

P796

**CHARTER**  
**OF THE**  
**CITY OF FAIRMONT**

**Marion County, West Virginia**



**ACTS OF LEGISLATURE**  
**Chapter 10 Acts 1915 and Chapter 21 Acts 1919**  
**Made effective by Popular Vote June 10, 1919**







**CHARTER**  
**OF THE**  
**CITY OF FAIRMONT**  
**MARION COUNTY**  
**WEST VIRGINIA**

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Section 1. That sections four, five, six, seven, eight, fourteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-six, twenty-seven, twenty-eight, twenty-nine, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, seventy-one, seventy-three, seventy-four, seventy-seven, seventy-nine, eighty, one hundred and one, one hundred and twelve-a, one hundred and eighteen, one hundred and twenty-eight, one hundred and thirty-three, one hundred and thirty-eight, one hundred and thirty-nine, one hundred and forty-one, one hundred and forty-nine, one hundred and fifty-two, and one hundred and fifty-nine of article one of chapter ten of the acts of the legislature, regular session, one thousand nine hundred and fifteen, be amended and re-enacted so to read as follows:

That nineteen additional sections be added to article one of said chapter, to be known as sections nineteen-a to nineteen-j, inclusive, eighty-a, eighty-b, ninety-a, one hundred and seven-a, one hundred and nine-a, one hundred and fifteen-a, one hundred and forty-nine-a, one hundred and fifty-eight-a and hundred and fifty-eight-b, one hundred and fifty-nine-a, and one hundred and fifty-nine-b to read as follows:

That sections nine, ten, eleven, twelve, thirteen, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, seventy, eighty-two, one hundred and nineteen, one hundred and twenty-four, one hundred and twenty-five, one hundred and twenty-six, one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-one, one hundred and thirty-two, one hundred and thirty-four, one hundred and thirty-five, one hundred and thirty-six, one hundred and forty, one hundred and forty-two one hundred and forty-five, and one hundred and forty-eight of article one of said chapter, and sections one to two hundred and thirty-one, both inclusive, of article two of said chapter, be repealed.



## ARTICLE I.

### The City of Fairmont.

(1) Section 1. That part of the county of Marion included in the limits hereafter mentioned in section two is hereby made a city corporate and body politic by the name of "the city of Fairmont," and as such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded, purchase, lease, sell and hold land and personal property necessary to the purposes of said corporation. (C. 10 Acts 1915.)

### Corporate Limits.

(2) Section 2. The corporation territorial limits of the city of Fairmont shall be as follows, to-wit:

Beginning at a point near the water edge on the south side of the West Fork river, about 70 feet below the Hunsaker bridge; thence north  $41^{\circ} 33'$  W. 728 feet, passing over the south river span of said bridge and crossing said river to a point on the slope above the B. & O. R. R. track on the north or west bank of said river; thence north  $11^{\circ} 11'$  E. 3,271 feet crossing the Watson road; approximately following the ravine west of the Crawford house, and passing west of the "Fairmont Farms Homestead" to a point on the southerly side of Ninth street and westerly side of Coleman avenue; thence north  $59^{\circ} 45'$  W. 320 feet and following the southerly line of Ninth street to the westerly line of Mt. Vernon avenue; thence north  $30^{\circ} 15'$  E. 600 feet, following the westerly line of Mt. Vernon avenue to the southerly line of Eighth street; thence north  $59^{\circ} 45'$  W. 780 feet, following the southerly line of Eighth street; thence northerly 15 feet to the southerly line of the right-of-way of the Monongahela Valley Traction Company; thence following the said southerly line of right of way of said traction company, by a curve to the right, with a radius of 301.5 feet, a distance of 218 feet; thence still following said right of way, by curve to the left, with radius of 338.7 feet, for a distance of 241 feet; thence still by right of way and continued passing the point of curve 497 feet to a stake; thence north  $18^{\circ} 15'$  west 901 feet to a hickory tree corner to present city limits and to the former limits of the town of West Fairmont; thence north  $17^{\circ} 11'$  W. 3,676 feet, crossing the Clarksburg pike and Locust avenue line of the Monongahela Valley Traction Company to a point on the hill north of the Pine Grove road, near Pete Andy Fleming house; thence north  $59^{\circ} 24'$  E. 5,009 feet to a point on a hill overlooking Buffalo creek; thence north  $59^{\circ} 14'$  E. 4,369 feet to a point on a hillside back of Barnesville; thence south  $48^{\circ} 12'$  E. 7,082 feet, crossing the Monongahela river diagonally to a point on top of hill west of fair grounds; thence south  $68^{\circ} 37'$  E. 686 feet to a corner of fair ground property; thence following the lines of fair ground property, and excluding same south  $46^{\circ} 43'$  E. 104 feet; thence by fair ground property south  $52^{\circ} 25'$  E. 497 feet; thence by fair ground property south  $68^{\circ} 24'$  E. 746 feet to the line between fair grounds and right of way of the Monongahela Valley Traction Company; thence following line between fair grounds and Monongahela Valley Traction Company north  $8^{\circ} 30'$  E. 452 feet to the line (extended) between Bowen and fair grounds; thence following line between Bowen and fair grounds south  $72^{\circ} 37'$  E. 351 feet to the westerly side of Morgantown avenue; thence following the westerly line of Morgantown avenue north  $16^{\circ} 48'$  E. 313 feet to the northerly line of Meredith street, in the "Fairmont Industrial Company's addition" to the city of Fairmont; thence crossing Morgantown avenue and following the northerly line of Meredith street south  $78^{\circ} 9'$  E. 768.7 feet to the westerly side of Speedway; thence north  $1^{\circ} 43'$  E. 229 feet along the westerly side of Speedway to limits of the said Industrial company's line; thence following the line between Meredith and Industrial company south  $83^{\circ} 33'$  E. 575 feet to stone corner at rear of lots fronting on Owens avenue, (laid out by said Industrial Company); thence by course and distance as laid down on said Industrial Company's map and at rear of lots fronting on Owens avenue south  $11^{\circ} 25'$  W. 843.36 feet to a stone; thence by rear of lots as aforesaid south  $20^{\circ} 24'$  E. 1,202.28 feet to a stone; thence by rear of lots as aforesaid  $27^{\circ} 10'$  W. 518.83 feet to a white rock; thence by rear



of lots as aforesaid south  $38^{\circ} 36'$  W. 890 feet to a locust stump; thence crossing a 40 ft. street and about south  $44^{\circ} W.$  115' to the westerly side of an alley in the rear of lots facing on Owens avenue; thence following westerly side of said alley south  $41^{\circ} 54'$  W. and continuing line of said county road or boulevard 1,475 feet; thence following westerly line of said county road or boulevard with city varying courses, distance about 1,700 feet to its intersection with Owens avenue; thence crossing said boulevard with line (continued) between lots No. 421 and No. 422 (by said Industrial Company's map) south  $15^{\circ} 33'$  E. 142.6 feet to rear of lots fronting on Owens avenue to west side of Bungalow avenue; thence following west side of Bungalow avenue south  $67^{\circ} 51'$  W. 590 feet to line between lots Nos. 604 and 605 (said Industrial Company's map); thence by line between said lots Nos. 604 and 605 south  $11^{\circ} 29'$  E. 204 feet, crossing Owens avenue to rear of lots fronting on Owens avenue; thence by line at rear of said lots fronting on Owens avenue line south  $21^{\circ} 51'$  W. 408 feet to a white oak stump; thence by property line south  $56^{\circ} 13'$  W. 576.8 feet to a locust at rear of said lots; thence by property line south  $58^{\circ} 44'$  W. 348 feet to stake in line old county road or Grafton pike the limits of said Industrial Company's property; thence leaving lines of said Industrial Company's property crossing said Grafton turnpike diagonally to a point west of same north  $24^{\circ} 47'$  W. 1,183 feet; thence north  $85^{\circ} 48'$  W. 1,570 feet to a point on hill above cemetery and above Grand avenue; thence south  $32^{\circ} 54'$  W. 2,568 feet, crossing the Colfax road to a point on the hillside east of the Pleasant Valley road; thence north  $54^{\circ} 46'$  W. 3,640 feet, crossing the Pleasant Valley road and passing along the north slope of Palatine hill to a point on the east bank of the Monongahela river; thence following the east bank of said river and running up stream south  $3^{\circ} 45'$  W. 1,458 feet to a stake; thence still following the said river south  $7^{\circ} 56'$  W. 576 feet; thence still following said river south  $17^{\circ} 19'$  W. 253 feet; thence still following said river south  $20^{\circ} 31'$  W. 188 feet; thence still following said river south  $18^{\circ} 19'$  W. 307 feet; thence still following said river south  $33^{\circ} 14'$  W. 268 feet; thence still following the said river south  $37^{\circ} 16'$  W. 334 feet; thence still following the said river south  $49^{\circ} 31'$  W. 343 feet; thence still following the said river south  $55^{\circ} 43'$  W. 381 feet to a point between the B. & O. R. R. tracks at Gaston Junction bridge on the east side of said river; thence south  $72^{\circ} 5'$  W. 1,182 feet to a point near junction of Valley river and West Fork river; thence north  $79^{\circ} 39'$  W. 657 feet, crossing the Tygarts' Valley river to the point of land between the two above mentioned rivers and on the east bank of the West Fork river; thence north  $75^{\circ} 24'$  W. 433 feet to place of beginning. (C. 10 Acts 1915.)

#### Wards.

(3) Sec. 3. The territory of said city shall consist of eight wards, which shall be designated and known respectively as first, second, third, fourth, fifth, sixth, seventh and eighth wards, as they are at present bounded and defined. It is **provided, however**, that the board of directors hereinafter provided for, after the expiration of two years from the time this act takes effect, may by ordinance fix the boundaries and increase or decrease the number of wards. (C. 10 Acts 1915.)

#### Municipal Authorities—Corporate Powers.

(4) Sec. 4. The municipal authorities of the city of Fairmont shall be four directors who shall constitute a board of directors and shall be known as the "board of directors of the city of Fairmont." All the corporate powers of said city shall be vested in, and exercised by, the board of directors or under its authority, except as otherwise provided in this act. (C. 21 Acts 1919.)

#### Powers of the Board of Directors.

(5) Sec. 5. The board of directors of said city shall and are hereby granted power to have said city surveyed; to open, vacate, broaden, change grade of, and pave streets, side-walks and gutters for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals; and shall, in all cases, have power and



authority to assess upon and collect from the property benefited thereby such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues, roads, alleys and ground for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept in good order and free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said city, and the traffic passing thereover; to change the name of any street, avenue or road within said city, and to cause the renumbering of houses on any street, avenue or road therein; to regulate and determine the width of streets, sidewalks, or roads therein; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing and paving of sidewalks, roads and footways for public use in said city to be done and kept clean and in good order by the owners of adjacent property; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit and punish by fine the bringing into the city by steamboats, railroads or other carriers, of paupers or persons afflicted with contagious diseases; to control and suppress disorderly houses, houses of prostitution or ill-fame, houses of assignation, and gaming houses and to punish gaming; to prohibit within said city or within one mile thereof slaughter houses, soap or glue factories and houses of like kind; to control the construction and repair of all houses, basements, walls, bridges, culverts and sewers, and to prescribe and enforce all reasonable regulations affecting the construction of the same, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be first submitted to a city architect or building inspector; to control the opening and construction of ditches, drains, sewers, cess-pools and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to prevent obstruction therein, and to determine at whose expense the same shall be done; and to build and maintain fire station houses, police stations and jails, and to regulate the management thereof; to acquire, lay off, appropriate and control public grounds, squares and parks, either within or without the city limits as hereinafter defined. And when the board of directors determine that any real estate is necessary to be acquired by said city for any such purpose, or for any public purpose, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof in the same manner, to the same extent and upon the same conditions as such power is conferred upon public corporations by chapter forty-two of the code of West Virginia of the edition of one thousand nine hundred and six, and as now amended; to purchase, sell, lease or contract for and take care of all public buildings and structures and real estate, including libraries and hospitals, deemed proper for use of such city; and for the protection of the public, to cause the removal of unsafe walls or buildings, and the filling of excavations; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate and prohibit or cause to be abated and prohibited all nuisances and to that end and thereabout to summon witnesses and hear testimony; to regulate the keeping of gunpowder, gasoline, dynamite and other combustible or dangerous articles; to regulate, restrain or prohibit the use of firecrackers or other explosives or fireworks and all noises or performances which may be dangerous, annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined, and to dispose of, discontinue and grant any cemetery; to provide for shade and ornamental trees and the protection of the same; to provide for the making of division fences; to make proper regulation for guarding against danger or damage from fires; to provide for the poor of the city, and to that end may contract with the proper authorities of Marion county to keep and maintain the poor, or any number thereof, upon terms to be agreed upon; to build, own and maintain a home for the poor; to make reasonable regulations in regard to the use of the streets and alleys for street cars, railroad engines, automobiles, and auto



trucks, cars, and to regulate the running and operation of the same so as to prevent injury to the public and to the public highways; to prohibit prize fighting, cock and dog fighting; to license, tax, regulate or prohibit theatres, motion picture shows, circuses, the exhibition of showmen and shows of any kind, and the exhibition of natural or artificial curiosities, caravans, menageries, and musical exhibitions and performances, and other things or business on which the state does or may exact a license tax; to organize and maintain fire companies and to provide necessary apparatus, engines and implements for the same; to regulate and control the kind and manner of plumbing and electric wiring for the protection of the health and safety of said city; to levy taxes on persons, property and licenses; to license and tax dogs and other animals, and regulate, restrain and prohibit them and all other animals and fowls running at large; to provide revenue for the city, and appropriate the same to its expenses; to adopt rules for the transaction of business and for its own regulation and government; to promote the general welfare of the city and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city, and to regulate the transportation thereof, and other things through the streets; to have the sole and exclusive right to grant, refuse, or revoke any and all licenses for the carrying on of any business within said city, on which the state exacts a license tax; to own and maintain a public market; to establish and regulate markets and to prescribe the time for holding the same, and what shall be sold in such markets and to acquire and hold property for market purposes; to regulate and prohibit the placing of signs, billboards, posters and advertisements in, on or over the streets, alleys, sidewalks and public grounds of said city; to regulate, or prohibit the placing of signs, billboards, posters and advertisements on private property within said city; to preserve and protect the peace, order and safety and health of the city and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium and poisonous drugs; to appoint and fix the place of holding city elections; to regulate the erection of gas works, telephone plants, electric lights works or water works or ferry boats in the city, and to own, lease, erect, operate and maintain gas works, telephone plants, electric light works, water works, including water plants, reservoirs, filters, pumping stations, water pipe lines, mains, laterals and connections, including all appliances, accessories and connections required in and about the operation of a water system, and to sell and furnish water, gas and electric current to the city and the inhabitants thereof, and to persons and corporations within three miles of the corporate limits of the city, and for public use; to build, hold, purchase, own and operate toll bridges; to provide for the purity of water, milk, meats and provisions offered for sale in said city, and to that end provide for a system of inspecting the same, and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruits, vegetables or the sale of milk containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city, where the milk and meat therefrom are offered for sale within said city; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality and good order of the city and its inhabitants, and to protect places of divine worship in and about the premises where held, and to punish violations of such ordinances even if the offense under and against the same shall constitute offenses under the law of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of the payment of fines, penalties or costs under this act, who are otherwise unable to give bond to secure the payment of such fines and costs, or fail to discharge the same by putting them to work for the benefit of the city upon the streets or other places provided by said city, and to use such means to prevent their escape while at work as the board of directors may deem expedient; and the board of directors may fix a reasonable rate per day as wages to be allowed such person until the fine and costs against him are thereby discharged; to compel the attendance at public meetings of the members of the board of directors; to have and exercise such additional rights, privileges and powers



as are granted to municipalities by chapter forty-seven of the code of West Virginia of the edition of one thousand nine hundred and six, or as amended. For all such purposes, except that of taxation, the board of directors shall have jurisdiction, when necessary, for one mile beyond the corporate limits of said city, excepting any other municipal corporation or part thereof within said one mile limit. Said city of Fairmont as constituted by this act, shall retain, keep and succeed to all rights, privileges, property interest, claims and demands heretofore acquired by, vested in, or transferred to said city of Fairmont, as heretofore constituted.

