

CITY OF POINT PLEASANT CHARTER

EDITOR'S NOTE: The City of Point Pleasant was originally granted a Charter by the Legislature of West Virginia on February 16, 1915 (Chapter 19, Senate Bill 311). Dates appearing in parentheses following section headings indicate that those sections were subsequently amended, added or repealed on the dates given.

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SECTION 1. NAME AND CORPORATE POWERS.

The inhabitants of Mason County, in the State of West Virginia, now and hereafter residing within the boundaries prescribed in Section Two of this Act be, and they are hereby, constituted a body politic and corporate, by and under the name of "The City of Point Pleasant", and as such, and by and in that name, shall have perpetual succession and a common seal, and may sue and be sued, contract and be contracted with, purchase, lease and otherwise acquire, and hold and use real and personal property necessary for corporate purposes; and generally shall have all of the rights, powers and franchises belonging or in any wise appertaining to municipal corporations in this State.

SECTION 2. BOUNDARIES.

The boundaries of said City shall be as follows: Beginning at a point on the Kanawha river where a stake is called for, being a corner of the lands formerly owned by C. C. Miller, who is now deceased, and the lands of the Kanawha & Michigan Railway Company; thence with the division line between said Miller lands and the Railway Company lands, north 29 degrees 45 minutes, east 204 poles and 22 links to a stake; thence by same course 55 poles and 4 links to a corner of the said Miller lands, the lands of the Kanawha & Michigan Railway Company and the lands formerly owned by J. D. McCulloch; thence north 58 degrees, west 297 poles to a stake on the south side of the Clarksburg road; thence crossing the lands formerly belonging to H. J. Fisher, north 70 degrees west, 90 poles and 12 links to a stake on the south side of a road; thence north 37 degrees 30 minutes west, 37 poles to a large cedar tree on a hillside; thence north 20 degrees 15 minutes, 121 poles to a chestnut oak on a hillside; thence north 28 degrees 30 minutes, east 134 poles and 11 links to a small black oak on the top of a ridge on the lands of P. C. Eastham; thence north 73 degrees 30 minutes west, to the west bank of Crooked Creek; thence along the west bank of said Crooked Creek with its meanderings and binding thereon north 35 degrees east, 4 poles; north 71 degrees 30 minutes, east, 16 poles; north 23 degrees west 20 poles; north 22 degrees east, 12 poles; north 67 degrees 45 minutes east 12 poles; south 84 degrees 15 minutes east 17 poles; north 42 degrees 30 minutes east 12 poles; north 2 degrees east 8 poles to the division line between lands of P. C. Eastham and James Capehart; thence across lands of James Capehart north 25 degrees west 10 poles; north 5 degrees east 4 poles; north 44 degrees 30 minutes east 10 poles; north 24 degrees 30 minutes west 9 poles; north 33 degrees 30 minutes east 25 poles; north 56 degrees 30 minutes east 32 poles; north 6 degrees east 16 poles; north 38 degrees 30 minutes east 22 poles to a point on south side of Jericho Road, same being corner to lands of E. J. Mossman; thence with the line of said E. J. Mossman south 37 degrees west 10 poles to a stake in center of road; north 81 degrees 30 minutes west 4 poles 10 1/2 links to a point in the center of Jericho Road; thence leaving said Jericho Road north 8 degrees east 32 poles 19 links to a post set in the ground on the fifteenth day of July, one thousand nine hundred and four; thence south 82 degrees east 25 poles to stake on the top of creek bank; thence along the top of creek bank north 27 degrees 15 minutes east 4 poles 16 links; thence north 9 degrees east 5 poles 16 links; north 12 degrees west 2 poles 3 links; north 13 degrees 15 minutes east 20 poles to a stake; thence north 35 degrees east 10 poles 10 links to a stake in bend of the fence; thence north 14 degrees 30 minutes east 38 poles 10 links to a stake in outline of 36 acre tract known as Lot No. One in Point Pleasant Development Company's survey; thence with line of said Lot No. One, north 82 degrees west 9 poles 15 links to a stake; thence north 41 degrees

west 11 poles 8 links to a stake at the northeast corner of Fair Ground; thence along the north line of said Fair Ground north 82 degrees west 9 poles to a stake; thence north 6 degrees east 61 poles 11 links to a stake; thence south 30 degrees east 7 1/2 poles to a fence post in southeast corner of cemetery lot; thence along the south line of cemetery lot north 75 degrees 45 minutes west 48 poles to the east line of Jackson Avenue as laid out by the Point Pleasant Development Company; thence along the east line of Jackson Avenue north 9 degrees east 34 poles 12 links to a stake in the outline of the Point Pleasant Development Company's land and with said outline and line of land of Mrs. Ham Parr north 76 degrees west 171 poles to a stake in the south bank of Old Town Creek; thence along the south bank of said Old Town Creek with its meanders and binding thereon, south 35 degrees west 16 poles 4 links; north 47 degrees 15 minutes west 6 poles; north 28 degrees, 45 minutes west 8 poles; north 75 degrees west 3 1/2 poles; south 3 degrees 30 minutes east 3 poles 4 links; south 28 degrees east 6 poles 20 links; south 20 degrees east 5 poles; south 12 degrees west 6 poles and 9 links; south 8 degrees west 7 poles 7 links; north 81 degrees 30 minutes west 4 poles and 22 links; south 44 degrees 45 minutes east 13 poles and 23 links to the top of the Ohio River bank; thence north 73 degrees 30 minutes west to the Ohio and West Virginia State line; thence with said State line down the Ohio River to a point opposite the center of the Kanawha river; thence crossing the Ohio River and in a line with the center of the Kanawha river and continuing said course up the center of said Kanawha river 503 poles to a point opposite the beginning corner; thence north 29 degrees and 45 minutes, east 325 feet to the place of beginning.

