within the corporate limits of his city. He may execute any writ or process issued by the mayor or a justice of the peace at any place in Monongalia County. He shall have all the powers, rights and privileges within the corporate limits of the city in regard to the arrest of persons, the collection of claims, and the execution and return of process, that can be legally exercised by a constable of the district in which the said city is situated, and he and his sureties shall be liable to all the fines, penalties, and forfeitures that a constable of a district is liable to, for any failure or dereliction in his office, to be recovered in the same manner and in the same courts that the fines, penalties and forfeitures may be recovered against such constable. All special police officers shall have and possess all the powers, rights and privileges of a constable of the district within the corporate limits of the city, in regard to the arrest of persons, and the execution and return of all criminal writs and process issued by the mayor; but the council may exempt them from giving the bond required of constables.

Police Court.

SECTION 31. (a)—The judge of the police court shall receive a salary to be fixed by the council, and no other compensation shall be allowed him. He shall preside over said police court and try and determine all cases over which said police court has jurisdiction. In the event of his temporary absence or disability the council shall appoint a member of the Monongalia county bar of good standing to preside over said court, and perform the duties of the judge thereof, during the absence or disability of the regular judge, and the judge's salary shall be transferred to and paid such temporary judge for the time he serves as such judge.

(b)—The said police court shall have jurisdiction over all offenses against, or violation of, the ordinances of said city, and full authority to punish in any manner lawfully prescribed by such ordinances, the offenders against or violators of, the same; provided, however, that no jury shall be allowed in any trial in said court for the violation of any ordinance of said city.

(c)—The proceedings for the recovery of the fine or for the enforcement of the penalty prescribed by any ordinance shall conform to the regulations so far as they are applicable, prescribed in the code of West Virginia, for civil proceedings before justices of the peace; but the judge or the clerk of said court may, for good cause, shown by affidavit, by an endorsement upon the summons, order the defendant or defendants, to be arrested and brought before the said court to be dealt with according to law.

(d)—In cases where evidence discloses such a violation within the city, of a law of the state, that, in the opinion of the judge of the police court, the person accused should be committed to await the action of the grand jury upon an accusation made, the judge of the police court shall have the same jurisdiction and power as a justice of the peace in the county of Monongalia in regard to the apprehension, commitment and admission to bail of the person so accused; and in the exercise of such jurisdiction and powers shall be governed by the same regulations.

(e)—The sessions of said court shall be at such time and places as the council of said city shall by ordinance direct.

(f)—The said court shall have full power and authority to enforce its orders and judgments, by a process of law which may be necessary and proper for the purpose, and all processes,

executions and orders of said court shall be signed by the judge or the clerk thereof. Such process and executions shall be directed to the chief of police of said city, and be executed by him or one of his deputies. In the executions of any process or order of said court, the chief of police or deputy shall have the same powers, be governed in his proceedings by the same rules of law, and be subject to the same liabilities as the sheriff of Monongalia county, West Virginia, in the performance of like services. There may be charged for the services of such officer the same fees as the sheriff is entitled to charge for like services, but all such fees, as well as all fines imposed by said court, shall be collected by the chief of police, and accounted for and paid by him to the treasurer of the city. The city shall in no event be liable for any such fees.

(g)—The clerk of said court shall have authority to administer oaths within said city, and shall perform such duties as may be required by the judge of said court, or be prescribed by rule or order of the council. Such clerk may charge the same fees for his services as are allowed to be charged by justices of the peace for like services, and such fees shall be collected by him in like manner as fees of the clerk of the circuit court are collected; but all such fees shall be accounted for by him to the city and paid over to its treasurer.

(h)—A docket and other books required for the records and a seal shall be provided for the said court by the council, and the seal may be altered or renewed as the said court may direct. Full faith and credit shall be given to the records of said court and the certificates of its judge or clerk, whether the seal of said court be fixed thereto or not, in like manner and with the same effect as if the same were records of the circuit court or certificates of the judge of a circuit court similarly authenticated.

(i)—The said police court shall have power, upon rendering judgment against a defendant charged with the violation of an ordinance of the city, to render judgment against him also for the costs of prosecution. In every suit or prosecution for the violation of an ordinance the said court shall cause the person or persons at whose instance it was instituted to be designated upon the warrant or writ issued to arrest or summon the person charged, and if the person or persons charged shall not be convicted in such court, and such court shall be of the opinion that no sufficient or probable cause

existed for the institution of the said suit or prosecution, then judgment for the costs of the city, and of the defendant, or of either of them, as the court shall deem just, shall be rendered against the person or persons at whose instance such suit or prosecution was instituted.