And the board of directors shall have the right to establish, construct and maintain landings, ferries, wharves, and docks on any ground which does or shall belong to said city, or which it shall acquire, and to sell, lease, repair, alter, or remove any such landings, ferries, wharves, buildings or docks which have been or shall be constructed, and to levy and collect reasonable duty on vessels and other crafts coming to or using said landings, ferries, wharves, docks and buildings, and to preserve and protect the peace and good order at the same, and regulate the manner in which they shall be used and to have the sole right under state laws and in the same manner as now control county courts, to establish, construct, maintain, regulate and control all such wharves, docks, ferries and landings within the corporate limits of said city; to enter into an article of agreement with the county court of Marion county for joint action on behalf of the city of Fairmont or any portion thereof with the magisterial district or districts adjacent to said city of Fairmont, for the permanent improvement of streets and roads within said city or magisterial districts, said article of agreement may provide for the selling of bonds of said magisterial district or districts including the city of Fairmont, upon an affirmative vote of three-fifths of all the votes cast at a special election called for this purpose by the authority of said county court.

The board of directors shall have power to construct and maintain bridges and retaining walls in any part of the said city, including the power to construct and maintain a bridge or bridges over and across the Monongahela river, the West Fork river or the Tygarts Valley river.

The board of directors shall have power to prohibit the manufacture, sale, keeping or storing for sale in the city, or offering, or exposing for sale all liquors or absinthe or any drink compounded with absinthe in said city, subject to the provisions of law, and liquors as used in this act shall be construed to embrace all malt, vinous or spirituous liquors, wine, porter, ale, beer, or any other intoxicating drink, mixture or preparation of like nature; and all malt or brewed drinks, whether intoxicating or not, shall be deemed malt liquors within the meaning of this act; and all liquors, mixtures or preparations, whether patented or not, which shall produce intoxication, and all beverages containing so much as one-half of one per centum of alcohol by volume shall be deemed spirituous liquors, and all shall be embraced in the word liquors as used in this act. (C. 21 Acts 1919.)

#### Nominations and Election of the Board of Directors.

(6) Sec. 6. The first general municipal election for said city held hereunder shall be held on the second Tuesday of August, one thousand nine hundred and nineteen, at which time there shall be elected by the qualified voters of the whole city, four directors, who shall constitute the said board of directors. All of the members of the board of directors elected at the said first general municipal election shall begin their term of office on the first day of September, one thousand nine hundred and nineteen and serve until the thirtieth day of June, one thousand nine hundred and twenty-three, and until a majority of their successors are elected and shall have qualified, and said members of the board of directors shall be elected from the city at large, except that no two directors of the same political party as hereinafter defined shall be elected from the same ward, and shall be nominated and voted for and elected by the electors of said city in the manner hereinafter prescribed. The next general municipal election for said city shall be held on the second Tuesday in June, one thousand nine hundred and twenty-three, and on the same day in every fourth year thereafter, at which there shall be elected by the quali-



fied voters of the whole city, four directors, constituting said board of directors; and all members of the board of directors thereafter shall serve for a term of four years, and until a majority of their successors are elected and shall have qualified, except that no two directors of the same political party as hereinafter defined shall be elected from the same ward, and shall be nominated and voted for and elected by the electors of said city in the manner hereinafter prescribed; the term of office of the members of the board of directors, except those elected at the first general municipal election held hereunder, shall begin on the first day of July next after the general municipal election and end on the thirtieth day of June in the fourth year thereafter. (C. 21 Acts 1919.)

#### Vacancies.

(7) Sec. 7. Vacancies in the board of directors shall be filled by the board of directors for the unexpired term, except vacancy resulting from a recall election. (C. 21 Acts 1919.)

#### Qualifications.

(8) Sec. 8. Members of the board of directors shall be residents of the city having the qualifications of electors therein and shall be free holders, owning real estate in said city. No member of the board of directors of said city shall hold any other elective office, or have any other employment, which will interfere with the duties of his office as member of the board of directors, during his term of office; nor shall any member of the board of directors or employee of the city be interested in the profits or emoluments of any contract, job work or services for the municipality. A member of the board of directors who shall cease to possess any of the qualifications herein required shall forthwith forfeit his office, and any such contract in which any member of the board of directors or any employee of the city is or may become interested shall be void. No more than two members of the board of directors elected or appointed shall belong to the same political party as defined by this act. (C. 21 Acts 1919.)

#### Resignation or Vacancy.

(9) Sec. 14. If any person elected as a member of the board of directors fail to qualify as herein provided within thirty days after his said election, or shall after having been qualified, resign his office, or move from the city, or move into the same ward where another director of the same political party lives, his office shall be vacated, or if a vacancy in his office occur from any other cause, except by recall election, the remaining members of said board of directors shall fill such vacancy for the unexpired term with some person qualified to hold said office. But said vacancy shall be filled by the appointment of a person openly and publicly recognized as belonging to and affiliated with the political party from which the person whose vacancy is to be filled was elected or appointed. **Provided, however,** the city executive committee of the political party from which the persons whose vacancy is to be filled was elected or appointed shall have the right to nominate one or more persons having the qualifications of a director and the board of directors shall fill such vacancy by the appointment of some person so nominated by such committee. (C. 21 Acts 1919.)

#### Removal of Directors on Charges.

(10) Sec. 15. The board of directors shall have the right to hear, consider and act on charges against any member of said board, and after having heard such proof of such charges, may remove such member of the board of directors, and declare his office vacant. But before such director shall be put to trial on said charges, he shall have at least ten days' written notice of the nature of said charges and the time and place of hearing thereon, before said board of directors.

No director shall be removed from his office by the board of directors except for one of the causes mentioned in section six of article four of the constitution of West Virginia. (C. 10 Acts 1915.)



### Rules of Directors.

(11) Sec. 16. The board of directors shall make proper rules for its government not contrary or inconsistent with any of the provisions of this act and it shall cause a record of its meetings and proceedings to be kept and recorded by its clerk in a well bound book, which shall remain in the custody and at the office of the city clerk open to public inspection. The minutes of the meetings and proceedings of said board of directors, after recordation and when signed by its presiding officer, shall be admitted as evidence in any court of record in this state. (C. 10 Acts 1915.)

### Additional Officers.

(12) Sec. 17. In addition to the board of directors said city shall have a city clerk, city attorney, chief of police, chief of fire department, city physician, city engineer, city health officer and such other officers and agents as the board of directors may create or employ. The appointment and removal of all appointive officers named or provided for in this section, shall be vested in the board of directors. (C. 21 Acts 1919.)

### Qualifications of Voters.

(13) Sec. 18. Every person qualified by law to vote for members of the legislature of the state, and who has been a resident of said city for sixty days preceding the day of election, and of the ward in which he offers to vote thirty days, shall be entitled to vote at all elections held in said city or by or under the corporate authorities thereof, and any such qualified voter shall be entitled to vote for two candidates for members of the board of directors, and no more, at any general municipal election. (C. 21 Acts 1919.)

### Manner of Holding Election.

(14) Sec. 19. The laws of the state of West Virginia governing the holding of elections, and the ascertaining of the result thereof, shall govern the conduct of the municipal elections hereunder, so far as applicable; except that the city clerk shall perform the duties required of the circuit and county clerks under the general election laws, and the board of directors shall perform the duties required of the county court under the general election laws. The board of directors shall divide, define and proclaim the election precincts of the city and fix the boundaries thereof in the manner provided by law, and provide the commissioners of the election a map and pertinent description of such division and boundaries and of changes which from time to time, are made by the board. And the voting precincts and voting places shall, as far as practical, conform to the voting precincts and voting places established by the county court of said Marion county for the holding of general elections, except that the board of directors shall have the power to change the place of voting in any precinct. (C. 21 Acts 1919.)

(15) Sec. 19a. The provisions of chapter six of the acts of the legislature of West Virginia, extraordinary session one thousand nine hundred and sixteen, relating to the registration of voters, for the primary election in the year which a president of the United States is elected, are hereby adopted as and for the law regulating the registration of voters of the city; and the time therein fixed when the county court of each county shall hold a regular or special session in the year in which a president of the United States is to be elected for the appointment of registrars, the time therein fixed for the making of such registration, and the return thereon, and the time therein fixed at which such county court shall convene for the purpose of hearing any and all matters in relation to registration of voters, and the time therein fixed when the registrars shall sit for further amending, correcting and completing the registration of voters of their precincts, and the time therein fixed at which the county court shall convene for the purpose of adding to the list of voters, shall be and is the several times at which the board of directors shall sit for the same purposes and the registrars convene for the performance of the same duties under the provisions of this charter,—except that for the purposes of the first election held under the provision of this charter the board of affairs (board of affairs



in the present instance) shall convene on the second Tuesday in June, one thousand nine hundred and nineteen, for the purpose of appointing and appoint such registrars; the said registrars shall meet together on the Third Thursday in June, one thousand nine hundred and nineteen, and proceed to register the names of all the qualified voters in their respective precincts and shall endeavor to ascertain and register each and every qualified voter entitled to vote within the precinct, and for this purpose shall visit the usual place of abode of each and every voter; the said registrars shall for the purpose of amending, correcting and completing said registration sit together at some convenient place within the voting precinct for two days commencing on the first Monday in July, one thousand nine hundred and nineteen, and they shall give notice of the time and place of the sitting for such registration and correction by posting written or printed notices of the time and place of such sitting for five days prior thereto at not less than five of the most conspicuous places in said voting precincts, one of which shall be at the place of voting in said precinct; and said board of affairs shall convene on the fourth Monday in July, one thousand nine hundred and nineteen, for the purpose of hearing any and all matters as to the registration of voters, at which meeting said board of affairs shall examine the returns made to them by the registrars, and if they are satisfied that persons have been registered who are not entitled to vote they shall cause their names to be stricken from the list of voters, and if they shall find that persons named have been omitted by the registrars who should be registered, either because the same have been omitted or by reason of such persons having become entitled to vote since such registration was made, the board shall cause their names to be registered as qualified voters.

And the duties by said chapter six of the acts of the legislature, extraordinary session, one thousand nine hundred and sixteen, required therein to be performed by the county court shall be performed by the board of directors and the duties therein provided to be performed by the clerk of the county court shall be performed by the city clerk. (C. 21 Acts 1919.)

#### Nomination of Candidates.

(16) Sec. 19-b. Candidates to be voted for at any municipal election for members of the board of directors may be nominated either by convention, or primary election. A political party for the purpose of this act shall be taken and construed to be an affiliation of electors representing a political party or organization, which at the last preceding municipal election polled for any one of its candidates for members of the board of directors at least twenty per centum of the total vote cast at said election by all parties, but for the purpose of the first election hereunder for members of the board of directors, no organization, either political or otherwise, shall be taken and deemed to be a political party unless it cast at the last general election for its candidate for governor, a vote equal to twenty per centum of the whole vote cast for all the candidates for the office of governor, within the corporate limits of said city.

The city executive committee of any political party entitled to nominate candidates for the office of members of the board of directors shall determine sixty days prior to any municipal election at which members of the board of directors are to be elected, whether such political party will nominate its candidates by convention, or primary election. A city executive committee, composed of one member from each ward of said city, shall be appointed or elected by each political party making nominations of candidates for the office of members of the board of directors, and it shall be the duty of any such city executive committee representing any political party so appointed or elected to do and perform the duties required of it hereunder.

No person shall take any part in or vote in any convention or primary election who is not at the time a legal voter in the city, and who is not a known, recognized and openly declared member of the political party included and defined in the terms of the call under which such convention or primary election is held. And the executive committee of the political party calling such convention or primary election may require the persons or any of them taking part in and voting in such convention or primary election to take and file



with the secretary of said convention or with the commissioners holding such primary election an affidavit that the person so offering to vote is a qualified voter of the political party holding such convention or primary election. And the city executive committee of any political party shall have the right to adopt rules and regulations prescribing the qualifications of any voter participating in any convention or primary election hereunder and shall have the authority to decide the qualifications of any voter participating in any such convention or primary election hereunder and shall have the authority to decide the qualifications of any voter participating in any such convention or primary election of such political party.

No political party shall nominate more than two persons for the office of members of the board of directors, no two of whom shall be from the same ward, and there shall not be printed on any ticket of any ballot to be voted at any municipal election for the election of members of the board of directors more than two candidates of any political party for the office of members of the board of directors, and no person shall receive the nomination as a candidate for the office of member of the board of directors from more than one political party, and all candidates for the office of members of the board of directors shall be nominated by their respective political parties, either by convention or by primary as herein provided, twenty days prior to any municipal election, at which members of the board of directors are to be elected. (C. 21 Acts 1919.)

(17) Sec. 19-c. Every person so nominated for the office of member of the board of directors, shall, within five days after his nomination has been certified by the political party making the nomination, make, under oath, and file with the city clerk, a statement of the political party to which he claims allegiance. If such person fails to make the oath and file the same, as herein prescribed, the ballot commissioners shall not place his name on the ballot to be voted at the approaching municipal election.

In case of a vacancy, in a nomination, by death, resignation or by failure to file said affidavit of allegiance within the time prescribed by law, the same shall be filled by the city executive committee of the political party making such nomination, and whenever any vacancy is so filled by such nomination, the chairman and secretary of the city executive committee of the political party so filling such vacancy shall certify and file the same with the city clerk. (C. 21 Acts 1919.)

#### Conventions.

(18) Sec. 19-d. A convention within the meaning of this act shall be deemed an organized assemblage of voters or delegates of any political party for the purpose of nominating candidates for the office of members of the board of directors, and such convention of any political party shall be called, and the basis of its representation therein fixed, by its city executive committee; any convention held for the purpose of making such nominations may nominate candidates for the office of members of the board of directors and members of its city executive committee; and when any nominations of any candidates for the office of members of the board of directors are made by a convention of any political party, it shall be the duty of the presiding officer and secretary of such convention to certify the same, and file, at least fifteen days prior to the municipal election, with the city clerk, a certificate of such nominations, giving the names of the candidates, the office for which they are nominated, and the wards in which they reside. (C. 21 Acts 1919.)

#### Primary Elections.

(19) Sec. 19-e. A primary election within the meaning of this act is an election held by the voters who are the members of any political party for the purpose of nominating candidates for the office of members of the board of directors; any primary election held by any political party for the purpose of making nominations for the office of members of the board of directors may nominate candidates for the office of members of the board of directors and members of its city executive committee; and when any nominations of any



political party of candidates for the office of members of the board of directors are made by any primary election as herein specified, it shall be the duty of the chairman and secretary of the city executive committee representing such political party for which the nominations were made, to certify the same and file, at least fifteen days prior to the municipal election, with the city clerk, a certificate giving the names of such candidates, the office for which nominated, and the wards in which they reside. (C. 21 Acts 1919.)