SECTION 3. WARDS.

(EDITOR'S NOTE: The ward descriptions contained in the original charter have been superseded by later ordinances. See now Article 105 for a current listing of ward boundaries.)

The territory of said City is hereby divided into four wards, as follows: That part thereof lying south of Second Street, and the same produced and extended as a line from the intersection thereof with Walnut Street to the east corporation line by the shortest distance, shall constitute the First Ward; that part thereof lying north of the north line of the First Ward hereinbefore described, and south of Eighth Street, produced and extended as a line from the east end thereof to the east corporation line, shall constitute the Second Ward; that part thereof lying north of Eighth Street extended as aforesaid as a line and the south side of Twenty-First Street produced and extended east and west, as a line, to the Ohio River and to the east corporation line, respectively, shall constitute the Third Ward; and all that part lying north of the south side of Twenty-First Street produced and extended as aforesaid shall constitute the Fourth Ward.

SECTION 4. REDISTRICTING AND INCREASING NUMBER OF WARDS.

After two years from the passage of this Act, the Council of said City may change the boundaries and increase the number of wards; and in either case regard shall be had to equality of population.

SECTION 5. OFFICERS.

The officers of said City shall be a Mayor, and two councilmen from each ward, who shall be freeholders of said City; a Clerk, Assessor, Treasurer, Marshal, Health Officer,

Street Commissioner, City Solicitor, and such other officers as the Council shall by ordinance provide. The Mayor, Clerk and

Assessor shall be elected by the qualified voters of said City, and the councilmen from each ward by the qualified voters thereof; the other officers named, and such other officers as may be provided for by ordinances of the Council, shall be appointed by the Council. No person shall be eligible to any City office unless he is a taxpayer of the City and a qualified voter; nor unless he has resided therein for at least six months next preceding his election or appointment.

SECTION 6. CONDUCT OF ELECTIONS.

The municipal election of the City of Point Pleasant shall be held on the second Tuesday in May, two thousand and twelve and quadrennially thereafter. Every person who is a bona fide resident of said City, and is otherwise a qualified voter, under the Constitution and laws of the State, shall be entitled to vote at such election, but only in the ward of his or her residence. The elections shall be held, conducted, returned, and the results ascertained, certified and determined under such rules and regulations as may be prescribed by the Mayor and Council, which shall not be inconsistent with the general laws of the State governing municipal elections, and shall conform as nearly as practicable to such laws. Contested elections shall be heard and determined by the Council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of county and district officers. The Council shall be the judge of the election, returns and qualifications of all officers. In case two or more persons receive an equal number of votes for the same office, the Council shall decide by vote which of them shall be returned elected, and shall make their return accordingly.

Provided further that in the event that the West Virginia Legislature changes the date of the primary elections, the City Council may by ordinance change the date of the municipal election to coincide with the state primary. (Amended December 11, 2006.)

SECTION 7. TERMS OF OFFICE.

The Mayor and City Clerk and two councilmen at Large shall be elected at large from the City of Point Pleasant, at the first regular Municipal election following the effective date of the adoption of this amendment to the Charter of the City of Point Pleasant. The term of the Mayor and City Clerk and two councilmen at large shall begin with the 1st day of the fiscal year immediately following such election and shall continue for a period of four (4) years. If a vacancy shall occur in the office of Mayor or City Clerk or councilman at large during such term, because of the death, resignation, incapacity or other cause or condition, the Council shall, by a majority vote of all its members, select a new Mayor or City Clerk or councilman at large, whichever the vacancy may be, within thirty days, to complete the unexpired term. The vacancy in Council, should one occur, shall be filled in the same manner as any other vacancy in the Council.

There shall be elected one councilman from each of the eight City of Point Pleasant wards, in the first regular Municipal election following the effective date of the adoption of this amendment Charter, of the City of Point Pleasant. Each of these councilmen, eight in all, shall begin their term of office with the first day of the fiscal year immediately following such election, and shall continue for a period of four (4) years. If a vacancy shall occur in the office of councilman during such term because of death, resignation, incapacity or other cause or condition, the council shall, by a majority of vote of all its members, select a new City councilman from that particular ward, wherever the vacancy may be, within thirty days to complete the unexpired term. (Amended February 8, 1971.)

SECTION 8. OATH OF OFFICE.

Every person elected or appointed to any office in said City shall, before entering upon the discharge of the duties thereof, take, subscribe and file with the Clerk the oath prescribed by law for officers generally; and the same may be administered by the Mayor, Clerk, or other officer or person competent to administer oaths.

SECTION 9. DUTIES, BONDS AND COMPENSATION OF APPOINTED OFFICERS.