Miscellaneous.

SECTION 32. (a)—All officers of the city of Morgantown, who shall collect or receive, or whose official duty it is, or shall be, to collect, receive, hold or pay out any money belonging to, or which is or shall be, for the use of said city, shall make annual account and settlement therefor. Such settlement, when made, shall be subject to exceptions, and take such direction, and have only such force and effect as may be provided by law; but in all cases, such settlements shall be recorded and be open to examination of the people, a such convenient place or places as may be appointed by ordinance of the city.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and fined not less than fifty dollars nor more than one hundred dollars, or imprisonment not less than two nor more than twelve months, or punished by both such fine and imprisonment.

(b)—All contracts, grants, easements, rights, privileges or consents on, in or relative to any street, alley, or public ground or property of said city, made by the council of said city, or by any board or officer thereof, prior to this charter taking effect, and all other contracts, grants, easements, rights, privileges or consents entered into or granted by the said city of its council, at any time prior to this charter taking effect, which are now in force, or which may have been lawfully entered into or granted, within any territory hereafter annexed to the city of Morgantown, and be in force and effect when the annexation is made, shall continue in full force and effect, and be respected and complied with by the city of Morgantown, and the council and other officers thereof under this charter, and all indebtedness incurred by the said city, prior to this charter going into effect shall be binding upon the city of Morgantown, under this charter, and be paid by it out of its revenue.

(c)—All copies purporting to be copies of the ordinances of said city or extracts from the journal or minutes of the council, which shall be printed by the authority of the council, or which shall be certified to be correct by the mayor of said city under the seal

thereof shall be received by all courts and magistrates of this state as prima facie evidence of the tenor of such ordinances, and of the acts and proceedings of the council therein set forth.

(d)—This charter shall not invalidate any legal act done by the council of the city of Morgantown, or any officer of said city now or heretofore in office, and all ordinances, by-laws and regulations, actions, resolutions and rules of any council of the city of Morgantown in force immediately before the time this charter takes effect, shall remain in force until altered, amended or repealed by the council, provided for by this charter, in so far as not in conflict with the provisions hereof.

(c)—The council is empowered to define and locate voting precincts for elections in said city, which shall conform, so far as practicable, to the territorial areas of the election precincts in said city for state and county elections, but there shall be only one voting place in each precinct.

(d)—All fees and money paid to an officer of the city, for any official service, shall belong to the city and be paid at once into the city treasurer by such officer, the salary or compensation given by the city to its officers respectively being all the compensation they shall be entitled to for any official service.

(e)—Any person who shall violate any of the provisions of this charter for the violation of which no punishment has been provided herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not exceeding \$100.00, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(f)—In accordance with provisions of the nineteenth federal amendment and laws of this state, women shall have the same rights, privileges, and prerogatives as men, and the pronoun "h" wherever used herein shall be construed to include women.

Repeal of Certain Acts.

SECTION 33. (a)—All acts and parts of acts which are in conflict and inconsistent with this act, are hereby repealed and declared inoperative in so far as they are in conflict or inconsistent with this act.

(b)—The invalidity of any portion of this act shall not affect the validity of any other portion thereof which can be given effect without the invalid part.

Conditional Provision.

SECTION 34—This Act shall not be effective unless the same shall first be submitted to the voters of said city at a special election called for that purpose, and adopted by a majority of the votes cast at said election. Said special election shall be held on the First _____ in _____ 1921, after publication of the Act one time not less than ten days immediately preceding said special election in two daily newspapers published in said city. Said special election shall be conducted in the regular manner of holding municipal elections in said city. If this Act is adopted at said election, that fact shall immediately be proclaimed by the present Mayor of Said City and it shall go into effect at the expiration of ten days after the date of said election.

The ballot to be voted at said election shall be printed upon plain white paper and in the following form:

CITY OF MORGANTOWN

CHARTER ELECTION.

(Indicate how you desire to vote by cross in the square.)

For Adoption of
Amended Charter

Against Adoption of
Amended Charter

Sep. 19 1885
C. 2