(20) Sec. 19-f. Any primary election held by any political party for the nomination of candidates for the office of members of the board of directors may be called by a written or printed notice by the city executive committee of such political party, specifying that the same is to be held in accordance with the provisions of this charter in relation thereto and the provisions thereof shall apply to the conduct and proceedings of any such primary election; the call for any such primary election shall designate the name of the city executive committee which calls the same, and the purpose for which it is called, and the call shall name the time, place or places at which such election is to be held, and, fully, the purposes thereof, and the city executive committee of any political party calling such primary election may appoint three commissioners of election and two clerks for each voting precinct, who are to conduct such primary election, and the city executive committee shall designate the places at which such primary election is to be held and the mode in which the vote shall be taken, recorded and announced; at any such primary election the votes shall be taken by ballot and all votes cast at such election shall be deposited in a ballot box prepared for the purpose, and in the mode to be provided in the call for such primary election, and the city shall bear the expense of all primary elections held by any political party under the provisions hereof for the nomination of candidates of such political party for the office of members of the board of directors. (C. 21 Acts 1919.)

(21) Sec. 19-g The city executive committee of any political party shall be appointed by such political party, either in convention, or by election at any primary election, and for the purposes of the first election hereunder for the office of members of the board of directors, any political party may appoint its city executive committee by a mass convention held for the purpose at least sixty days prior to the first municipal election to be held hereunder. (C. 21 Acts 1919.)

#### Offenses By Voters.

(22) Sec. 19-h. Whoever shall vote at any such convention, or primary election, for the nomination of candidates to be supported at any municipal election, or for the appointment of any city executive committee of any political party, not being at the time a legal voter in the city; whoever so votes, being a legal voter, but who is not a known, recognized, theretofore openly declared, member of the political party included and defined in the terms of the call under which any such convention or primary election is held; whoever shall vote or attempt to vote more than once at any such convention or primary election; whoever shall vote or attempt to vote upon any name not his own in such convention or primary election; whoever shall either use or receive any money or other thing of value to influence any vote or ballot at any such convention or primary election; whoever shall cast or vote any such ballot at such convention or primary election after having received or is to receive money, or anything of value, for or in consideration of such vote or ballot, shall be guilty of a misdemeanor, and shall be punished by fine of not more than two hundred and fifty dollars, or by imprisonment in the county jail for not more than six months, or in the discretion of the court, by both fine and imprisonment. (C. 21 Acts 1919.)

#### False Returns.

(23) Sec. 19-i. Whoever shall knowingly make any false count of the ballots or votes cast in any such convention or primary election, or any false statement or declaration of the result of any such vote or ballot, knowing such count or statement to be false, or whoever shall willfully alter, deface,



or destroy such vote or ballot cast at any such convention or primary election, or the evidence of any such vote or ballot, shall be guilty of a misdemeanor, and shall be punished by a fine not to exceed five hundred dollars, or by imprisonment in the county jail for a period not exceeding six months or in the discretion of the court, by both fine and imprisonment. (C. 21 Acts 1919.)

**Nominations By Certificates.**

(24) Sec. 19-j. Members of the board of directors may be nominated otherwise than by conventions or primary elections. In such case, a certificate shall be signed by the qualified voters within the corporate limits of said city to a number equal to ten per centum of the entire vote cast at the last general municipal election, and for the purpose of nominating candidates for members of the board of directors to be voted for at the first general municipal election to be held hereunder, a certificate shall be signed by the qualified voters of said city to a number equal to ten per centum of the entire vote cast at the last general election for all candidates for governor, within the corporate limits of said city. No voter signing such certificate shall be counted unless his street residence and postoffice shall be designated thereon. Such certificate shall state the names of the candidates, and the wards in which they reside, respectively, and that such candidates are legally qualified to hold the office of members of the board of directors; and that the subscribers to said certificate desire and are legally qualified to vote for such candidate for members of the board of directors; and said certificate shall designate, by not more than five words, a brief name of the political party or organization which said candidates for members of the board of directors named in said certificates represent; and the signatures to such certificate need not be appended to any one paper; but to each separate paper there shall be an affidavit of the circulator thereof, stating the number of subscribers to such paper, and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be; and not more than two candidates for members of the board of directors shall be nominated by the subscribers to any certificate; and no person who has participated in the nomination of candidates for members of the board of directors by any political party by convention or primary election or by other certificate shall be counted.

Such certificates may be in the following form or to the following effect, to-wit:

State of West Virginia,  
City of Fairmont, ss:

This is to certify that we, the undersigned, qualified voters resident within the corporate limits of the city of Fairmont, West Virginia, do hereby make the following nominations for members of the board of directors of the city of Fairmont, to-wit:

....., Residence..... Ward;  
....., Residence..... Ward.

And we further certify that each of said candidates is legally qualified to hold the office of member of the board of directors for which he is nominated and that we desire, and are legally qualified, to vote for said candidates; and that we have not nor will we hereafter, participate in the nomination of any other candidates of any political party, organization or by other certificates, for members of the board of directors to be voted for at the approaching general municipal election. The name of the political party or organization which said candidates represent is .....

Signature	Street Address	Postoffice Address
(Name of Voter)	(Describe It)	(Name It)

Certificates for nominations of candidates for members of the board of directors shall, on or before twenty days, before the regular municipal election be filed with the city clerk, and each candidate so nominated by certificate as in this section provided, shall make, under oath, and file the same with the city clerk, a statement of the political party or organization to which he



claims allegiance; and the voters who have subscribed to any certificate of nominations, whereby candidates for members of the board of directors are nominated, and wherein a political party or organization is named shall, on or before fifteen days before any general municipal election select a city executive committee as herein defined, composed of one member from each ward of said city. (C. 21 Acts 1919)

#### Election Results and Contested Elections.

(25) Sec. 20. The four candidates receiving the greatest number of votes for the board of directors at any regular municipal election shall be declared elected and if two or more candidates receive an equal number of votes, the canvassing board, before whom the said election returns shall have been canvassed, shall decide between them according to the intent and provisions of this act, but only two of such candidates of the same political party shall be declared elected. All contested elections shall be heard and determined by the board of directors, and the contests shall be made and heard and conducted in the manner and as provided for such contests for county and district offices; and the board of directors shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases.

If two or more directors elected at any regular municipal election fail or neglect to qualify within the time provided in this act, the offices to which they were elected shall be declared vacated, and the then said board of directors (board of affairs in the first instance), shall appoint members of said board of directors to fill the vacancies caused by said directors elect failing or neglecting to qualify; but such vacancies on the said board of directors shall be filled by the appointment of persons according to the intent of this act; not more than two members of the said board shall belong to the same political party; and any person appointed to fill any such vacancy shall be by the appointment of a person openly and publicly recognized as belonging to and affiliated with the political party from which the person whose vacancy is to be filled was elected; **provided, however,** the city executive committee of the political party from which the person whose vacancy is to be filled was elected shall have the right to nominate persons having the qualifications of a director and the board of directors (board of affairs in the first instance) shall fill any such vacancy by the appointment of some person nominated by such committee as aforesaid. (C. 21 Acts 1919.)

#### Oaths of Officers.

(26) Sec. 21. All officers, elective and appointive, shall make oath, before some one authorized to administer oaths, that they will support the constitution of this state, and will faithfully and impartially discharge the duties of their respective offices, to the best of their skill and judgment; that they will not administer their respective offices with the aim to benefit any political party; that they will not during their term of office become pecuniarily interested directly or indirectly, in any contract with the city, or the purchase of any supplies therefor. When the officer shall have made such oath in writing and filed the same with the city clerk, and shall have given the bond required of and accepted from him, he shall be considered as having qualified for the office to which he was elected or appointed; **provided,** that if any person elected to the office of board of directors shall not qualify for said office as herein prescribed within thirty days after he shall have been officially declared elected thereto, said office shall *ipso facto* become vacant, and said vacancy shall be filled in the manner provided for in this act. (C. 21 Acts 1919.)

#### Bond of Officers.

(27) Sec. 22. Each member of the board of directors and the city clerk, city attorney, city physician, chief of police, chief of fire department and heads of departments, shall, before entering upon the discharge of their duties, give an official bond, conditioned for the faithful performance of their respective duties as prescribed in this act or any ordinance now or hereafter passed,



in amounts as follows: Each director five thousand dollars, except the director of finance, who shall give bond in the penalty of sixty-five thousand dollars; the city clerk, three thousand dollars; the city attorney, city physician, chief of police, and the chief of the fire department, each one thousand dollars.

The board of directors may require additional bond from any of said appointive officers, and may likewise require a bond in whatever sum they may fix, of any other appointive officer. All bonds of appointive officers shall, before their acceptance, be approved by the board of directors; and the bonds of the directors shall be approved by the retiring board of directors, (board of affairs in the first instance). All other bonds of whatsoever kind shall not be accepted until first approved by the board of directors. The minutes of the meeting of the board shall show all matters touching the consideration or approval of all bonds, and when said bonds are approved and accepted they shall be recorded by the city clerk in a well bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds as aforesaid shall be *prima facie* proof of their correctness, and they, as so recorded, shall be admitted as evidence in all the courts of this state. The city clerk shall be the custodian of all bonds, except those given by him, and as to them, the city treasurer shall be custodian.

All bonds, obligations or other writing taken in pursuance of any provisions of this act shall be made payable to "the city of Fairmont," and the respective persons, and their heirs, executors, administrators and assigns bound thereby shall be subject to the same proceedings on said bonds, obligations and other writings, for enforcing the conditions of the terms thereof, by motion or otherwise, before any court of record held in and for the county of Marion, that collectors of county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of the county levies. (C. 21 Acts 1919.)

(28) Sec. 23. All appointive officers shall hold their offices for the term of four years (unless sooner removed as herein provided), and until their successors are appointed and qualified. No appointive officer of the city shall hold two official offices with the city at the same time, nor shall become the employe of the city in any other capacity except by the consent of the board of directors shown by resolution. (C. 21 Acts 1919.)

#### Purchasing Supplies.

(29) Sec. 24. The board of directors shall purchase all the supplies for the departments of the city government at the lowest price possible, considering the quality and grade of the supplies desired. And, when practicable, they shall advertise by reasonable notice in all the daily newspapers of said city for bids on supplies to be furnished, and shall award contract therein (unless all bids are rejected), to the lowest bidder, taking from such bidder a written contract and bond therein, to be approved by them, for the faithful performance of said contract. (C. 10 Acts 1915.)

#### Executive Duties of Officers.

(30) Sec. 25. All persons elected or appointed to the offices named in this act shall be conservators of the peace within said city, and they, and any other officer provided for under this act, may be given authority of police officers by the board of directors.

The mayor shall be *ex-officio* a justice of the peace, with authority to issue warrants or other process for all offenses committed within the police jurisdiction of the city of Fairmont of which a justice of the peace has jurisdiction under the state laws, and for all violations of any city ordinances; in order to preserve the peace and good order of the city, and protect the persons and property therein, riotous and disorderly persons in the city may be arrested and detained before issuing any warrants therefor. The mayor may, without fees or other compensation, commit persons charged with felony or misdemeanor to jail, or take bond for their appearance before the grand jury of the circuit court of Marion county; and he shall have power to issue executions for all fines, penalties and costs imposed by him. And he may require the immediate payment thereof, and in default of such payment, may com-



mit the person so in default to jail, unless the fine and penalty and costs shall be paid or satisfied, and to be employed during imprisonment as provided by this act. Any person sentenced to imprisonment, or any person or corporation assessed with a fine, shall be allowed to appeal from said decision of the mayor in the same manner and under the same conditions as appeals are allowed from a justice of the peace, conditioned that the person proposing to appeal will perform and satisfy any judgment which may be recovered against him by the circuit court on such appeal. If such appeal be taken, the warrant of arrest, the transcripts of the judgment, the appeal bonds and other papers of the case, shall be forthwith delivered by the mayor to the clerk of the circuit court, and said circuit court shall proceed to try the case as upon indictment or presentment, and render such judgment, including that of costs, as the law and evidence may demand. (C. 10 Acts 1915.)

(31) Sec. 26. No franchise or ordinance shall be passed, and no contract shall be awarded, nor any money appropriated for any purpose in a greater sum than one hundred dollars, and no appointments of any officers shall be made, nor any vacancy in office declared without the affirmative vote of at least three members of the board of directors. (C. 21 Acts 1919.)

#### Notice for Franchise.

(32) Sec. 27. Publication of notice to present franchise and other preliminaries prescribed by the laws of the state relating thereto shall be had in the manner prescribed by the state laws, before the board of directors shall act on any such franchise. (C. 21 Acts 1919.)

#### Salaries.

(33) Sec. 28. The members of the board of directors shall each receive two thousand five hundred dollars per annum. All salaries shall be paid monthly, as the services shall have been rendered. (C. 21 Acts 1919.)

#### Salaries of Appointive Officers.

(34) Sec. 29. The salaries of all appointive officers shall be fixed by the board of directors and paid monthly, as the services shall have been rendered. The salary of the city clerk shall not exceed one thousand eight hundred dollars per year; the salary of the city physician shall not exceed seven hundred and fifty dollars per year; the salary of the city attorney shall not exceed one thousand five hundred dollars per year; the salary of the chief of police shall not exceed one thousand eight hundred dollars per year; the salary of the chief of the fire department shall not exceed one thousand eight hundred dollars per year; the salary of the city engineer shall not exceed one thousand eight hundred dollars per year; the salary of no other appointive officer or agent not herein specifically limited shall exceed one thousand five hundred dollars per year; **provided, however,** that whenever the United States census of said city shall show its population to be as much as twenty thousand people then the board of directors may by ordinance provide an increase in all salaries including their own not to exceed twenty-five per cent. (C. 21 Acts 1919.)

(35) Sec. 30. The board of directors shall by ordinance fix the salaries of all appointive officers, subject to the limitations herein prescribed. (C. 10 Acts 1915.)

#### Recall Elections.

(36) Sec. 43. Any or all members of the board of directors provided for in this charter may be removed from office by the electors. The procedure to effect such removal shall be as follows:

A petition demanding that the question of removing such officer or officers be submitted to the electors shall be filed with the city clerk. Such petition for the recall of any or all of the board of directors shall be signed by at least thirty-five per cent. of the total number of registered voters in the municipality. The signatures to such petitions need not be appended to any one paper. (C. 21 Acts 1919.)



(37) Sec. 44. Petition papers shall be procured only from the clerk of the board of directors, who shall keep a sufficient number of such blank petitions on file for distribution as herein provided. Prior to the issuance of such petition papers an affidavit shall be made by one or more qualified electors and filed with the city clerk, stating the name and office of the officer or officers sought to be removed. The clerk of the board of directors upon issuing any such petition papers to an elector shall enter in a record, to be kept in his office, the name of the elector to whom issued, the date of such issuance, and the number of papers issued, and shall certify on such papers the name of the elector to whom issued and the date issued. No petition papers so issued shall be accepted as part of the petition unless it bears such certificate of the clerk, and unless it be filed as provided herein. (C. 21 Acts 1919.)

(38) Sec. 45. Each signer of a recall petition shall sign his name in ink, or indelible pencil, and shall place thereon after his name his place of residence by street and number. To each such petition paper there shall be attached an affidavit of the circulator thereof stating the number of signers to such part of the petition, and that each signature appended to the paper was made in his presence and is the genuine signature of the person whose name it purports to be. (C. 21 Acts 1919.)

