

PART I

THE CHARTER

Editor's note. – According to the West Virginia Blue Book, 1973, page 820, the community which is now Charleston was “originally chartered in 1794, as Charles Town ----, [so] named by George Clendenin, one of the earliest settlers, for his father, Charles Clendenin.” It became “Charleston” by Acts of Assembly 1817-18, ch. CXV, p. 160 et seq., passed January 19, 1818, which provided, in pertinent part, that “the town of Charles Town in the county of Kanawha, as the same has been heretofore laid off under the several acts of Assembly for that purpose --- shall be, and the same is hereby erected into a town corporate, to be known and distinguished by the name of ‘Charleston’ ----.” These Acts were, of course, those of the general assembly of the commonwealth of Virginia. The first Act of the West Virginia legislature amending the town Charter was that of 1867, ch. 127, p. 155; and Charleston became a city by Acts 1875, ch. 39, p. 47, which provided, inter alia, for a common council consisting of a mayor, recorder and nine councilmen, a body politic by name “The City of Charleston.”

The present charter, herein set out, is a legislative charter, Acts 1929 (Muni.

Ch.), ch. 4

as amended; the historical citations following each section indicating the derivation thereof and amendments, if any. The 1929 charter act was approved by the governor on March 6, 1929, and became effective upon passage. Many section catchlines have been changed by the editors to more clearly and more fully indicate the contents of the sections, and are not to be regarded as official; years have been changed from words to numerals; a uniform system of capitalization has been adopted; in some sections italicized words are printed in Roman; and words and figures in brackets have been supplied by the editors for the purpose of clarity.

For a list of home rule ordinances amendatory of the Charter, see table 3, in part

III of

this Code.

the Code

The legislature, in its 1969 revision and consolidation of chapters 8 and 8A of

of West Virginia into a new chapter 8, recognized, in section 8-1-6, “that when the provisions of existing special legislative charters are compared with and are considered in the light of the provisions of this chapter, [i.e., the new chapter 8], there are five basic possibilities as to the relationship between such charter provisions and the provisions of this chapter, namely: (1) As to any particular charter provisions, such charter provisions may be inconsistent or in conflict with the pertinent provisions of this chapter; (2) although relating to the same subject matter and although not inconsistent or in conflict with any provisions of this chapter, certain charter provisions may be sufficiently different from pertinent provisions of this chapter as to indicate, as a matter of practical instruction, that either the charter provisions or the provisions of this chapter, but not both, should be applicable; (3) although varying in certain respects, certain charter provisions may be similar to and in essential harmony with corresponding

provisions of this chapter; (4) as to any particular charter provisions, there may be no counterpart of such provisions in this chapter; and (5) as to any provisions of this chapter, there may be no counterpart charter provisions.”
Section 8-1-6, therefore, sets forth certain rules to be applied, in addition to the

usual

and ordinary rules of statutory construction, with respect to construction and applicability of legislative charters, and it is suggested that users of this city Code refer to W.Va. Code, §8-1-6, in determining the present construction and applicability of any portion of the Charleston Charter to any given situation.

For state law as to revising or amending a city Charter, see W.Va. Code, §§ 8-4-7, 8-4-8.

- § 1. Charleston made a city corporate and body politics.
- § 2. Corporate limits.
- § 3. Twenty wards established.
- § 4. Municipal authorities; elective officers and qualifications for holding office.
- § 5. Officers in addition to elective officers; salaries.
- § 6. Corporate power vested in council
- § 7. Enumeration of numerous miscellaneous powers of council; jurisdiction beyond corporate limits.
- § 7-a. Authority of council, municipal judge, circuit and common pleas courts and judges relating to city licenses.
- § 7-b. Regulation of operation of motor vehicles.
- § 8. Persons entitled to vote.
- § 9. Boundaries of voting precincts; registration books; registering voters; transfer from one precinct to another; duties of county court.
- § 9-a. Special registers; compensation of county court and clerk; delivery of registration books to city clerk; return to clerk of county court.
- § 10. Nomination of candidates.
- § 11. When county and city voting precincts to be the same; how election to be held.
- § 12. Law governing preparation of ballot and method of voting.
- § 13. The council – Title; how constituted.
- § 14. Same – Qualifications; vacancies.
- § 15. Same – Mayor; clerk; president pro tempore.
- § 16. Same – Representation of new ward.
- § 17. Same – Exercise of legislative functions; information, etc., from officers and employees.
- § 18. Audit of books and accounts.
- § 19. Removal of officers by council or by circuit court of Kanawha County or by officers having appointment authority.
- § 20. Rules and regulations for government of council; record of meetings.
- § 21. Regular meetings of council.
- § 22. Special meetings of council.
- § 23. Council procedure for contested elections, and right of appeal to circuit court.