The Council shall prescribe the powers and define the duties of all officers by it appointed, except so far as the same are by this Act prescribed and defined. It shall fix their compensation, and may require and take from them respectively bonds payable to the City in its corporate name, with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties.

A Councilman shall receive a salary of not less than \$120.00 per annum. However, Council may award additional amount per annum for each councilman's compensation at each budgetary enactment by ordinance prior to the beginning of the fiscal year which time such additional compensation amount may not exceed the total sum of \$300.00 for each councilman per annum.

(Amended March 10, 1969.)

SECTION 10. GENERAL POWERS OF THE COUNCIL.

The Council of said City shall have power to lay off, vacate, close, open, alter, grade and keep in good repair the roads, streets, cross-streets, alleys, pavements, sidewalks, crosswalks, drains and gutters therein, for the use of the citizens, or of the public, and to improve and light the same, and to keep them free from obstructions of every kind; to regulate the width of the pavements and sidewalks on the streets and alleys, and to order the pavements, sidewalks, footways, drains and gutters to be kept in good order, free and clean, by the owners or occupants of the real property adjacent thereto; to establish and regulate markets, prescribe the times of holding the same, provide suitable and convenient buildings therefor, and prevent the forestalling or regrating of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughterhouses, tan-houses and soap factories within the City limits; or the exercise of any unhealthy or offensive business, trade or employment; to abate all nuisances within the City limits, or to require and compel the abatement or removal thereof by or at the expense of the person causing the same, or by or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained, by or at the expense of the owner, any City lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, cattle, sheep or other animals, and fowls of all kinds, from going or being at large in such City, and as one means of prevention, to provide for impounding and confining such animals and fowls, and upon failure to reclaim, for the sale thereof; to protect places of divine worship, and preserve order in and about the premises where and when such worship is held; to regulate the keeping of gunpowder and other inflammable or dangerous substances; to provide for the regular building of houses or other structures, and for the making and maintaining of division fences by the owners of adjoining premises, and for the proper drainage of City lots or other parcels of land by or at the expense of the owner or occupant thereof; to provide against danger or damage by fire; to punish for assaults and batteries; to prohibit loitering in or visiting houses of ill fame, or loitering in saloons, or upon the streets; to prevent

lewd or lascivious conduct, the sale or exhibition of indecent pictures or other representations; the desecration of the Sabbath day; profane swearing; the illegal sales of all intoxicating liquors, drinks, mixtures and preparations; to protect the persons of those residing or being within said City; to appoint when necessary or advisable a police force, permanent or temporary, to assist the Marshal in the discharge of his duties; to build or purchase, or lease and use, a suitable place of imprisonment within or near the said City for the safekeeping or punishment of persons charged with or convicted of the violation of ordinances; to erect, or authorize or prohibit the erection and operation of gas, water works, electric light and power works and other public utilities within the City limits; to prevent injury to such works, or the pollution of any gas or water used or intended to be used by the public or by individuals; to provide for and regulate the weighing or measuring of hay, coal, lumber and other articles sold, or kept for sale, within said City; to establish, construct, alter, remove and repair landings, wharves and docks, and to establish and correct rates and charges for the use thereof; to regulate the running and speed of engines, cars, automobiles and other vehicles within the said City; to create by ordinances such committees and boards, and delegate such authority thereto, as may be deemed necessary or advisable; to provide for the annual assessments of the taxable property therein, and for a revenue for the City for Municipal purposes, and to appropriate such revenue to its expenses, and generally, to take such measures as may be deemed necessary or advisable to protect the property, public and private, within the City; to preserve and maintain peace, quiet and good order therein and to preserve and promote the health, safety, comfort and well-being of the inhabitants thereof. The Council shall have authority to pass all ordinances (not repugnant to the Constitution and laws of the United States, and of this State), which shall be necessary or proper to carry into full effect and 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 or body of officers of said City, and to enforce any or all of their ordinances by reasonable fines and penalties, and by imprisoning the offender or offenders; and upon failure to pay any fine or penalty imposed, by compelling them to labor without compensation, at any of the public works or improvements, undertaken or to be undertaken by said City, or to labor at any work, which the City may lawfully employ labor upon, at such a rate per diem as the Council may fix, but not at a less rate than is fixed by said Council for like labor from other employees of said City, until any fine or fines and costs imposed upon any such offender or offenders by said City, shall have been fully paid and discharged, after deducting charges of support while in the custody of the officers of said City. Provided, however, that no fine shall be imposed exceeding twenty dollars, and that no person shall be imprisoned or compelled to labor, as aforesaid, more than thirty days for any one offense. And in all cases where a fine is imposed for an amount exceeding ten dollars, or a person be imprisoned or compelled to labor as aforesaid, for a term greater than ten days, an appeal may be taken from any such decision upon the same terms and conditions that appeals are taken from the judgment of a justice of this State. Such fines and penalties shall be imposed and

recovered, and such imprisonment inflicted and enforced, by and under the judgment of the Mayor of said City, or in case of his absence or inability to act, by the Clerk of the said City, or, if he be unable to act, then by a member of the Council to be appointed by the Council for that purpose. And the jurisdiction of said City, for police and criminal purposes, shall extend to ordinary high water mark on the southerly bank of the Great Kanawha River, and to all bridges crossing said river within the boundary of said City.

SECTION 11. REMOVALS, VACANCIES.