(39) Sec. 46. All papers comprising a recall petition shall be filed with the clerk as one instrument within thirty days after the filing with the clerk of the affidavit stating the names and office of the officers sought to be removed. (C. 21 Acts 1919.)

(40) Sec. 47. The clerk shall at once submit the recall petition to the board of directors, and shall notify the officer sought to be recalled of such action. If the official whose removal is sought does not resign within five days after such notice, the board shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than forty nor more than sixty days after the petition has been presented to the board, at the same time as any other general or special election held within such period; but if no such election be held within such period, the board shall call a special recall election to be held within the time aforesaid. (C. 21 Acts 1919.)

(41) Sec. 48. The ballots at such recall election shall conform to the following requirements:

With respect to each person whose removal is sought the question shall be submitted, "Shall (name of person) be removed from the office of (name of office) by recall?"

Immediately following each such question there shall be printed on the ballots the two propositions, in the order set forth:

For the recall of (name of person).

Against the recall of (name of person).

Immediately to the left of the proposition shall be placed a square in which the electors, by making a cross mark (x), may vote either of such propositions. Under said questions shall be placed the names of candidates to fill the vacancy or vacancies. The name of the officer or officers whose removal is sought shall not appear on the ballot as a candidate or candidates to succeed himself or themselves.

Before any such recall election for the removal of directors shall be had, there shall be nominated candidates to fill the vacancy or vacancies, the nominations therefor to be made in the manner as herein provided for the nomination of candidates for the general municipal election, and a certificate of such nominations shall be filed with the clerk twenty days prior to the date fixed for holding such recall election. (C. 21 Acts 1919.)

(42) Sec. 49. Should a majority of the votes cast at a recall election be against the recall of the officer named on the ballot, such officer shall continue in office for the remainder of his unexpired term subject to recall as before. If a majority of the votes cast at a recall election shall be for



the recall of the officer named on the ballot he shall, regardless of any technical defects in the recall petition, be deemed removed from office. (C. 21 Acts 1919).

(43) Sec. 50. No recall petition shall be filed against a director within six months after he takes his office, nor in case of an officer re-elected in a recall election, until six months after that election. At each recall election or any special election the registrars who made the registration of the voters for the last preceding general election shall sit one day at their respective voting precincts two weeks prior to any recall election or any special election for correcting, amending and adding to the registration, and at any recall election or any special election for said city the board of directors shall sit one day one week prior to such election for the correcting, amending and adding to such registration, and no voter shall vote at such recall elections or any special election unless he has been duly registered as aforesaid. (C. 21 Acts 1919).

#### Initiation; Referendum and Protest.

(44) Sec. 51. Any proposed ordinance may be submitted to the board of directors, by petition signed by at least ten per cent of the total number of registered voters in the municipality. All petition papers, circulated with respect to any proposed ordinance, shall be uniform in character, and shall contain the proposed ordinance in full, and have printed or written thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition, and shall constitute a committee of the petitioners for the purposes hereinafter named. (C. 21 Acts 1919).

(45) Sec. 52. Each signer of a petition shall sign his name in ink or indelible pencil and shall place on the petition paper after his name his place of residence by street and number. The signatures to any such petition paper need not all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition, and that each signature appended to one paper is the genuine signature of the person whose name it purports to be and was made in the presence of the affiant. (C. 21 Acts 1919).

(46) Sec. 53. All papers comprising a petition shall be filed with the city clerk as one instrument, and when so filed the clerk shall submit the proposed ordinance to the board of directors at its next regular meeting. Provision shall be made for public hearings upon the proposed ordinance. (C. 21 Acts 1919).

(47) Sec. 54. The board of directors shall at once proceed to consider it, and shall take final action thereon within thirty days from the date of submission. If the board rejects the proposed ordinance, or passes it in a form different from that set forth in the petition, the committee of the petitioners may require that it be submitted to a vote of the electors in its original form or that it be submitted to a vote of the electors with any proposed change, addition, or amendment, if a petition for such election is presented bearing additional signatures of fifteen per cent of the electors of the city. (C. 21 Acts 1919).

(48) Sec. 55. When an ordinance proposed by petition is to be submitted to a vote of the electors, the committee of the petitioners shall certify that fact and the proposed ordinance to the clerk within twenty days after the final action on such proposed ordinance by the board of directors. (C. 21 Acts 1919).

(49) Sec. 56. Upon receipt of the certificates and certified copy of the proposed ordinance, the clerk shall certify the fact to the board at its next regular meeting. If an election is to be held not more than six months nor less than thirty days after the receipt of the clerk's certificate by the board, such proposed ordinance shall then be submitted to a vote of the electors. If no such election is to be held within the time aforesaid, the board shall provide for submitting the proposed ordinance to the electors at a special election. (C. 21 Acts 1919).



(50) Sev 57. The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on and below it the two propositions, "For the ordinance", and "Against the Ordinance". Immediately at the left of each proposition there shall be a square in which by making a cross (x), the voter may vote for or against the proposed ordinance. If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the city. (C. 21 Acts 1919.)

(51) Sec. 58. Proposed ordinances for repealing any existing ordinance or ordinances in whole or in part, may be submitted to the board of directors as provided in the preceding sections for initiating ordinances. Initiated ordinances adopted by the electors shall be published and may be amended or repealed by the board as in the case of other ordinances. (C. 21 Acts 1919.)

(52) Sec. 59. No ordinance passed by the board, unless it be an emergency measure shall go into effect until fifteen days after its final passage by the board of directors. If at any time within said fifteen days, a petition signed by twenty-five per cent, of the total number of registered voters in the municipality be filed with the clerk of the board of directors requesting that any such ordinance be repealed or submitted to a vote of the electors, it shall not become operative until the steps indicated herein have been taken. (C. 21 Acts 1919.)

(53) Sec. 60. The city clerk shall deliver the petition to the board, which shall proceed to reconsider the ordinance. If, upon such reconsideration, the ordinance be not entirely repealed, the board shall provide for submitting it to a vote of the electors, and in so doing the board shall be governed by the provisions of sections fifty-five, fifty-six and fifty-seven hereof, respecting the time of submission and of the manner of voting on ordinances proposed to the board by petition. If, when submitting to a vote of the electors, any such ordinance be not approved by a majority of those voting thereon, it shall be deemed repealed. (C. 21 Acts 1919.)

(54) Sec. 61. Referendum petitions need not contain the text of the ordinances, the repeal of which is sought, but shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the board. Ballots used in referendum elections shall conform in all respects to those provided for in section fifty-seven of this charter. (C 21 Acts 1919.)

#### **Ordinances.**

(55) Sec. 62. Ordinances submitted to the board of directors by initiative petition, and passed by the board without change, or passed in an amended form and not required to be submitted to a vote of the electors by the committee of the petitioners, shall be subject to the referendum in the same manner as other ordinances. (C. 21 Acts 1919.)

#### **Conflicting Ordinances.**

(56) Sec. 63. If the provision of two or more ordinances adopted or approved at the same election conflict, the ordinances receiving the highest affirmative vote shall prevail. (C. 21 Acts 1919.)

#### **Referendum on Emergency Measures.**

(57) Sec. 64. Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such measure so repealed shall be deemed sufficient authority for payment in accordance with the ordinance, of any expense incurred previous to the referendum vote thereon. (C. 21 Acts 1919.)

#### **Referendum; Preliminary Action.**

(58) Sec. 65. In case a petition be filed requiring that a measure passed by the board of directors providing for an expenditure of money, a



bond issue, or a public improvement be submitted to a vote of the electors all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of a contract for such improvement may be taken prior to the election. (C. 21 Acts 1919.)

#### Mayor.

(59) Sec. 66. The board of directors shall select by vote the mayor from and among its own members at its first meeting. (C. 21 Acts 1919.)

(60) Sec. 67. But should the board fail to select the mayor within ten days after the beginning of their term of office, then the members of said board shall decide by casting lots, which one of them shall be the mayor, and until such decision shall have been made as to what one of said members of the board of directors shall be the mayor, the city attorney shall be the acting mayor of the city, with the power and duties, and salary of mayor, while he so acts, except he shall not vote upon any question arising or coming before the board of directors and the members of the board of directors shall receive no salary until the mayor shall have been selected, their salary beginning with the date of such selection. (C. 21 Acts 1919.)

(61) Sec. 68. A vacancy in the office of mayor shall be filled for the unexpired term by the board of directors by the election thereto of some member of their board; provided, that if such appointment be made at a time when there is also a vacancy on the board of directors appointment shall hold only until the vacancy on the board of directors shall have been filled, when the full membership of the board of directors shall appoint some member of its board to the office of mayor for the unexpired term (C. 10 Acts 1915.)

(62) Sec. 69. The mayor shall have and exercise all the rights, powers and duties of mayor conferred by the constitution and laws of this state, and all those conferred by the terms of this act, and no other. He shall be the presiding officer of the board of directors, and he, in the capacity of director, shall have the right to vote on any question arising before the board, but he in the capacity of presiding officer of the board shall not have any additional vote by which to decide a question on which there is a tie vote. He shall be the executive officer of the city, and shall see, except as herein otherwise provided, that the laws and ordinances of the city and resolutions and orders of the board of directors are enforced, and that the peace and good order of the city are preserved, and that the persons and property therein are protected. He shall perform such other duties, if they be not inconsistent with the duties of the office of mayor or director, as the board of directors may from time to time prescribe. (C. 10 Acts 1915.)

#### Meetings of the Board.

(63) Sec. 71. At ten o'clock a.m., on the first Monday in July following a regular municipal election, the board of directors shall meet at the usual place for holding the meetings of the legislative body of the city, except that the first meeting of the board of directors under this charter shall be held on the first Monday in September, one thousand nine hundred and nineteen. Thereafter the board shall meet at such times as may be prescribed by ordinance or resolution, except that they shall meet not less than once each week. The mayor or two members of the board if directors may call special meetings of the board upon at least six hours' written notice to each member of the board of directors served personally on each member, and may publish like notice of the time and purpose of said meeting, by publishing said notice at least once in all the daily newspapers published in said city. All meetings of the board of directors shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The board shall determine its own rules and order of business and shall keep a journal of its proceedings. (C. 21 Acts 1919.)



### Legislative Procedure.

(64) Sec. 72. A majority of all members of the board of directors elected shall constitute a quorum to do business. The affirmative vote of a majority of the members elected to the board shall be necessary to adopt any ordinance or resolution. The vote upon the passage of all ordinances and upon the adoption of such resolutions as the board by its rules shall prescribe, shall be taken by "yea" and "nay" and entered upon the journal. Every ordinance or resolution passed by the board shall be signed by the mayor or by two members, and filed with the clerk within two days and by him recorded. Any vote may be vive voce when unanimous, but the minutes must so show it. (C. 10 Acts 1915.)

### Ordinance Enactment.

(65) Sec. 73. Each proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clauses of all ordinances passed by the board shall be, "Be it ordained by the board of directors of the city of Fairmont."

No ordinance, unless it be declared an emergency measure shall be passed on the day on which it shall have been introduced, unless so ordered by affirmative vote of all the members of the board of directors.

No ordinance or resolution or section thereof shall be revised or amended, unless the new ordinance or resolution contain the entire ordinance or resolution or section revised or amended and the original ordinance, resolution, section or sections so amended shall be repealed. (C. 21 Acts 1919.)

### Emergency Measures.

(66) Sec. 74. All ordinances and resolutions shall be in effect from and after fifteen days from the date of their passage by the board of directors, except as otherwise provided in this charter. The board may, by an affirmative vote of not less than three members, pass emergency measures to take effect at the time indicated therein. An emergency measure is an ordinance or resolution for the immediate preservation of the public peace, property, health or safety, or providing for the usual daily operation of a municipal department, in which the emergency is set forth and defined in a preamble thereto. Ordinances appropriating money may be passed as emergency measures, but no measure making a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure. (C. 21 Acts 1919.)

### Clerk: Minutes of the Meeting.

(67) Sec. 75. Said board shall cause detailed minutes of its meetings and proceedings to be kept by the city clerk in a well bound book for that purpose, which shall remain in the custody of the city clerk at his office and open to public inspection, and perform such other duties as the board may require. The minutes of every regular or special meeting shall be read publicly at the next regular meeting of the board, and after being corrected shall be signed by the mayor and city clerk, and if thus recorded and signed, they shall be admitted as evidence in any court of record in this state. (C. 10 Acts 1915.)

### Audit and Examination.

(68) Sec. 76. The board of directors shall cause a continuous audit to be made of the books of account, records and transactions of the administrative departments of the city. Such audit, during each fiscal year, shall be made by one or more public accountants. The duties of the auditor or auditors so appointed shall include the certifications of all statements required



under section one hundred and four of this charter. Such statements shall include a general balance sheet, exhibiting the assets and liabilities of the city, supported by departmental schedules, and schedules for each utility publicly owned or operated; summaries of income and expenditure, supported by detailed schedules; and also comparisons, in proper classifications, with the last previous year. The report of such audit for each previous year shall be open to public inspection, and a condensed summary thereof shall be published in all the daily newspapers published in said city, annually, together with an itemized statement showing the receipts and expenditures of said city similar to the financial statements required to be published by the county courts of this state. (C. 10 Acts 1915.)

#### Publication of Ordinances.

(69) Sec. 77. Every ordinance or resolution upon its final passage shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the presiding officer and the city clerk. Every ordinance or resolution shall be published at least once within five days after its final passage in all daily newspapers of opposite politics published in the city of Fairmont. (C. 21 Acts 1919.)

#### Investigation by Directors.

(70) Sec. 78. The board of directors or any committee thereof duly authorized by the board so to do, may investigate the financial transactions of any office or department of the city government and the official acts and conduct of any city official, and by similar investigations may secure information upon any matter. In conducting such investigations the board, or any committee thereof, may compel the attendance of witnesses and the production of books, papers and other evidence, and for that purpose may issue subpoenas or attachments which shall be signed by the presiding officer of the board, or the chairman of such committee, as the case may be, which may be served and executed by any officer authorized by law to serve subpoenas and other process. If any witness shall refuse to testify to any facts within his knowledge, or to produce any papers or books in his possession, or under his control relating to the matter under inquiry, before the board of directors, of any such committee, the board shall have the power to cause the witness to be punished as for contempt. No witness shall be excused from testifying touching his knowledge of the matter under investigation in any such inquiry, but such testimony shall not be used against him in any criminal prosecution except for perjury committed upon such inquiry. (C. 10 Acts 1915.)

#### Investigations by the Mayor.

(71) Sec. 79. The mayor without notice may cause the affairs of any department or the conduct of any officer or employe to be examined or investigated. (C. 21 Acts 1919.)

#### Departments of City Government.

(72) Sec. 80. In order to better dispense the business of the city, and assign more in detail the members of the board of directors, the government of said city is hereby divided into four departments, to-wit:

(a) The department of law and public welfare, under which shall be included the departments of fire, police, law, health and charity.

(b) The department of public highways, under which shall be included the streets, alleys, storm sewers, surface drainage, wharves, bridges, public buildings and grounds.

(c) The department of finance, under which shall be included all finances of the city, water rents and taxation.

(d) The department of water, under which shall be included the city's water system and sanitary sewers. (C. 21 Acts 1919.)