- § 24. Oath of officers; how and within what time officers must qualify; failure to qualify vacates office.
- § 25. Bonds of officers and employees; records of bonds.
- § 26. Quorum of council; compelling attendance of absent members.
- § 27. Voting in council and recording of votes.
- § 28. City clerk is ex officio clerk of the council; council minutes and admissibility thereof in evidence.
- § 29. Holding two offices within the city.
- § 30. Failure of mayor or other officer to make appointments.
- § 31. Vacancy in office of mayor or treasurer; vacancy in office of appointive officer; officers hold office until successors qualified, unless previously removed.
- § 32. Corruption in office.
- § 33. Power of council to compel attendance of witnesses and production of records, administer oaths and punish for contempt.
- § 34. Absence or inability of certain officers to perform duties.
- § 35. Election and term of office of elective officers; salary of mayor; appointments by mayor; appointment of city clerk; appointments by manager; term of appointive officers; duties of mayor and city solicitor; salary of solicitor; fees.
- § 36. Appointment, compensation, powers and duties of the manager.
- § 37. Franchises—Granting; requirements and limitations governing; vote of council required.
- § 38. Same—Advertisement of application; submission to voters.
- § 39. Committees of council; adjournment of council meetings; postponement of announcement of vote.
- § 40. Style of ordinances.
- § 41. Passage of ordinances; revision, reenactment or amendment; effective date; publication of caption or title; resolutions and orders.
- § 42. Ordinances to be spread on records of council; “ordinance record”; code of ordinances.
- § 43. Officers conservators of peace.
- § 44. Powers and duties of municipal judge; maximum imprisonment for violation of ordinance; appeal; expense of maintaining persons committed to county jail.

- § 45. Qualifications of municipal judge; not to appear as counsel in criminal cases; absence of inability to perform duties; bond.
- § 46. Bond.
- § 47. Authority of council, manager and police officers relating to nuisances; duties and responsibilities of owners and occupants of property; enforcement.
- § 48. Connection with sewer system.
- § 49. Construction of sidewalks, curbs and gutters; duty of county clerk to record assessments.
- § 50. Annual estimate for tax levy.
- § 51. Authority to levy and collect taxes; limit of taxation.
- § 52. Collection of taxes.
- § 53. Powers of collector.
- § 54. Distress for collection of taxes.
- § 55. Lien on real estate for taxes—Established; enforcement by suit in court of record; priority of lien.
- § 56. Same—Enforcement by tax sale.
- § 57. Limitation by authority of county to tax persons and property within city for streets, education or poor outside city limits; control of streets and schools within city; joint ownership of bridges.
- § 58. Depositories.
- § 59. Bonds—Authority to issue; purposes; interest; limit; taxation to pay interest and principal.
- § 59-a. Same—For improvement of streets.
- § 60. Same—In anticipation of special assessments for street improvements
- § 61. Contracts for improvement of streets; assessment of cost.
- § 62. Sewerage assessments against owners of abutting property; requiring connection with sewer; including cost of drains in cost of street improvement.
- § 62-a. Construction of sewer systems or common, lateral, branch, trunk or combined sewers.

- § 63. Resolution declaring necessity for street improvement—Required; procedure for adoption.
- § 64. Same—Service on property owners of notice of passage.
- § 65. City executive committees of political parties.
- § 66. Bonds to pay city's cost of improvement of streets, etc.
- § 67. Hearing of property owners affected by improvements; ordinances concerning improvement.
- § 68. Special assessments when several kinds of materials have been named in ordinance providing for improvement.
- § 69. Vote of council required for public improvement; petition by property owners.
- § 70. Assessment when public improvement passes through or by public property or property of institution.
- § 71. What cost of improvement shall include.
- § 72. Filing statement as prerequisite to action for damages arising out of improvement.
- § 73. Liberal construction of proceedings with respect to improvements.
- § 74. Election and three-fifths vote required for issuance of bonds; regulations governing.
- § 75. Authority of council to lay special levies in years 1929 and 1930 for special purposes.
- § 76. Power of council as to public buildings, hospitals, libraries, etc.
- §77,78,79. Fire department civil service.
- § 80. Political activities by members of fire or police departments.
- § 81. Service of notice, summons, warrant, etc.
- § 82. Contested elections for council.
- § 83. Duties of city clerk as to municipal elections.
- § 84. Valid ordinances and regulations passed on or before May 1, 1915, not inconsistent with this Charter, to remain in effect until repealed.
- § 85. Powers and duties of policemen.
- § 86. Compensation of members of council; absence from meetings.

- § 87. Reports by manager to council; reports by officers and employees under supervision by manager.
- § 88. Additional method for paving streets; assessment certificates.
- § 88-a. Void, irregular or omitted assessments.
- § 88-b. Assessment certificates to pay for cost of construction of sewers and sewer systems.
- § 88-c. Subdividing abutting land for purpose of making assessments.
- § 89. Initiation of ordinances by voters.
- § 90. Reconsideration of ordinance protested by petition; submission of ordinance to voters.
- § 91. Recall of officers.
- § 92. Signatures and affidavits to petitions filed under three preceding sections; form of submission of ordinance; all city elections to conform to state law.
- § 93. Additional method for construction of sidewalks; assessment certificates.
- § 93-a. Transcript of property to be furnished by county assessor.
- § 94. Authority to issue warrants; vacancy in office of municipal judge.
- § 95. Statement of claim before action against city for damages for personal injury.
- § 96. Health commissioner.
- § 97. Police matron.
- § 98. Codification of ordinances.
- § 99. Cemeteries and burials.
- § 100. Building inspector.
- § 101. Power to buy, sell or exchange real estate.
- § 102. Zoning—Power of city.
- § 102-a. Same—Division of city into zoning districts.
- § 102-b. Same—Design of zoning regulations; considerations in making.

§ 102-c. Same—Establishment, enforcement and change of zoning regulations and boundaries of zoning districts; hearing.

§ 102-d. Same—Change or repeal of zoning regulations and boundaries; protests.

§ 102-e.¶1. Same—Zoning commission.

§ 102-e.¶2. Repeal of inconsistent laws.