The Council shall have the authority to remove any elected officer of the City for misconduct or neglect of duty, by an affirmative vote of three-fourths of the members of the Council; but only after reasonable notice to such officer, and a hearing of the charge or charges preferred; and all officers appointed may be removed from office at the pleasure of the Council; and unless their terms of office be otherwise fixed by ordinance, they shall be considered as holding their respective offices at the pleasure of the Council; and any vacancy in office, however occasioned, may be filled by the Council for the unexpired term.

SECTION 12. MEETINGS OF COUNCIL; TRANSACTION OF BUSINESS.

The said Council shall fix the place and times of holding regular meetings; may provide for special and adjourned meetings; and may prescribe rules and regulations, not inconsistent herewith, for the transaction of business and for its own guidance and government. The Mayor shall be a member of the Council, and shall preside at its meetings; but in case of his absence the Clerk, or one of the councilmen present selected for the purpose by the majority of the members present, shall act temporarily as such presiding officer. A majority of the Council shall be necessary to constitute a quorum. No member of the Council shall vote upon, or take part in the consideration of any proposition in which he is or may be interested otherwise than as a resident of said City; and the Mayor or other presiding officer shall have no vote upon any question before the Council except in case of a tie, when he shall give the casting vote.

In case any ordinance, resolution or measure, shall receive a majority of the votes of the members of the Council present, the Mayor or any two of the councilmen may insist upon the further consideration thereof; and thereupon it shall not be deemed passed, but shall be postponed until the next regular meeting of the Council, when if it shall again receive a majority of the votes of the members present, it shall stand and be declared adopted, and not otherwise.

SECTION 13. THE MINUTES; YEAS AND NAYS.

At each meeting of the Council, the proceedings of the last meeting shall be read, and if erroneous, corrected, and signed by the presiding officer for the time being. Upon the call of any member, the yeas and nays on any question shall be taken and recorded in the minute book.

SECTION 14. THE MAYOR.

The Mayor shall be the chief executive officer of the City. He shall take care that the laws, ordinances, acts and resolutions of the Council are faithfully executed. He shall be ex-officio, a conservator and justice of the peace, within the City, and shall within the same exercise all powers and duties vested in a justice of the peace for the County, except that he shall have no jurisdiction in civil causes; nor shall he be a member of the County Court. He shall have control of the police of the City, and may appoint special police officers when he deems it necessary. It shall be his duty, especially to see that peace and good order are preserved, and that persons and property are protected in the City. He shall from time to time recommend to the Council such measures as he may deem needful for the welfare of the City. He shall before entering upon the duties of his office as such Mayor, execute a bond, with sureties satisfactory to the Council, in the penalty of one thousand dollars, conditioned for the faithful performance of the duties of his office and for the accounting for and paying over all money that may come into his hands by virtue of his said office.

The Mayor shall receive a salary of not less than \$500.00 per annum, the same to be assessed and taken from the General Fund of the City of Point Pleasant, and such salary shall not be increased or diminished for the term which he shall be elected; and that further the Mayor, upon his election, shall automatically become manager of the water works of the City of Point Pleasant, and shall receive a salary of not less than \$5,000.00 per annum, the said \$5,000.00 shall be assessed, charged to and paid out of the City of Point Pleasant Water Works fund. The Mayor, upon election, shall automatically become manager of the Sewer Department, at an annual salary of not less than \$2,500.00, the said \$2,500.00 shall be assessed and taken from the City of Point Pleasant Sewer Department Fund. (Amended March 10, 1969)

SECTION 15. THE CLERK.

The Clerk shall keep in a well bound book, to be called the "Minute Book", an accurate record of all of the proceedings, ordinances, acts, orders and resolutions of the Council, and in another book, to be called the "Ordinance Book", shall keep all general ordinances adopted by the Council; both of which books shall be fully indexed and open to the inspection of anyone required to pay taxes to the City, or who may be otherwise interested. All oaths and bonds of officers of the City, and all papers of the Council, shall be endorsed, filed and securely kept by the Clerk. He shall record the bonds of all officers in a well bound book, to be called the "record of bonds". He shall also perform all such other duties as may by ordinance of the Council be prescribed. All printed copies of such ordinances purporting to be published under authority of the Council, and all transcripts of such ordinances, acts, orders and resolutions, certified by the Clerk, under the seal of the City, shall be deemed prima facie correct, when sought to be used in any court, or before any justice.

The City Clerk shall receive a salary of not less than \$4,800.00 per annum, payable as follows: \$1,800.00 from the City's General Fund and \$3,000.00 per annum from the City Sewer Fund and any additional salary or position as Council, at its will and pleasure, may bestow upon said Clerk's position. (Amended March 10, 1969)

SECTION 16. THE ASSESSOR.

It shall be the duty of the Assessor to ascertain the tithables and property within said City subject to taxation, and make return thereof to the Council, at such time as may be prescribed, substantially in manner and form as in the case of assessments by county assessors; and to this end he shall have access to the most recent books and records of the County of Mason upon payment of reasonable fees and charges, to be arranged and provided for by the Council. The latest accessible assessment for State and County purposes, including value, shall be used and adopted by him; but as to property not included in such assessment, he shall ascertain the same, fix the value thereof, and include the same in his assessment; but the Council may correct any error on his part in this regard, upon the application of any person aggrieved. In the discharge of his duties he shall have the same powers as are conferred by law upon county assessors. He shall receive a salary to be fixed by the Council of not less than two hundred dollars nor more than three hundred dollars per annum, which shall not be increased or diminished for the term for which he shall be elected.