(73.) Sec. 80-a. The board of directors shall at the first regular meeting of the board of directors following their election and qualifications, designate the mayor and each of the other directors at the head of one of the said departments of government, except the mayor shall be at the head of the de-



partment of law and public welfare, and the director thus assigned shall be styled the director of that department and he shall have the immediate care and supervision of his department but subject always to the control of the board of directors. The business and the labors incident thereto of each of the departments shall be that which properly falls within the scope of the particular department, but, which, in detail, may be fixed from time to time by the board of directors. The head of each department shall see to the performance of all the business coming within his department or which may be referred thereto or to any officer thereunder, from time to time. (C. 21 Acts 1919.)

(74) Sec. 80-b. The director of each department shall keep a public office in the city building, at which he may be found or communicated with during stated hours, to be fixed by him for the convenience of the public, unless his official duties call him elsewhere.

#### Changes in Departments and Sub-divisions Thereof.

(75). Sec. 81. The board of directors may by ordinance discontinue any department and determine, combine, and distribute the functions and duties of departments and sub-divisions thereof.

### DEPARTMENT OF LAW.

#### City Attorney.

(76) Sec. 83. The city attorney shall be an attorney at law admitted to practice in the state of West Virginia. He shall be the legal adviser of and attorney and counsel for the city, and for all officers and departments thereof in matters relating to their official duties. He shall prosecute and defend all suits for and in behalf of the city, and shall prepare all contracts, bonds and other documents in writing in which the city is concerned and shall endorse on each his approval of the form and correctness thereof. (C. 10 Acts 1915.)

(77) Sec. 84. The city attorney shall be the prosecuting attorney of the municipal court. He shall have such number of assistants as the board of directors by ordinance may authorize. He shall prosecute all cases brought before such court, and perform the same duties, so far as they are applicable there to, as are required of the prosecuting attorney of the county. (C. 10 Acts 1915.)

(78) Sec. 85. When required to do so by resolution of the board of directors, the city attorney shall prosecute or defend for and in behalf of the city, all complaints, suits and controversies in which the city is a party, and such other suits, matters and controversies as he shall, by resolution or ordinance, be directed to prosecute or defend. (C. 10 Acts 1915.)

(79) Sec. 86. The board of directors, or any member thereof, may require the opinion of the city attorney upon any question of law involving their respective powers and duties. (C. 10 Acts 1915.)

(80) Sec. 87. The city attorney shall apply, in the name of the city, to a court of competent jurisdiction for an order of injunction to restrain the misapplication of funds of the city, or the abuse of its corporate powers, or the execution or performance of any contract made in behalf of the city in contravention of law, or which was procured by fraud or corruption. (C. 10 Acts 1915.)

(81) Sec. 88. When an obligation or contract made on behalf of the city granting a right or easement, or creating a public duty, is being evaded or violated, the city attorney shall likewise apply for the forfeiture or the specific performance thereof as the nature of the case requires. (C. 10 Acts 1915.)

(82) Sec. 89. In case any officer or board fail to perform any duty required by law, the city attorney shall apply to a court of competent jurisdiction for a writ of mandamus to compel the performance of such duty. (C. 10 Acts 1915.)

(83) Sec. 90. In case the city attorney, upon written request of any taxpayer of the city, fail to make any application provided for in the preced-



ing three sections, such taxpayer may institute suit or proceedings for such purpose in his own name on behalf of the city. No such suit or proceeding shall be entertained by any court until such request to the city attorney shall first have been made, nor until the taxpayer shall have given security for the costs of the proceeding. (C. 10 Acts 1915.)

(84) Sec. 90-a. The board of directors shall have the right whenever the exigencies of the business of the municipality make the same necessary to employ special counsel to assist the city attorney. (C. 21 Acts 1919.)

(85) Sec. 91. No such action to enjoin the performance of a contract entered into, or the payment of any bonds or notes issued by the city shall be brought or maintained unless commenced within one year from the date of such contract, bonds or notes. (C. 10 Acts 1915.)

(86) Sec. 92. If the court hearing any such action be satisfied that the taxpayer had good cause to believe his allegations were well founded, or that they are sufficient in law, it shall make such order as the equity and justice of the case demand. In such case the taxpayer shall be allowed his costs, and if judgment be finally entered in his favor, he may be allowed as part of the costs a reasonable compensation for his attorney. (C. 10 Acts 1915.)

#### General Powers and Duties.

(87) Sec. 93. Subject to the supervision and control of the board of directors in all matters, the director of law and public welfare shall manage all charitable, correctional, and reformatory institutions and agencies belonging to the city; the use of all recreational facilities of the city, including parks and play grounds. He shall have charge of the inspection and supervision of all public amusements and entertainments. He shall enforce all laws, ordinances and regulations relative to the preservation and promotion of the public health, the prevention and restriction of disease, the prevention, abatement and suppression of nuisances, and the sanitary inspection and supervision of the production, transportation, storage, and sale of foodstuffs. He may cause a complete and accurate system of vital statistics to be kept. In time of epidemic, or threatened epidemic, he may enforce such quarantine and isolation regulations as are appropriate to the emergency. The director of law and public welfare may provide for the study of and research into causes of poverty, delinquency, crime and disease and other social problems in the community and may, by means of lectures and exhibits, promote the education and understanding of the community in those matters which affect the public welfare. (C. 10 Acts 1915.)

#### Health Officer.

(88) Sec. 94. The health officer of the city shall be under the direction and control of the director of law and public welfare and shall enforce all ordinances and laws relating to health, and shall perform all duties and have all the powers provided by general law relative to the public health to be exercised in municipalities by health officers; provided, that regulations affecting the public health additional to those established by general law and for the violation of which penalties are imposed shall be enacted by the board of directors, and enforced as provided herein. (C. 10 Acts 1915.)

(89) Sec. 95. Subject to the supervision and control of the board of directors in all matters, the director of law and public welfare shall be the executive head of the divisions of the police and fire. He shall also be the chief administrative authority in all matters affecting the inspection and regulation of the erection, maintenance, repair and occupancy of buildings as may be ordained by the board of directors, or established by the general law of the state of West Virginia. He shall also be charged with the enforcement of all laws and ordinances relating to weights and measures. (C. 10 Acts 1915.)

#### Division of Police.

(90) Sec. 96. The chief of police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees constituting the police force, under such rules and regulations as the director of



law and public welfare may prescribe. The police force shall be composed of a chief of police and such officers, patrolmen and other officers and employees constituting the police force, under such rules and regulations as the director of law and public welfare may prescribe. The police force shall be composed of a chief of police and such officers, patrolmen, and other employees as the board of directors may determine. In case of riot, emergency at time of elections, or similar occasions, the director of law and public welfare may appoint additional patrolmen and officers for temporary service. (C. 10 Acts 1915.)

#### Division of Fire.

(91) Sec. 97. The fire chief shall have exclusive control of the stationing and transfer of all firemen and other officers and employees constituting the fire force under such rules and regulations as the director of law and public welfare may prescribe. The fire force shall be composed of a chief and such other officers, firemen and employees as the board of directors may determine. In case of riot, conflagration or emergency, the director of law and public welfare may prescribe. The fire force shall be composed of a chief and such other officers, firemen, and employees as the board of directors may determine. In case of riot, conflagration, or emergency, the director of law and public welfare may appoint additional firemen and officers for temporary service. (C. 10 Acts 1915.)

#### Supervision in Fire and Police Divisions.

(92.) Sec. 98. The chief of police and fire chief shall have the right to suspend any of the officers or employees in their respective divisions, who may be under their management and control, for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority or for any other just and reasonable causes. If any officer or employee be suspended, as herein provided, the chief of the division concerned shall forthwith in writing certify the fact, together with the cause for the suspension, and render thereon judgment, which, if the charge be sustained, may be suspension, reduction in rank, or dismissal, and such judgment in the matter shall be final, except as may be provided in the rules and regulations as adopted by the board of directors. The director of law and public welfare in any such investigation shall have the same power to administer oaths and secure the attendance of witnesses and production of books and papers as is conferred upon the board of directors. (C. 10 Acts 1915.)

#### Suspension of Chief of Police and Fire Chief.

(93) Sec. 99. The board of directors shall have the exclusive right to suspend or dismiss the chief of police and fire chief for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority, or for any other just and reasonable cause. (C. 10 Acts 1915.)

#### Relief of Policemen and Firemen.

(94) Sec. 100. The board of directors may provide by general ordinance for the relief, out of the police or fire funds, of members of the divisions of police and fire, temporarily or permanently disabled in the discharge of their duty. (C. 10 Acts 1915.)

### DEPARTMENT OF HIGHWAYS.

#### General Powers and Duties.

(95) Sec. 101. Subject to the supervision and control of the board in all matters the director of public highways shall manage and have charge of the construction, improvement, repair and maintenance of streets, alleys, sidewalks, lanes, bridges, viaducts and all other public highways; or storm sewers, surface drainage, ditches, culverts, canals, streams and water courses; of boulevards, squares and other public places and ground belonging to the city or dedicated to the public use. He shall manage market houses and shall have charge of the making and preservation of all surface maps, plans, draw-



ings and estimates for such public works; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of waste; the preservation of contracts, papers, plans, tools and appliances belonging to the city and pertaining to this department. (C. 21 Acts 1919.)

#### DEPARTMENT OF FINANCE.

##### General Duties of the Director of Finance.

(96) Sec. 102. The duties of the director of finance shall include the keeping and supervision of all accounts, and the custody of all public money of the city; the purchase, storage and distribution of supplies needed by the various departments; the making and collection of special assessments; the issuance of licenses; the collection of license fees, and such other duties as the board of directors may, by ordinance, require. The director of finance shall be and perform all the duties of the city treasurer. (C. 10 Acts 1915.)

##### City Accountants.

(97) Sec. 103. The director of finance shall install and have supervision over the accounts of all departments and offices of the city. Whenever practicable, the books of financial accounts shall be kept in the office of the department of finance. The director of finance shall require daily departmental reports of money receipts and the disposition there, and shall require of each, in such form as may be prescribed, current financial and operating statements exhibiting each transaction and the cost thereof.

Upon the death, resignation, removal or expiration of the term of any officer, the director of finance shall examine the accounts of such officer and report his findings to the board of directors. (C. 10 Acts 1915.)

##### Accounting Procedure.

(98) Sec. 104. Accounting procedure shall be devised and maintained for the city adequate to record in detail all transactions affecting the acquisition, custodianship, and disposition of values, including cash receipts and disbursements; and the recorded facts shall be presented periodically to officials and to the public in such summaries and analytical schedules in detailed support thereof as shall be necessary to show the full effect of such transactions for each fiscal year upon the finances of the city and in relation to each department of the city government, including distinct summaries and schedules for each public utility owned and operated. (C. 10 Acts 1915.)

##### Assessments and Licenses.

(99) Sec. 105. The director of finance shall have charge of the preparation and certification of all special assessments for public improvements: the mailing of notices of such assessments to property owners and all other duties connected therewith; the collection of such assessments as are payable directly to the city and the preparation and certification of all unpaid assessments for collection. He shall issue all licenses and collect all fees therefor and shall pay the same to the city treasurer in the manner provided by ordinance. (C. 10 Acts 1915.)

##### Payment of Claims.

(100) Sec. 106. No warrant for the payment of any claim shall be issued by the director of finance, unless such claim shall be evidenced by a voucher approved by the head of the department for which the indebtedness was incurred and countersigned by the board of directors. Before issuing such voucher the supplies and materials delivered, or work done, shall be duly inspected and certified to by the head of the proper department or office; or by a person designated by him. The head of each department or office shall require proper time reports from all service rendered to be certified by those having cognizance thereof, to serve as a basis for the preparation of pay-roll vouchers. Each director of a department and his surety shall be liable to the city for all loss or damage sustained by the city by reason of the negligent or corrupt approval of any claim against the city in his department. Prior to



drawing of a warrant for the payment of any voucher or claim, the director of finance may, at his discretion, cause an investigation or inspection to be made by a person designated by him, and shall have power to summon persons and examine them under oath or affirmation, which oath or affirmation he may administer. (C. 10 Acts 1915.)

#### **Sinking Fund.**

(101) Sec. 107. The members of the board of directors shall constitute the sinking fund trustees. The mayor shall be the president and the director of finance shall be the secretary of the trustees of the sinking fund. The trustees of the sinking fund shall manage and control the sinking fund in the manner provided by laws of the state of West Virginia or by ordinance. (C. 10 Acts 1915.)

(102) Sec. 107-a. The director of the finance shall have charge of the collection of all water rents and all finances connected with the city's water system. (C. 21 Acts 1919.)

#### **City Treasurer.**

(103) Sec. 108. The division of the treasury shall be in charge of the director of finance, who shall be the city treasurer, and perform all the duties of such officer, who shall be the custodian of all public money of the city and all other public money coming into his hands as city treasurer. The city treasurer shall keep and preserve such moneys in the place or places determined by ordinance, or by the provisions of any law applicable thereto. (C. 10 Acts 1915.)

(104) Sec. 109. Except as otherwise provided in this charter, the city treasurer shall collect, receive and disburse all public money of the city upon warrant issued by the director of finance, and shall also receive and disburse all other public money, coming into his hands as city treasurer, in pursuance of such regulations as may be prescribed by the authorities having lawful control over such funds. (C. 10 Acts 1915.)

### **DEPARTMENT OF WATER.**

#### **General Powers and Duties.**

(105) Sec. 109-a. Subject to the supervision and control of the board in all matters, the director of the department of water shall manage and have charge of the construction, improvement, repair, maintenance, and operation of the water system owned and controlled by said city, and he shall manage, control, and have supervision over all sanitary sewers, and shall be in charge of the construction, improvement, repair and extension of all sanitary sewers; he shall have charge of the water works; he shall manage the sewage disposal plants and farms; he shall preserve all contracts, papers, maps, plans, tools and appliances belonging to the city and pertaining to this department. (C. 21 Acts 1919.)

#### **Political Belief; Assessments and Activity.**

(106) Sec. 110. No person in the service of the city of Fairmont, or seeking admission thereto, shall be appointed, reduced or removed, or in any way favored or discriminated against because of political opinions, affiliations; or because of race, color or religious belief. No officer or employee of the city shall directly or indirectly solicit or receive, or be in any manner concerned, in soliciting or receiving any assessment, subscription or contribution for any party or political purpose whatever. No person holding a position in the city service shall take any part in political management or affairs or in political campaigns further than to cast his vote or to express privately his opinions. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined fifty dollars. (C. 10 Acts 1915.)



### Street Paving.

(107) Sec. 111. (a) The board of directors of the city of Fairmont may order and cause any avenue, street, road or alley therein to be graded, or curbed, or re-curbed with stone, concrete or other suitable material, or paved or re-paved, between curbs, with brick, wooden blocks, asphalt or other suitable material or to be graded and curbed or re-curbed and paved or re-paved as aforesaid, or to be macadamized, or to be otherwise permanently improved or repaired, under such supervision as may be directed by ordinance or resolution, upon the best bid to be obtained by advertising for proposals therefor, except the city may do the work without letting it to contract, as hereinafter provided in (d) of this section; and may purchase or condemn land as prescribed by chapter forty-two of the code of West Virginia for opening or widening avenues, streets, roads and alleys. Two-thirds of the cost of such grading, curbing, and paving, or macadamizing, or other permanent improvements, of any of the avenues, streets, roads, and alleys as aforesaid, from and including the curb of either side thereof to the middle thereof, and two-thirds of the cost of purchasing or condemning land as aforesaid for street purposes, may be assessed to and required to be paid by the owners of the land, lots or fractional parts of the lots fronting or bounding on such avenue, street, road, or alley so improved, except as otherwise provided in paragraph (g) of this section.

(b) Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved, opened, widened, or improved in such proportion of the total cost (less the portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof opened, widened, paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley (not including opening or widening) shall not include any portion or amount paid for the paving or improvement of the intersection of avenues, streets, or roads or alleys, unless the work to be done, and the payment made therefor, as especially otherwise provided therein, as follows, to-wit:

(c) Upon petition in writing of the owners of not less than one-half in lineal feet of property abutting upon any avenue, street, road, or alley in said city, asking the city to grade, curb, pave or macadamize, or otherwise to permanently improve, such avenue, street, road or alley, and offering in said petition to have their property so abutting as aforesaid assessed not only with their part of the cost of such improvement abutting upon their property, as therein otherwise provided, but also offering to have their said property proportionately assessed with the total cost of the paving, grading and curbing, or macadamizing or other permanent improvement, of the intersections of the avenue, street, road or alley so paved or otherwise permanently improved, as petitioned for, the board of directors may order such work to be done, as heretofore provided in this section, and the total cost thereof, including cost of intersection, to be charged to and paid by the owners of the property abutting on such avenue, street, road or alley, and that the paving assessment or certificate made or issued to cover the cost of paving, grading and curbing or otherwise permanently improving such intersections shall be made a separate and one of the last assessments or certificates due against him and their property so assessed; and the city may assume the payment of such assessment or certificate covering the cost of such intersections, or may reimburse the property owners paying the same out of its general levies for streets, but there shall be no legal obligation on the city to do so.

(d) The city itself may do such work and charge and collect the cost thereof in the manner set out in section one hundred and thirteen herein. The decision of the city to do such work may be without notice or after the publication of the notice mentioned in this section, or after the rejection of all bids for the doing of the work.

(e) The cost of grading, curbing, and paving, or otherwise improving, the intersections, or parts of intersections, of avenues, streets, roads or alleys,



on the plans adopted by the board of directors for such work, shall be paid by the city, except as otherwise provided in paragraph (c) of this section.

(f) And if any such avenues, streets, roads or alleys be occupied by street car tracks or other railroads, the cost of said improvements of the space between the rails and two additional feet outside of each rail shall be assessed to and borne and paid entirely by the person or company owning or operating such street car or other railway line, unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act.

(g) **Provided**, the board of directors, if they so elect, may order and cause any avenue, street, road or alley, public park or public place to be widened, graded or changed in grade and curbed and re-curbed, and paved or re-paved, with brick, concrete, asphalt or any other suitable materials, or macadamized, or otherwise permanently improved, including the construction of the retaining walls, sewers, drains, water pipes, water dam and water courses, in connection therewith, and may purchase land, or condemn land as provided in this act, for any public avenue, street, road or alley, or part thereof, or park or other public purpose and the board may assess two-thirds of the entire cost of such improvement (or taking of land, or both) upon the abutting adjacent, contiguous or other lots or land especially benefited by such improvements.

The board of directors when they decide to order the improvements under this plan shall, by ordinance or resolution before doing the same, fix the total amount of the special benefits to be derived from such improvements to the abutting, adjacent, contiguous and other specially benefited land or not so assessed, setting out the names of the owners, the amount of the special benefits, and the approximate amount of the total cost of the proposed improvements; and the board may, in fixing such assessment take into consideration the assessed value of the lot or land as fixed, for the last assessment year, for state and county purposes.

(h) When the board of directors shall deem it expedient and proper to cause any avenue, street, road or alley, or any portion thereof, in such city to be graded, and paved, curbed or macadamized, or otherwise permanently improved, or land to be acquired or taken for street purposes, as provided in (a) of this section, or shall deem it expedient and proper to cause the construction of any public sewer in or under any such avenue, street, road or alley, or land or easement therein to be acquired or taken therefor, or elsewhere, as provided in section one hundred and seventeen of this act, they shall by ordinance or resolution, order the work done, stating the method of payment thereof; and, if it be let to contract, notice shall be in the following manner, to-wit:

(i) The notice for bids or proposals for doing such improvements, either for street improvements or the construction of sewers, shall be published for at least fifteen days in all the daily newspapers. Said notice shall state where and how the bids or proposals shall be made; and whether so stated in the notice or not, the city may reject any and all bids for such proposed work; before advertising for bids on the work, the city shall approve and adopt plans and specifications therefor, and the advertisement for bids, and the contract awarded thereon, shall refer to such plans and specifications. The fact that such contract shall be let for said work shall be *prima facie* proof that the notice mentioned above was given as required therein.

(j) The cost of said paving, macadamizing or other permanent improvement may be paid in one of two ways (to be specified by ordinance by the board of directors), either as set out in section one hundred and thirteen, or in section one hundred and fifteen of this act.

(k) If the abutting land on any such avenue, street, road or alley, sought to be improved, as aforesaid, or in which a sewer is ordered laid, is not laid off into lots by a map of record, the board of directors may, for the purpose of making the assessments provided for in this section and section one hundred and seventeen therein, lay off such lands into lots of such size as the board deems advisable for the purpose of laying a proper assessment against such land. (C. 10 Acts 1915.)



(108) Sec. 112-a. Said city of Fairmont is hereby authorized to issue its bonds for the purpose of providing for the cost of grading, paving and curbing, or macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys of the said city; in anticipation of special assessment to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire cost and expenses of said improvements for which said city is authorized to sell said bonds but not below the par value thereof. The amount for which said bonds are issued shall be made up of five bonds payable in two, four, six, eight and ten years respectively, from the date of their issue, and shall bear interest not to exceed six per cent. per annum, payable annually or semi-annually; and the assessments as provided for and required to be paid herein shall be applied to the liquidation of said bonds and interest thereon, and if, by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of the bonds and all accrued interests and costs, it shall be turned into the city treasury to the credit of the interest and sinking fund of the city.

But the said city shall not become indebted in any manner or for any purpose to an amount including existing indebtedness, in the aggregate exceeding five per cent. of the value of all taxable property therein as provided in section 158-a of this act, and for that purpose in estimating "existing indebtedness," special assessment bonds representing the cost of paving or other permanent improvements of streets, roads or alleys, or the construction of sewers, or the acquiring or taking of land for such purposes and the cost of which is assessed against the abutting property on such avenues, streets, roads or alleys, or especially benefited property adjacent thereto, or on such owner, shall not be included; and likewise the amount in any sinking fund or the amount invested therefor as provided by law, for the payment of outstanding bonds, shall not be included in the estimate or existing indebtedness; **provided**, that the aggregate of its debts of every kind whatsoever, including such special street permanent improvement bonds, or sewer bonds shall not exceed five per cent. of the value of all taxable property therein. (C. 21 Acts 1919.)

(b) And it shall be the duty of the board of directors to immediately certify such assessments to the treasurer for collection, as herein provided; and for the purpose of facilitating the collection of such assessments against the properties herein the board of directors may issue assessment certificates, with interest coupons attached thereto, to be delivered to and charged against the city treasurer, who shall collect the same; and as such certificate and coupons are paid he shall deliver the canceled certificates to the party paying the same. A copy of said order shall be certified by the city clerk to the clerk of the county of Marion county, who is hereby required to index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. (C. 10 Acts 1915.)

(c) The amounts so assessed against said abutting lots and owners thereof, respectively, shall be paid in ten payments, as follows, that it to say one-tenth of said amount, together with interest on the whole assessment for one year, shall be paid into the city treasury of the city before the first day of the following January; and a like one-tenth part, together with interest for one year upon the whole amount remaining unpaid before the first day of January in each succeeding year thereafter, until all shall have been paid. Each of said installments of one-tenth shall bear interest at six per centum per annum payable annually from the date of assessment. **Provided, however**, that the owner of any land, so assessed for the cost of the paving of said avenue, street, road or alley, shall have the right at any time to anticipate and pay the whole of such unpaid assessment and interest thereon until the first day of the following January, and have the lien against the property so assessed released as hereinafter provided. (C. 10 Acts 1915.)

(d) If any such assessment shall not be paid when due, the board of directors shall cause to be enforced the payment of said assessment and interest in all respects as herein provided for the collection of taxes due the city; and said assessment shall be a lien upon the property liable therefor the same



and said assessment shall be a lien upon the property liable therefor the same as for the taxes, which lien may be enforced in the same manner as provided for the sale of property for the payment of taxes and tax liens; and the liens herein provided for shall have priority over all other liens except those for taxes due the state and the county, and shall be on a parity with taxes and assessments for the city. (C. 10 Acts 1915.)

(e) When all of said assessments for grading, paving and curbing, or macadamizing, or other permanent improvements shall be paid in full to the treasurer, he shall deliver to the owner of said property a release of the lien therefor, which may be recorded in the office of the clerk of the county court as other releases of liens are recorded.

Under this plan for the payment of the cost of such permanent improvements of avenues, streets, roads and alleys, and the construction of sewers, the contractor (if the work is let to contract) shall look only to the city for the payment of the work, and in no sense to the abutting land owners. (C. 10 Acts 1915.)

(f) The board of directors may contract for such paving (including grading and curbing), or other said improvements to be done as aforesaid, and may acquire or take land for street purposes, as aforesaid, and may, if the board so elect, stipulate that two-thirds of the costs thereof, shall be paid in installments by the abutting property owners, as provided in paragraph (a) of section one hundred and twelve, or specially benefited property owners, as provided in paragraph (g) of said section, in five equal installments, to be evidenced by five paving certificates issued therefor, payable in thirty days, and one, two, three and four years, respectively, after the date of their issue; and shall bear interest not to exceed six per centum per annum payable annually, which certificate, to be signed by the mayor and the clerk, or other person or persons designated of record by the board, may be sold, either to the contractor doing the paving or other said improvements, or to any other person, and which shall cover two-thirds of such work, or the cost of acquiring or taking land for street purposes, including the cost of surveys, notices and other things pertaining thereto; provided, the city in negotiating and selling such certificates, shall not be held as guarantor, or in any way liable for payment thereof, except upon the direct action of the board of directors as expressed by resolution of record before such sale. And the certificates covering the amount of the assessment shall be paid by the owner of the land, lot or fractional part thereof, so assessed for the cost of said improvement on such avenue, street, road or alley so paved or improved, of land acquired or taken, as aforesaid. The amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lands, lot or part of lot so assessed, and shall also be a debt against the owner of such real estate, and said amount shall draw interest from the date of said certificates, payable annually; and the payment of the debt may be enforced as provided by law for the collection of other debts, or such lien may be enforced as provided in this act in the name of the holder of such certificates.

After a contract has been made by the board to pave or otherwise permanently improve any public road, avenue, street or alley in said city, under this act, and the paving or other permanent improvements, or any stipulated part thereon, has been completed, or the cost of acquiring or taking land, as aforesaid, has been ascertained, the board shall assess the amount each lot shall bear, and shall make a written report, stating the number of lots and the blocks or tracts of land when not laid off into lots, and the names of the owners of such lots or land when known, and the amount assessed thereon; and when the said board approves said report, or modifies it and then approves it, a copy of said report, so adopted by the board, when certified to the city clerk of said city, may be recorded in the clerk's office of the county court of Marion county in a trust deed book, and shall be a continuing tax lien upon the lot or land against which the assessment is made until the certificates as aforesaid are paid, except as otherwise provided in section one hundred and eighteen of this act, and the clerk shall index the same in the name of each land owner mentioned therein. (C. 10 Acts 1915.)



(109) Sec. 113. Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved or improved in such portion of the total cost (less the portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley shall not include any portion or amount paid for the paving or improvement of intersections of avenues, streets or alleys.

When the paving or improvement of any such avenue, street, road or alley, or portion thereof, shall have been completed, under the contract awarded therefor, the board of directors shall cause the several frontages abutting thereon to be measured, and to cause the assessment upon each owner of land abutting thereon to be calculated, showing the proper amount to be determined as provided in the foregoing plan; and the said board of directors shall enter the same, together with the description of the lots of land, as to location, frontage and ownership upon its records, and direct on its records that such owners and lots be assessed and chargeable with the amounts so ascertained to be borne by them, respectively; and, when so approved and entered of record, the same shall be and constitute an assessment against said owners and lots for such respective amounts. (C. 10 Acts 1915.)

(110) Sec. 114. The board of directors may, if they so elect, cause the costs of any such grading, paving, curbing or macadamizing or other permanent improvements, to be paid in the following manner, to-wit:

Whenever the board of directors shall contract for such paving or other permanent improvement to be done, and that it shall be paid in installments by the property owners, fronting on such streets, avenues or alleys as aforesaid, the board may cause the mayor and city clerk to issue to the contractor doing the paving, or other said improvement, a certificate for each installment of the amount of assessment to be paid by the owner of the lot, or fractional part thereof, fronting on such street, avenue, road or alley; and the amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof, upon the lot or part of the lot fronting on the street, avenue, road or alley so improved, and said amount shall draw interest from the date of said assessment, and the payment may be enforced as set out in this act, in the name of the holder of such certificate. And after contract has been made by the board to pave or otherwise permanently improve any public highway, street or alley in said city, under this act, and paving or other permanent improvements, or any stipulated part thereof, has been completed, the said board shall assess the amount each lot shall pay for the improvement so made, and shall make a written report, stating the number of lots and the blocks and the names of the owners of such lots, when known, and the amount assessed thereon; and when the said board approves said report, or modifies it and then approves it, a copy of said report, so adopted by the board, when certified to by the city clerk of said city, may be recorded in the clerk's office of the county clerk of Marion county, in the trust deed book, and shall be a continuing tax lien upon the lot against which the assessment is made, until the certificates as aforesaid are paid, and the clerk shall index the same in the name of each lot owner mentioned therein; and the presentation by the lot owner of all certificates issued as aforesaid against the lot owner, the clerk of said court shall make upon the margin of the book in which said certified report is recorded, that the lien is released to the lot mentioned in the certificate produced.

The board of directors may order any such avenue, street, road or alley, between the curbs and between designated points to be graded, or graded and paved, or otherwise permanently improved in the manner authorized and provided in section one hundred and twelve thereof, and may order proper curbs of stone, cement or other suitable material to be set on both sides of the avenue, street or alley so paved or improved, and two-thirds of the cost of grading, paving and setting curbs may be assessed to the owners of the lots or fractional parts of the lots fronting or bounding on such avenue, street, or alley between such designated points in proportion to the distance so fronting



the cost thereof upon and against the abutting, adjacent, contiguous and other lots or land especially benefited by the construction of such sewer, and said assessment shall be a lien upon such lots or lands, and a debt against the owners thereof for the amount so charged against them respectively, which debt may be collected as provided by law for the collection of other debts of like kind, and which lien may be enforced in the same manner as provided for the enforcement of paving liens in this act.

The board of directors when they decide to order the construction of the sewer under this plan, shall, before doing the same, fix, by ordinance or resolution, the total amount of the special benefits to be derived from such improvements to the abutting, adjacent, contiguous, and other specially benefited land or lots so assessed, setting out the names of the owners, the amount of the special benefits, and the approximate amount of the total cost of the proposed sewer, and the board may, in fixing such assessment, take into consideration the assessed value of the lots or land as fixed, for the last assessment year, for state and county purposes. (C. 10 Acts 1915.)