SECTION 17. TAX DUPLICATE.

The Council upon the return of the Assessor shall cause the said Assessor's book to be correctly copied by the Clerk into two well bound books to be provided for the purpose, and the taxes extended, and the amount thereof shown, in each book, one of which shall be delivered to the Treasurer, taking his receipt therefor, as well as for the taxes therein contained.

SECTION 18. THE TREASURER.

It shall be the duty of the Treasurer when the said extended copies are completed, to receive one copy thereof, receipting to the Council for the same and for the taxes therein extended, and to receive from the parties the entire amount of the taxes with which they are therein severally charged, from and after the first day of October, until and including the thirty-first day of October, of each year; and he shall in said book write the word "paid" opposite the name of the person so paying, and shall also receipt to such taxpayer for the tax so paid. He shall, as to all the taxes charged on said books for any year and not paid before the first day of November, make out tax tickets therefor in the name of the City, signed by him as Treasurer, against all persons in arrears, for the amounts severally due from them adding the ten percent penalty as hereinafter provided, and at once report the aggregate amount thereof to the Council, and the Council shall thereupon order him to deliver said tickets to the Marshal for collection, which he shall forthwith proceed to do, taking the Marshal's receipt therefor. The Treasurer shall receive all money collected by the Marshal and receipt to him therefor. He shall receive all taxes upon licenses, and receipt to the party paying the same, by endorsement upon the permit granted by order of the Council, which permit shall be furnished him by the Clerk, and charge himself with the amount so received, and report to the Council at its next regular meeting thereafter the amount so received by him. He shall also receive such other moneys of the

City as he is authorized by this chapter to receive, and all moneys ordered paid him by the Council, giving receipts therefor to the parties paying same, and shall keep an accurate account thereof; and his books shall at all times be open for inspection to any taxpayer of the City, and he shall produce said books to said Council for inspection at any meeting thereof upon the order of the Council. The Treasurer shall be chargeable with all the City taxes, levies and assessments and money of the City that may come into his hands, and shall account therefor. He shall pay out the moneys in his hands upon the orders of the Council signed by the Mayor and Clerk or by one or more members of the Council as the Council may prescribe. He shall on or before the tenth day of January of each year present to the Council a full, complete and detailed statement of all the moneys with which he is chargeable, or that have been received by him up to the first day of January of that year, and shall at the same time in like manner furnish a statement of all disbursements made by him during such previous year, with vouchers evidencing the same. He shall upon the order of the Council at any time submit a statement of the amount with which he is chargeable, and his disbursements.

The Treasurer shall, upon all moneys coming into his hands as such Treasurer, and duly paid out or turned over by him upon orders of the Council, receive as compensation therefor a sum to be fixed by the Council not exceeding five percent on the amount collected.

He shall before entering upon the duties of his office, execute a bond with good security payable to the said City of Point Pleasant, in the penalty of not less than ten thousand dollars, conditioned for the faithful performance of the duties of his office, and for the accounting for and paying over as required by law of all money which may come into his hands by virtue of his office. He shall, upon the expiration of his term of office, turn over to the Council all moneys, books and other property in his possession belonging to said City.

SECTION 19. THE MARSHAL.

The Marshal shall be chargeable with such City taxes, levies and ten percent penalties for nonpayment of taxes, as may come into his hands; and it shall be his duty to collect and account for the same, and he may distrain therefor in case they are not paid on demand after they are placed in his hands; and as to such distraint and any sale thereunder, as well as in other respects, he shall have the same power and authority as is possessed by the officer charged with the collection of State taxes. He shall also be chargeable with and collect and account for all assessments made by the Council, and all fines, costs and rates due the City, which may come into his hands, and at or before the regular meeting of the Council in each month shall pay to the Treasurer the money so collected by him, except as provided in Section Twenty-Six of this Act, less his commissions, and take a receipt therefor.

The Marshal, before entering upon the discharge of his duties, shall execute a bond in the penalty of not less than five thousand dollars, payable to the City of Point Pleasant, with sureties satisfactory to the Council, and conditioned faithfully to perform the duties of his office, and to account for and pay over, as required by law, all money which may come into his hands by virtue of his office.

SECTION 20. MARSHAL'S SETTLEMENT AND COMPENSATION.

The Marshal shall, at each regular meeting of the Council, during his continuance in office, make a report to the Council of the money collected by him from all sources and paid over to the Treasurer, designating specifically the items of his said collections; and shall also at the regular meetings of the Council in September, December, March and June, of each year, make a detailed statement of the taxes, fines, penalties, assessments and other claims in his hands for collection. He shall receive for his services in the collection of taxes, the penalties collected by him as aforesaid; and for his collection of other claims due to the City a compensation to be fixed by the Council not exceeding five percentum on the amount duly collected and accounted for, except that an additional percentum may be allowed in case of fines.