#### Release of Liens.

(114) Sec. 117. In addition to the provision for the release of said assessment liens, either for street paving or other permanent street improvements, or construction of sewers, as elsewhere set out in this act, on the presentation by the land or lot owner of any of the certificates issued as aforesaid against him or his predecessor in title to such lot, the clerk of the county court shall mark upon the margin of the trust deed book at which said certified report is recorded, that the lien is released to the land or lot mentioned in such certificate to the extent of the amount of the certificates thus exhibited; and the county clerk shall thereupon write across the face of each of said certificates the date of their production to him for the release of lien and shall sign his name thereto in his official capacity, for which he shall receive in advance a fee of twenty-five cents for each certificate so marked from the person demanding the release of the lien aforesaid; but if more than one of the serial certificates against the land or lot or lots shall be produced at the same time, the fee of the county clerk shall not exceed twenty-five cents for the release of the liens as to all of the certificates thus produced and relating to the same real estate.

**Provided,** that the owner of any lot or land against which any paving or sewer certificate is an unreleased lien or record shall make and produce to the county clerk, or some person for such owner shall make and produce an affidavit, setting out therein that such certificate (or certificates) has been paid in full, and after diligent search, cannot be found, said county clerk shall, upon the payment of a fee of twenty cents file and preserve said affidavit as a public document, and shall forthwith note the release of said lien to the extent of said lost certificate (or certificates) and the lots or land against which it is a lien upon the margin of the trust deed book as aforesaid, and noting therewith the filing of said affidavit, which shall operate as a release of such lien to the extent of such marginal notation. If the affidavit so filed be false, the person making oath and subscribing thereto shall be guilty of a felony, and upon conviction thereof shall be fined not to exceed five hundred dollars, or sentenced to be confined in the penitentiary for a term of not more than one year, or both, in the discretion of the court passing sentence.

**Provided, further,** that any paving or sewer lien, which may be created in consequence of the provisions of this act, or any lien which may have been created in consequence of an act of which this is an amendment for an assessment, the last payment of which is not yet due, shall not, under any circumstances, be a lien against the lot or land or fractional part of the lot or land, against which it may have been assessed and made a lien for a period longer than one year after the last assessment or certificate of the same date and group, representing such lien, shall have become due and payable, unless some suit or action, at the termination of said one year period, shall be pending for the enforcement of such lien, or unless the amount of the lien or some part thereof is in some way involved in a suit or action pending at the end of said one year period, and, further that no such paving or sewer lien heretofore



placed to record in said county court clerk's office for an assessment, the last payment of which is past due, shall remain or be a lien against the real estate therein described for a longer period than one year from the time this act takes effect, unless a suit shall be pending at the end of each one year period for the enforcement of said lien, or the amount thereof shall in some way be involved in some action then pending.

All of the assessment certificates, which may be issued under the provisions of the act, shall be made payable at the office of the treasurer, who shall receive payments thereon when due, if tendered to him, and interest thereon from the date of such payments shall cease. The treasurer shall keep a separate and special account of all said sums of money received by him, and he shall hold said money in trust for the person who thereafter delivers to the treasurer for cancellation any and all certificates on which said treasurer has received full payment as aforesaid; but the owner of said certificates shall not be entitled to interest on said sum after the date of payment thereof to the treasurer. When the whole amount of any such assessment lien shall have been paid to the treasurer as aforesaid, or the treasurer shall be convinced that all of the paving or sewer certificates against any land, lot or fractional part of lot, shall have been paid in full, he shall, when demanded, execute a release of said lien in the manner hereinbefore provided for the release of paving liens. If the city shall have no person for treasurer, the clerk, unless some other person is designated by ordinance, which board of directors is hereby authorized to enact, shall perform the duties here required to be performed by the treasurer. (C. 10 Acts 1915.)

(115) Sec. 118. It shall be lawful for the city of Fairmont to issue and sell its bonds, as provided in this act for the sale of other paving and sewer bonds, to pay the city's part of the cost of the construction of said sewers and the paving or other permanent improvements of said streets and alleys, as required by this act; and said city may levy taxes, in addition to all other taxes, authorized by law, to pay such bonds and interest thereon; provided, that the total indebtedness of the city for all purposes shall not exceed five per centum of the total value of all taxable property therein, notwithstanding anything herein, or statute or act of the legislature to the contrary.

It is especially provided that no bonds shall be issued under the provisions of this act, unless and until the questions of issuing said bonds shall have first been submitted to a vote of the people of said city, and shall have received three-fifths of all votes cast at said election for and against the same. But all bonds shall be issued and elections authorizing the same shall be held, pursuant to section one hundred and fifty-eight-b of this act. (C. 21 Acts 1919.)

(116) Sec. 120. The cost of any improvement contemplated in this act, and for which assessments may be made, shall include the cost and expenses of making the assessments, the expenses of the preliminary and other surveys, and of printing and publishing all notices required to be published, and serving the notices on property owners, and the cost of construction.

Proceedings with respect to improvements shall be liberally construed by the board of directors and the courts, to secure a speedy completion of the work at a reasonable cost, and the speedy collection of the assessments after the time has elapsed for their payments, and merely immaterial objections in such cases shall be disregarded. (C. 10 Acts 1915.)

(117) Sec. 121. In setting forth the lots and lands abutting upon the improvements, it shall be sufficient to describe them as the lots and lands abounding and abutting upon said improvement between and including the termini of said improvement, or by the description by which they are described on the land books of the county in which said lots are situate; and this rule of description shall apply in all proceedings in which lots or lands are to be charged with special assessments. (C. 10 Acts 1915.)

(118) Sec. 122. When work shall have been completed on any avenue, street, road or alley, or part thereof, as provided in section one hundred and fifty-two or section one hundred and twelve, or the construction of any sewer or other work shall have been completed on any avenue, street, road or alley,



and assessment thereagainst shall have been calculated as provided in this act, the board of directors shall give notice, by publication at least once a week for two successive weeks in all the daily newspapers of general circulation published in said city, that an assessment under this act is about to be made against the property so assessed and the owners thereof, mentioning the kind of work and the location thereof; and the owners of said property shall have a right to appear before said board, either in person or by attorney, or agent, at any regular or special meeting called for that purpose within two weeks of the first publication thereof, and move the board to correct any apportionment of the assessment excessive or improperly made, and the board shall have the power to make any such corrections before it enters the same, as corrected, upon the records. The fact that said assessment shall have been entered of record, as provided by this act, shall be prima facie proof that the notice mentioned herein was given as prescribed in this section. (C. 10 Acts 1915.)

#### Limitation of Assessments.

(119) Sec. 123. The board of directors shall limit all assessments to the special benefits conferred upon the property assessed, and in no case shall there be levied on any lot or parcel of land any assessments for any or all purposes within a period of five years in excess of thirty-three and one-third per cent (33 1-3%) of the actual value thereof after the improvement is made. Assessments levied for the construction of main sewers shall not exceed the sum that, in the opinion of the board, would be required to construct an ordinary street sewer, or drain of sufficient capacity to drain or sewer the lots or lands to be assessed for such improvement; nor shall any lots or lands be assessed that do not need local drainage, or which are provided therewith. (C. 10 Acts 1915.)

#### Sewer; Water; Gas and Other Connections.

(120) Sec. 127. The director of streets and public service shall have authority to compel the making of sewer, water, gas and other connections whenever, in view of contemplated street improvements or as a sanitary regulation, sewer, water, gas and other connections should in his judgment be constructed. He shall cause written notice of his determination thereof to be given to the owner of each lot or parcel of land to which such connections are to be made, which notice shall state the number and character of connections required. Such notice shall be served by a person, designated by the director of streets and public service, in the manner provided for the service of summons in civil actions. Non-residents of the city, or persons who cannot be found, may be served by one publication of such notice in all the daily newspapers of general circulation in the city. The notice shall state the time within which such connections shall be constructed; and if they be not constructed within the said time, the work may be done by the city, and the cost thereof, together with a penalty of five per cent (5%) assessed against the lots and lands for which such connections are made. Said assessments shall be certified and collected as other assessments for street improvements. (C. 10 Acts 1915.)

#### Franchises and Public Utilities; Grant.

(121) Sec. 128. The board of directors may, by ordinance, grant permission to any individual, company or corporation to construct and operate a public utility in, over and under the streets, alleys and public grounds of the city under the provisions of law applicable thereto. No franchise shall be considered an emergency measure. And the board of directors may, by ordinance, renew any franchise to construct and operate a public utility in, under and over the streets, alleys and public grounds of the city; and the board of directors may by ordinance, grant to any individual, company or corporation operating a public utility the right to extend the appliances and services of such utility, but the right to use and maintain any such extension shall expire with the original grant of the utility or any renewal thereof. (C. 21 Acts 1919.)



(122) Sec. 133. The board of directors shall at all times control the distribution of space in, over, under or across all streets or public grounds, occupied by public utility fixtures. All rights hereafter granted for the construction and operation of public utilities shall be subject to the continuing right of the board to require such reconstruction, relocation, change or discontinuance of the appliances used by the utility in such streets or public grounds as shall in the opinion of the board be necessary in the public interest. (C. 21 Acts 1919.)

#### Transfer of Funds.

(123) Sec. 137. The board of directors may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated to the same office or department. (C. 10 Acts 1915.)

#### Limitations of Appropriations.

(124) Sec. 138. At the close of each fiscal year the unincumbered balance of each appropriation shall revert to the respective fund from which it was appropriated, and shall be subject to future appropriation. Any accruing revenue of the city, not appropriated as hereinbefore provided, and any balances at any time remaining after the purposes of the appropriation shall have been satisfied, may from time to time be appropriated by the board, to such uses as will not conflict with any uses for which specially such revenues accrued. (C. 21 Acts 1919.)

#### Continuance of Present Officers and Ordinances.

(125) Sec. 139. All persons holding appointive positions or employment with said city at the time this act goes into effect, shall continue in office, and in the performance of their duties, until provisions shall have been otherwise made in accordance with the provisions of this act for the performance or discontinuance of the duties of any such office. When such provision shall have been made the term of any such officer shall expire.

All the valid ordinances enacted by and now in force in the city of Fairmont as heretofore constituted, shall remain in full force and effect within the territory, except when the same are in conflict or inconsistent with this act, until the members of the board of directors as provided for in this act shall have been elected at the first election thereunder and a majority thereof shall have qualified, and upon the election and qualification of a majority of said directors said ordinances shall *ipso facto* extend to and over the whole of the city of Fairmont, as embraced in section two of its charter, and shall, on and from said time, be and remain in full force and effect in the city of Fairmont as constituted by this act or until repealed or amended by said board of directors. (C. 21 Acts 1919.)

#### Continuance of Contracts.

(126) Sec. 141. All contracts entered into by the city, or for its benefits, prior to the taking effect of this act, shall continue in full force and effect. All public work begun prior to the taking effect of this act shall be continued and perfected thereunder. Public improvements for which legislative steps shall have been taken under laws in force at the time this act takes effect may be carried to completion in accordance with the provisions of such laws. The municipal corporation herein created shall take all the rights and be subject to all the liabilities of the municipal corporation which it succeeds, or of which it is but a continuation. (C. 21 Acts 1919.)

#### Assessment for Removal of Snow, Weeds, Etc.

(127) Sec. 143. The board of directors shall have power to provide by ordinance for assessing against the abutting property the cost of removing from the sidewalks all accumulations of snow and ice, and for assessing against the property the cost of cutting and removing noxious weeds and rubbish. (C. 10 Acts 1915.)



tained, the said board of directors may have said nuisance abated or the provisions of said ordinances carried out, after reasonable notice to said owner, occupant, tenant, agent or assignee of its intentions so to do, and collect the expense thereof with one per centum per month interest added from the date of said notice, from the owner, occupant, tenant, agent or assignee by distress or sale, in the same manner in which taxes levied upon real estate for the benefit of said city are herein authorized to be collected, and the expense shall remain a lien upon said lot, or part of lot, the same as taxes levied upon real estate in said city; which lien may be enforced by a suit in equity before any court having jurisdiction, as other liens against real estate are enforced. In case of non-resident owners of real estate such notices may be served upon any tenant, occupant, assignee or rental agent, or by publication thereof for not less than two consecutive weeks in all the daily newspapers published in said city.

And in all cases where any tenant, occupant or agent is required to abate and remove any nuisance under the provisions of this section, or comply with the provisions of any such ordinances as is mentioned herein, the expense thereof may be deducted out of the accruing or accrued rent of said property, or amount due said owner from said agent, and such tenant, occupant or agent may recover the amount so paid from the owner, unless otherwise especially agreed upon.

Any expense incurred by the board of directors, as herein provided, in the manner aforesaid, may be collected in the manner herein provided, notwithstanding the imposition of any other penalty or penalties upon any of the persons named herein, under any of the provisions of this act. The abatement or removal of any such nuisance by the board of directors at the expense of said city, as herein provided, shall be *prima facie* proof that the said notice to the owner, occupant, tenant, agent or assignee, was given as herein prescribed. (C. 10 Acts 1915.)

(134) Sec. 151. The board of directors may require all owners, tenants and occupants of improved property which may be located upon or near any street or alley along which may extend any sewer or system of sewerage, which the said city may construct, own or control, to connect with such sewer, or system of sewage, or privies, water closets, cesspools, drains, or sinks located upon their respective properties or premises so that their contents may be made to empty into such sewer or system of sewage. (C. 10 Acts 1915.)

#### Sidewalks and Shade Trees.

(135) Sec. 152. The board of directors is authorized and empowered to cause to be put down a suitable curb of brick, stone or other material along and for the footways and sidewalks of the avenues, streets, roads and alleys of said city, and to order and cause the laying or relaying or repair of sidewalks and gutters of such material and widths as the board may determine, and the planting or replanting of and caring for shade trees along said avenues, streets and roads at such points and in such manner as the board may determine, and to require the owners of the land or lots or parts of lots facing upon said avenues, streets, roads or alleys to keep such sidewalks clean and in good repair, and to grade the plat of ground on either side of the sidewalks between the street curb and the property line and keep the same sodded with grass and free of weeds and obstructions, and otherwise in good condition and repair. The owners or occupiers of lands or lots abutting upon any such avenues, streets, roads or alleys who shall desire to lay any such sidewalk, curb or gutter, or plant any such shade trees, shall make application to the board of directors for such permission, and the board of directors shall thereupon cause the grade and curb line of the avenue, street, road or alley upon which such land or lot abuts to be established and located by the city engineer, and such owners or occupiers of such lands or lots shall thereupon have the right to lay any such sidewalk, curb or gutter or plant any such shade trees, but only upon and in conformity to the grade and curb line so established and located by the city engineer, and in the manner prescribed by the board of directors; and the board of directors shall have the right to prescribe the kind of shade trees to be planted and the manner of planting the same. The



said city may lay such sidewalk, gutter or curb, and plant or replant and care for said shade trees, or may let said work to contract, and in either case the total cost of said work, or such part thereof as the board may direct, shall be charged upon and against the land or lots abutting upon such avenue, street, road or alley, which assessments shall be and remain a lien upon said land or lots the same as taxes levied upon real estate in said city, which lien may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced. The amount so assessed against any land or lot shall also be a debt against the owner of such land or lot, which may be collected as other debts are collected, in any court having jurisdiction, and shall be due and payable in ninety days from the completion and acceptance of such work as certified to by the board of directors, with six per cent. interest thereon from the date of such record acceptance.

And in ascertaining the amount to be assessed against any corner lot for the cost of laying any such sidewalk and planting trees in front or alongside thereof, the board may assess the total cost of laying such sidewalk, and planting trees, in front or alongside said lot and extended to the curb or gutter of the intersections of the avenues, streets, roads or alleys at that point.

When such work is done by the city, and not let to contract, the board shall certify such assessments to the treasurer of the city for collection, who shall account for the same as directed by the board or by ordinances, and the treasurer shall accept payment, when tendered, of the amount of said assessment with interest to the date of payment, and unless said assessment shall have been paid within ninety days from the date of such assessments, then a copy of such report shall be certified by the city clerk to the clerk of the county court of Marion county, who is hereby required to record and index the same in the proper trust deed book in the name of the person against whose property assessments appear therein. If any such assessment shall not be paid when due, the board of directors shall cause to be enforced the payment of said assessment and interest in all respects herein provided for the collection of taxes due the city; and said assessments shall be a lien upon the property liable therefor, the same as for taxes, which lien may be enforced in the same manner as provided for the sale of property for the non-payment of taxes and tax liens; and the liens herein provided for shall have priority over all other liens except those for taxes and assessments due the state and county, and shall be on a parity with taxes and assessments due the city. When such assessment shall have been paid in full, and a lien therefor shall be of record in the county clerk's office, the treasurer shall execute and deliver to the owner of said property a release of said lien, which may be recorded in the office of the county clerk as other releases of liens are recorded.

The board may, if it so elect, let said work to contract, and certificates may be issued for the amount of said assessments which may be sold to the contractor doing the work, or other persons, in full of the total cost, in the same manner as provided for paying certificates in section one hundred and eleven herein; provided, the city, in negotiating and selling such certificates, shall not be held as guarantor or in any way liable for payment therefor, except upon the direct action of the board of directors as expressed by resolution or record before such sale. Said certificates, to be signed by the mayor and clerk or other person or persons designated of record by the board, shall bear date as of the time when such work is accepted and certified by the board of directors, and shall be due and payable in ninety days from date thereof, with six per cent. interest. When the board shall have received said work, it shall at the same time make said assessments upon written report; and at the end of ninety days from date thereof, upon the demand in writing filed with the city clerk, of the holder or holders of the unpaid certificates issued to cover said assessments, said clerk shall certify a copy of said report only in so far as it relates to the owners against whom said exhibit certificates remain unpaid, to the clerk of the county court of Marion county, who shall record and index the same as other liens of like kind are recorded and indexed, and the same shall be and remain a lien upon the real estate against which said assessments are made, as set out in said certified report, and said



lien may be enforced, in the name of the holder of such certificate in the same manner as set out in section one hundred and eleven of this act.

Before letting such work to contract the board shall advertise the same once a week for two successive weeks in all the daily newspapers published in the city of Fairmont, setting out the time and place for receiving proposals for such work and referring to the plans and specifications made therefor; and the city reserves the right, whether stated in such notice or not, to refuse any and all bids for the work. The fact that such contract shall be awarded for said work shall be *prima facie* proof that said notice was given as required herein. Such lien, as represented by certificate, may be released of record, as provided for in section one hundred and eleven herein; and in no event shall such assessment be and remain a lien of record for a longer period than one year from the date set out in said certified report so recorded in the office of the county clerk, unless at the end of said one year period a suit shall be pending for the enforcement of said lien, or the amount thereof, shall, in some way, be involved in a suit pending at the end of said one year period.

All such work, whether done by the city direct, or through contractors, shall be done under the supervision of the street department of the city or some person designated for the purpose by the board of directors.

If the owner or occupier of any such lot or land shall be required by the board to lay or relay, clean or repair any such sidewalk, curb or gutter, or shall be required to grade the space on either side of the sidewalk between the street curb and the property line, and keep the same sodded and free from weeds or obstruction or otherwise in good condition and repair, written or published notice shall be given to such owner or occupier in the manner provided by ordinance or resolution adopted by the board, and the neglect or refusal of such owner or occupier to do the work, in the manner and within the time required by the board, as set out or referred to in said notice shall be an offense and may be punished as provided by ordinance; and after the expiration of the time set out in said notice for the doing of said work, and the same remains undone, the board may do or cause to be done, said work and assess and collect the cost thereof in the manner, upon either plan, and to the full extent set out in this section. (C. 21 Acts 1919.)

#### Taxes; Levies; Assessments, Etc.

(136) Sec. 153. The board of directors shall annually, before the levying of taxes provided for and authorized by this act, ascertain the total expense of said city to be provided for by levy for the fiscal year in which said levy is made, and it shall ascertain the sum of money necessary to pay interest accruing on the bonded indebtedness of said city, and to provide the necessary sinking funds, and what amounts it shall expend for the support of its various departments, and for the improvements of its streets, alleys, avenues and public grounds, or for its contingent expenses; and before making such levy it shall apportion the rate thereof among the several funds so ascertained and provided for, which apportionment shall be spread upon the records of said board and a copy of a statement thereof shall be annually published by direction of said board as soon as the same is recorded, in all the daily newspapers of said city. (C. 10 Acts 1915.)

(137) Sec. 154. The board of directors shall have authority to levy and collect an annual tax on real estate and personal property in said city, and to impose a license and assess a tax thereon on wheeled vehicles for public hire and upon all dogs kept within said city, and to impose a tax upon all other subjects of taxation under the several laws of the state, which taxes shall be uniform with respect to persons and property within the jurisdiction of said city, and shall only be levied on such property, real, personal and mixed, and on capital, on which the state imposes a tax; **provided**, that no greater levy shall be laid by said board of directors on the taxable property of said city than is now permitted to be laid under the state law relating to municipalities, except, however, that the said board of directors may, by the unanimous vote



of its members, by ordinance, lay an additional levy not to exceed twenty cents on the one hundred dollars of all the taxable property within said city. (C. 10 Acts 1915.)

(138) Sec. 155. All taxes assessed upon the real estate within the said city, shall remain a lien thereon from the time the same are so assessed, which shall have priority over all other liens, except for taxes due the state, county or district, and all taxes whether assessed upon realty or personalty or otherwise may be enforced and collected in the same manner and by the same remedies as is now or may hereafter be provided by law for the enforcement of liens and levies for state and county taxes, or in such manner as the board of directors may by ordinance prescribe. And in levying of taxes and collection thereof, and the return of property delinquent for non-payment of taxes, the duties of the city clerk shall be similar to the duties of the county clerk of Marion county in that behalf; the duties of the treasurer in the collection of taxes, licenses and moneys due the city and accounting for the same and return of property delinquent for the nonpayment of taxes, shall be similar to the duties of the sheriff of Marion county; except the board of directors may make such regulations and ordinances prescribing the duties of the city clerk and city treasurer and their manner of performance as the board may deem necessary. And the board shall, through itself and such officers and employees as it may appoint or employ under such regulations and ordinances as it may enact (not contrary to the laws of this state), having such authority and power as may be necessary for the levying and collecting of taxes, tithables, fines, licenses, sewer and paving assessments owing the city, with power and authority to enforce the collection of such fines by imprisonment in the city or county jail. (C. 10 Acts 1915.)

(139) Sec. 156. No taxes or levies shall be assessed upon or collected from the taxable persons or property within the corporate limits of said city, for the construction, improvement or keeping in repair of roads outside of said corporate limits, except as provided for in section five, article one of this act. And neither the county court of Marion county, nor the authorities of the district or districts in which said city is situated, shall have or exercise jurisdiction within the corporate limits with relation to the roads, streets, alleys, bridges and wharves, except by article of agreement provided for in section five, article one of this act, but the same shall be and remain under the exclusive jurisdiction and control of the municipal authorities of said city, and said city shall be liable only for the construction, improvement, repair and good order of the roads, streets, alleys, wharves and bridges in its corporate limits. (C. 10 Acts 1915.)

(140) Sec. 157. There shall be a tax of two dollars annually assessed on each and every male inhabitant of said city, over twenty-one years of age, by the board of directors and the same shall be set out and included in the personal property book against every such inhabitant, and shall be collected by the city treasurer or other officer of the city acting in lieu thereof and under the authority of the board of directors, at the time of collecting other levies and taxes. All money collected under this section shall go into the street fund to be expended upon the streets, alleys, sidewalks, drains, gutters and bridges of said city. (C. 10 Acts 1915.)

#### Depositing City Funds.

(141) Sec. 158. It shall be the duty of the city treasurer to keep all funds of the city in some bank or banks within said city, which shall pay two per cent. or more per annum interest on such deposits, payable quarterly, based on the average daily balance of such funds in all accounts. If no bank within said city is willing at any time to receive deposits of the treasurer, and to pay such interest thereon, the treasurer shall report this fact to the board of directors, who shall thereupon designate a bank or banks in which he shall deposit said funds for the time being, and until some bank in said city will receive such deposits on such terms. Before receiving any such deposits said bank or banks shall give bond in the penalty prescribed by the board of directors, and with sureties to be approved by said board, conditional for the



prompt payment, whenever lawfully required, of all city money or parts thereof which may be deposited with them, which bonds shall be received at such times as the board of directors may require. (C. 10 Acts 1915.)

#### Indebtedness and Bonds.

(142) Sec. 158-a. The city of Fairmont, excepting cases where it has already authorized bonds to be issued shall not hereafter be allowed to become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five per centum on the value of taxable property therein, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness; nor without, at the same time providing for the collection of a direct annual tax sufficient to pay annually or semi-annually, the interest on such debt and the principal thereof, within and not exceeding thirty-four years; and the city of Fairmont is hereby authorized and allowed, notwithstanding anything herein, or any other statute or act of the legislature to the contrary, to become indebted in an amount, including existing indebtedness, in the aggregate, not to exceed five per centum of the value of the taxable property therein ascertained as aforesaid, and to issue bonds therefor for the purpose of locating, grading, draining, paving and permanently improving the streets and alleys and public grounds, parks and play grounds therein, and of constructing and repairing the bridges and retaining walls therein, and of sewerage the city, and the terms "sewerage" being used in its comprehensive sense so as to include mains, laterals, connections, traps, incinerating and disposal plants, and other necessary and convenient accessories to a modern, sanitary and efficient sewerage system, and for the purpose of leasing, purchasing or erecting, owning, maintaining and operating a system of water works, gas plants to produce artificial gas, with distributing system; and electric power plants for the generation of electricity for electric current, fuel, heat and light with the necessary transmission systems, for the city and the inhabitants and industries thereof, and the inhabitants and industries of any territory adjacent to the territory of the city of Fairmont, which the board of directors may from time to time agree to supply from the city water works, gas plants or power plants as provided for in this or any other act of the legislature, and of building municipal halls, hospitals, libraries and other public buildings and of refunding outstanding bonds, and of funding existing and floating indebtedness of said city. (C. 21 Acts. 1919.)

(143) Sec. 158-b. The board of directors shall have power to issue bonds of the city for one or more purposes authorized by this charter or by the laws of the state. Before issuing any such bonds, except the bonds mentioned in section one hundred and twelve of this act, the board of directors shall by ordinance submit all questions connected with the same to the vote of the people, and no such bonds shall be issued unless the proposition for their issuance shall receive three-fifths of all the votes cast for and against the same. Such ordinance shall state the purpose or purposes for which bonds are to be issued, and the amount to be appropriated to each such purpose. The ballot voted at such election shall be in the following form:

For the issuance of bonds under ordinance  
adopted....., 19..

Against the issuance of bonds under ordinance  
adopted....., 19..

Said ballot shall be voted or marked in the manner prescribed by law. Said ordinance shall specify the maturities of said bonds and the rate of interest thereon, not exceeding six per centum, per annum, payable annually or semi-annually, said bonds shall be made payable in not less than one year and within and not exceeding thirty-four years from the date of their issuance, and said ordinance shall provide for a direct annual tax, sufficient, with other revenue applicable thereto, to pay the interest and maturing principal of said bonds within and not exceeding thirty-four years. If any part of such bonds shall be issued to refund any outstanding bonds, the amount of such bonds to be issued to refund such outstanding bonds shall be stated in such ordinance. Notice of the submission of such proposition shall be given by a proclamation



of the mayor, reciting and embodying said ordinance and appointing a day on which an election shall be held by the qualified voters of such city to vote for or against such proposition for the issuance of such bonds pursuant to said ordinance. Said proclamation shall be published in all daily newspapers in said city for at least once a week for two successive weeks previous to the day of such election. No other publication of such ordinance shall be required. Such election shall be conducted, canvassed and the results ascertained in all respects according to the laws governing elections for county and district officers. If, upon the canvass of such election, it shall be found that three-fifths of all the votes cast for and against the said bond issue have been cast in favor of the issuance of said bonds, the mayor shall issue a proclamation determining such fact, which proclamation shall be published in all daily newspapers of said city. Such proclamation shall state the amount, date and maturities of such bonds, and the purpose or purposes for which they are to be issued, that all questions connected with the same have been submitted to the qualified voters of the city, and that three-fifths of all the votes cast for and against the issuance of such bonds have been cast in favor of their issuance, that a direct annual tax sufficient to pay the interest and the maturing principal of such bonds has been duly authorized and that said bonds will be issued bearing the date named in said proclamation. After the publication as aforesaid of any proclamation in the form above prescribed, and after the delivery of and payment for the said bonds therein specified, such proclamation shall constitute the final declaration and conclusive evidence of the facts so recited, and the validity of such election, or of the ordinance or other proceedings calling such election, or authorizing such bonds, shall not be called into question in any act or proceeding involving the validity of such bonds or of any tax to pay the interest thereon, and the principal thereof, anything herein or in any other statute, or act of the legislature to the contrary notwithstanding. Notice of the sale of such bonds shall be published at least once a week for two weeks prior thereto in a financial paper published in the city of New York, in the state of New York, in all daily newspapers published in said city, and in such other paper or papers as the board of directors may direct, and such bonds shall not be sold at less than their par value. (C. 21 Acts 1919.)

#### Terms of Office to End.

(144) Sec. 159. The term of office of the mayor, the board of affairs and the common council of said city of Fairmont shall cease and determine whenever the members, or a majority of the members, of the board of directors have been elected and qualified and entered upon the discharge of their official duties as provided in this act. (C. 21 Acts 1919.)

(145) Sec. 159-a. 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 the purpose and adopted by a majority of votes cast at said election. Said election shall be held on the second Tuesday in June, one thousand nine hundred and nineteen, and this act shall be published in all daily newspapers published in said city once at least ten days preceding said special election. Said special election shall be conducted in the regular manner for regular municipal elections by the board of affairs then in office in said city; provided, however, that the commissioners of said election shall be appointed by the judge of the circuit court of Marion county. If this act is ratified or adopted at said special election it shall then go into effect.

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

#### CITY OF FAIRMONT.

##### Charter Amendments Election.

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

- [ ] For adoption of new charter amendments.
- [ ] Against adoption of new charter amendments.

—(C. 21 Acts 1919.)



(146) Sec. 159-b. All other acts and parts of acts coming within the purview of this act and inconsistent with this act are hereby repealed. (C. 21 Acts 1919.)

**ARTICLE II.**

(147) Sec. 232. The act of one thousand nine hundred and thirteen, amending the city charter of the city of Fairmont and all other acts and parts of acts inconsistent with this act, are hereby repealed. (C. 10 Acts 1915.)

The parenthetical serial numbering at the beginning of the sections, and the annotations to each section, prepared by the City Clerk for the purposes of showing the order of arrangement and indicating the changes made by the 1919 amendments to the 1915 charter, thereby giving the entire charter as amended.)

**BOARD OF AFFAIRS OF THE CITY OF FAIRMONT.**

**ANTHONY BOWEN, Mayor.**

Attest:—

**ALBERT J. KERN, City Clerk.**



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