At or before the regular meeting of the Council in the month of June of each year, the Marshal, with the assistance of the Clerk, shall make up for the current fiscal year, the three lists of persons and property delinquent for nonpayment of taxes and real estate improperly placed on the tax duplicate or not ascertainable, required by section twenty-one of chapter thirty of the code as to State, County and district taxes, and all of the provisions of said chapter, pertaining to persons and property delinquent for nonpayment of taxes and real estate improperly charged with taxes, so far as they are applicable, are hereby adopted and made part of this Act. The duties prescribed in said chapter for the Sheriff, respecting such lists, shall be performed by the Marshal, with the assistance of the Clerk, and the duties therein prescribed for the County Court shall be performed by the Council. The provisions of the general law, authorizing the collection of State, County and district taxes returned delinquent, are hereby adopted and made available for the collection of all delinquent taxes.

The Marshal shall also return, at the same meeting, a list of such fines, penalties, assessments and other claims in his hands for collection as he shall not have been able to collect by reason of insolvency, removal or other cause, to which shall be appended an affidavit that he has used due diligence to collect the same, but has been unable to do so; and, if the Council shall be satisfied of the correctness of said list, it shall allow him credit therefor, but may thereafter take such lawful measures to collect such claims as shall be by it prescribed.

SECTION 21. REMEDY AGAINST THE MARSHAL.

If the Marshal shall fail to collect, account for and pay over all or any of the moneys with which he may be chargeable, belonging to the City, according to the conditions of his bond and the orders of the Council, it shall be lawful for the Council to recover the same by action, or motion, upon ten days' notice, in the corporate name of the City, in the Circuit Court of Mason County, against him and his sureties, or any or either of them, or his or their executors or administrators. If the sum claimed does not exceed three hundred dollars, such recovery may be had before any justice of the said County.

SECTION 22. FINANCES AND EXPENDITURES.

The Council shall annually make an estimate in manner and form as is required by chapter nine of the acts of the legislature of West Virginia of the year one thousand nine hundred and eight, and shall make a levy of so much as will in its judgment be necessary to pay the same; provided, that such levy shall not exceed fifty cents on each one hundred dollars of the assessed valuation of the property of the City according to the last assessment thereof. And except as to the amount of said levy as aforesaid, all of the provisions of this Act, so far as applicable, are hereby adopted and made part hereof, including the power to make additional levies as therein provided.

SECTION 23. PENALTY FOR THE NONPAYMENT OF TAXES.

Upon all taxes and assessments due said City and remaining unpaid on the first day of November of each year there shall be added thereto a penalty of ten percent, which penalty, together with the taxes in arrears, shall be collected by the Marshal of the City.

SECTION 24. LIEN FOR TAXES; FINES.

There shall be a lien on real estate within said City, for the City taxes assessed thereon, and for all assessments, fines and penalties assessed against, or imposed upon, the owners thereof, by the authorities of such City, and interest thereon, as in the case of State and County taxes, from the time the same are so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the State, County and district, and which may be enforced by the Council in the same manner provided by law for the enforcement of the lien for State or County taxes. If any real estate within said City be returned delinquent for the nonpayment of taxes due thereon, a copy of such delinquent list shall be certified by the Council to the Auditor, and a like copy recorded in the office of the Clerk of the County Court of Mason County, in a book kept in said office for that purpose, and to be furnished by the City. Said real estate may be sold for the City 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 nonpayment of State taxes, and the laws governing the sale and redemption of delinquent lands, insofar as they are applicable, are hereby adopted and made parts of this Act.

SECTION 25. ENFORCEMENT OF ORDINANCES.

The process in proceedings to enforce any ordinance prescribing a fine or imprisonment, or a fine and imprisonment, for the violation thereof, shall be a summons, in the name of the City of Point Pleasant, as plaintiff, directed to the Marshal, police officer of the City, or any constable of any district within said County, requiring him to summon the person accused of such violation, and who may thereafter be designated as defendant, to appear before the Mayor at any time and place therein named, to make answer to such accusation and to be dealt with according to law. Such summons shall contain such statement of the facts alleged as will inform such person of the general nature of the offense against the City with which he may stand charged; and,

except in cases of arrest upon view, shall be issued only upon complaint on oath. The Mayor shall have, possess and may exercise the power and authority of a justice under sections two hundred and twenty-four and two hundred and twenty-five of chapter fifty of the code of West Virginia, in summoning and enforcing the attendance and examination of witnesses; in punishing for contempts; in granting continuances, and in securing and enforcing the further attendance of the accused, with a view to a trial or hearing. If any recognizance taken for such further attendance be forfeited, the Mayor may record the default, and an action may be maintained in the name of the City, before any justice having jurisdiction, against the accused and his sureties, if any, to recover the penalty thereof.

SECTION 26. ENFORCEMENT OF JUDGMENTS.

The Mayor shall have power to issue an execution for any fine and costs assessed or imposed by him for the violation of any ordinance, and place the same in the hands of the Marshal, or he may at the time of rendering judgment therefor, or at any time thereafter, and before satisfaction of such judgment, by his order in writing, require the immediate payment thereof, and in default of such payment, he may commit the person so in default to the prison of said City, or in his discretion to the Jail of Mason County until the fine and costs are fully paid; but such imprisonment shall not exceed thirty days. He shall receive all moneys made upon said judgments, whether by execution or otherwise, and after paying the costs to the parties entitled thereto, shall turn over the remainder to the Treasurer on the first Monday in the month after receiving the same, taking his receipt therefor.

SECTION 27. DUTY OF JAILER; JAIL EXPENSES.

The Jailer of Mason County shall take and receive into his custody any person sentenced to imprisonment in the Jail of said County, or committed thereto for the nonpayment of a fine and costs, or for the failure to enter into a recognizance, by the judgment or order of the Mayor, in proceedings for the violation of an ordinance; and the expenses of maintaining such person while so in confinement, shall be paid by the City.

SECTION 28. DOCKET.

A book, well bound and indexed, to be denominated the "docket," shall be kept in the office of the Mayor, in which shall be noted each case brought before or tried by him together with the proceedings thereon, including a statement of the complaint, the summons, the return, the fact of appearance or nonappearance for the defense, the hearing, the judgment, the costs, and in case the judgment be one of conviction, the action taken to enforce the same. The record of such case shall be signed by the Mayor, and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

SECTION 29. APPEALS FROM JUDGMENTS IN CITY CASES.

In any case of the violation of an ordinance of the said City, in which there is a judgment by the Mayor of imprisonment for more than ten days, or for a fine of more than ten dollars, an appeal shall lie, at the instance of the person against whom such judgment is rendered, to the Circuit Court of Mason County. Such appeal shall not be granted by the Mayor unless within ten

days from the date of the judgment, such person shall enter into a recognizance, with security deemed sufficient, to appear before the said Court on the first day of the next term thereof, to answer for the offense against the City with which he stands charged, and not thence depart without leave of said Court. The provisions of chapter one hundred and sixty-two of the code of West Virginia, relating to recognizances in criminal cases, shall be applicable to the recognizances contemplated by this section; but any money recovered thereon, or by virtue thereof, shall inure to the said City.

SECTION 30. TRIAL IN COURT.

If such appeal be taken, the Mayor shall forthwith deliver to the Clerk of the said Court the complaint in writing, if any, the summons, a transcript of the record, including the judgment, the recognizance and any other papers belonging to the case; and such Clerk shall receive and file the same, and place the case upon the appeal docket of the next succeeding term of said Court; and said Court shall proceed to try the same in its order, as appeals from justices of the peace are tried.

SECTION 31. JUDGMENT IN COURT.

If the appellant be found guilty of a violation of the ordinance in question, whether upon the verdict of a jury or otherwise, the Court shall ascertain by its judgment the fine or imprisonment or the fine and imprisonment, to be paid or suffered by such defendant, having regard to the punishment prescribed by such ordinance, and shall include in any such judgment the costs incurred by the said City, as well in the proceedings before the Mayor as those in Court, including a fee to the Attorney for the City of five dollars, and the fees, if any, of the Jailer or keeper of the City Prison; and the proceedings to enforce the collection of any such fine and costs, may be as provided in sections ten, eleven and twelve of chapter thirty-six of the code of West Virginia, except that the writ mentioned in the tenth section, may be issued by the Clerk upon the order of the Mayor of the City, and the notice contemplated by the eleventh section shall be given to such officer. If the judgment be for the defendant he shall recover his costs against the City.

SECTION 32. APPEALS IN OTHER CASES.

From all judgments by the Mayor in cases other than for violation of ordinances, appeals shall be allowed as in similar cases before justices.

SECTION 33. CHIEF OF POLICE.

The Marshal shall be the Chief of Police and shall perform active and constant police service, for which he shall receive a salary of not more than fifty dollars per month. He may, with the consent of the Council, entered of record, but not otherwise, appoint a deputy or deputies, who may perform the duties, or any of them, with which he is charged; but the Marshal shall in all cases be responsible for the acts or omissions of the deputy or deputies so appointed. Such deputy or deputies shall be paid by the City.

SECTION 34. ARRESTS AND SERVICE OF PROCESS.

In case a violation of any ordinance of said City is committed in the presence, or within view of the Marshal or other police officer, the offender may be forthwith apprehended and taken before the Mayor, and a complaint, under oath, stating such violation, there lodged and filed; and, thereupon, such offender may be tried and dealt with according to law, without summons. The Marshal shall execute within the County of Mason any proper process issued by the Mayor, or other proper officer, in proceedings for the enforcement of ordinances; and shall collect, by levy of execution or otherwise, and duly accounted for, all fines assessed and costs imposed in such proceedings. He shall also have all the rights and powers within said City in regard to the arrest of persons, the collection of claims and the execution and return of process, that are or may be lawfully exercised by a constable of a district within the same, and shall be entitled to the compensation therefor; and he and his sureties shall be liable to all the fines, penalties and forfeitures that a constable is liable to for any dereliction of duty in office, to be recovered in the same manner, and in the same courts, that such fines, penalties and forfeitures are recovered against constables.

SECTION 35. LICENSES.

The Council shall prescribe by ordinance the manner in which licenses of all kinds, including licenses for the keeping of dogs, shall be applied for and granted, and shall require the payment of the tax thereon before delivery to the person applying therefor; but the Council shall not have power to grant any license to sell at wholesale or retail spirituous liquors, wine, porter, ale, beer or drinks of like nature.

And the Council may make and enforce all reasonable ordinances respecting licenses; provided, only, that such ordinances shall not be in conflict with the Constitution and laws of this State.

SECTION 36. CONDEMNATION PROCEEDINGS.

The Council, in the name of the City, may take or damage private property, in the manner prescribed by chapter forty-two of the code of West Virginia, for streets, alleys, drains, market grounds, landings, wharves, City prison, sewers, parks, cemeteries, or other work or purpose of public utility, and the expenses of condemnation proceedings shall be borne by the City.

SECTION 37. PAVING STREETS.

The Council, by a lawful majority thereof, may order any street, cross-street, alley or road, or any portion thereof, to be paved in a permanent manner, with cobblestone, brick, Belgian blocks, asphaltum or any other suitable material. One-third of the total cost of such paving shall be borne by the City, and the remaining two-thirds of such total cost shall be paid by the owners of the land abutting on said street, cross-street, alley, road or portion thereof, on the following basis, that is to say, payment is to be made by each landowner in such proportion of two-thirds of the cost of such paving as the frontage in feet of his land so abutting, bears to the total frontage of all land so abutting upon such street, cross-street, alley or road, or portion thereof so paved. Such cost, however, shall not include the grading of such street, cross-street, alley, road, or portion thereof, nor the curbing, which in all cases shall be done by the City.

Before commencing such paving the Council shall cause a copy of the order requiring the same to be published for four successive weeks in one or more newspapers published in the City. After the completion of such work, the Council shall apportion two-thirds of the cost thereof to the abutting landowners, on the basis aforesaid, and assess the same severally against said abutting landowners. Such apportionment shall be entered upon the records of the Council and published for four successive weeks in one or more newspapers published in the City, and any person feeling himself aggrieved by such assessment may, on or before the completion of such publication, apply to the Council for correction thereof.

Said assessments shall constitute liens upon said abutting lands from the commencement of the work, and bear interest from the date of the apportionment of the cost as aforesaid; which liens may be enforced by suits in equity in the name of the City, in the Circuit Court of Mason County, or the amount thereof recovered by the City in actions against said abutting landowners in said Court, or before any justice having jurisdiction.

SECTION 38. PAVING SIDEWALKS.

After having caused proper curbstones to be set and placed on the outer line of any sidewalk or footway on any of the streets, cross-streets or alleys of said City, and the surface of the ground inside of said curbstone to be properly graded and otherwise prepared for the purpose, the Council may require that such sidewalk or footway be paved with brick, stone, concrete or other suitable material, under the direction of the Street Commissioner, by the owners respectively of the lots, or of the fractional parts of lots, facing or abutting on such sidewalks or footways; and in case the owner of any lot or fractional part of such lot, within reasonable time after service upon him of a written or printed notice of such requirement, signed by the Clerk or Street Commissioner, fails, or refuses to comply therewith, the Council may direct that the paving contemplated by such notice be done at the expense of the City, and when so done such expense may be assessed to such owner, and the same shall constitute a lien on such property, which may be enforced by a suit in equity, in the name of the City, in the Circuit Court of Mason County, or the amount thereof recovered by the City in an action against such owner in said Court, or before any justice having jurisdiction. In case the owner is a nonresident of the State, notice aforesaid may be given by publication for four successive weeks, in a newspaper published in said City. The provisions of this section shall also be applicable to needed repairs to any of the pavements of the City, and to the substitution of new pavements for any which may have been heretofore, or which may be hereafter, laid and completed, and which may be deemed insufficient.

SECTION 39. RIGHTS AND LIABILITIES OF THE CITY.

The City of Point Pleasant shall succeed to all the rights, powers and privileges of "The Town of Point Pleasant in Virginia," "The Town of Point Pleasant" and "The Town of North Point Pleasant," and all of the property and assets of the said towns shall be vested in and become the property and assets of the "City of Point Pleasant," and it shall be liable for all the debts and obligations of the said several towns, and subject to all the duties and responsibilities thereof.

And all the officers of "The Town of Point Pleasant" and "The Town of North Point Pleasant," acting as such at the time this Act takes effect shall continue in office until the first day of July, one thousand nine hundred and fifteen, perform the duties and receive the compensation heretofore conferred, prescribed and allowed by their former charters or by general law or by the ordinances of said Town; such ordinances of the Town of Point Pleasant as are in force on the thirtieth day of June, one thousand nine hundred and fifteen, shall continue and be in force as ordinances of the City of Point Pleasant, so far as they are not inconsistent with this Act, until amended or repealed by the Council of the City of Point Pleasant.

SECTION 40. PROVIDING VOTING PLACES.

For the purposes of the first election of officers under this Act the Council and officers of the Town of Point Pleasant, so far as may be necessary, are hereby created the Council and officers of the City of Point Pleasant, and authorized and empowered to designate the places of voting in the several wards of said City as herein established, and to hold and conduct said election, and in the conduct thereof, and the ascertainment and declaration of the result thereof, they shall be governed by the law applicable to Municipal elections.

SECTION 41. REPEALING INCONSISTENT ACTS.

All acts and parts of acts inconsistent with this Act are hereby repealed; but this Act shall not be construed to repeal, change or modify any previous act not inconsistent with this Act, authorizing said Town of Point Pleasant to contract debts or to borrow money, nor to take away any of the powers conferred upon said Town, or upon the Mayor or Council or any of the officers thereof by general law, except so far as the same may be inconsistent with the powers hereby conferred.