

BOLIVAR CHARTER

(EDITOR'S NOTE: The Charter of the Municipality of Bolivar was enacted as Chapter 16, Acts of the Legislature of West Virginia (Municipal Charters) 1915. Section 16 of the Charter was amended in 1933. See Chapter 157, Acts of the Legislature of West Virginia, Second Extraordinary Session, 1933.

Dates appearing in parentheses after a section heading indicate that the section was amended, enacted or repealed on the date given.)

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Sec. 1. Corporate limits.

The corporate limits of the Town of Bolivar shall be as originally established by law.

Sec. 2. Municipal authorities.

The municipal authorities of said Town shall be a Mayor and five Councilmen known as a Common Council.

Sec. 3. Town incorporate.

The Mayor and Councilmen as soon as they shall be elected and qualified, as herein provided, shall be a body politic and corporate by the name of "The Corporation of Bolivar", and shall have perpetual succession and a common seal; and by that name may sue and be sued, plead and be impleaded, contract and be contracted with, and may purchase and hold real estate and other property necessary or proper to enable it to discharge its duties, and needful for the good order, government and welfare of said corporation.

Sec. 4. Corporate powers.

All the corporate powers of said Town shall be exercised by the said Council or under its authority, except when otherwise provided.

Sec. 5. Election of Mayor and Councilmen.

The Mayor and Councilmen shall be elected by the qualified voters of said corporation.

Sec. 6. Wards; elections therein.

Wards and ward boundaries to be surveyed when growth of community warrants the necessity.

Sec. 7. Qualifications of Mayor, etc.

The Mayor and Councilmen must be, at the time of their election and during their terms of office, owners in fee of real estate in said corporation of the value of two hundred and fifty dollars over and above all encumbrances, and be entitled to vote for members of its Common Council.

Sec. 8. Terms of office.

Their term of office shall be (except when to fill vacancies) for two years, and until their successors are elected and qualified, as herein provided; except that at the election to be held on the first Tuesday in June, 1971 and continue at two years intervals, thereafter, there shall be elected a Mayor, Recorder and five Councilmen. In the event any member of the Council, the Mayor or Recorder should be absent for three consecutive meetings without the express permission of the majority of the Council said officer shall be removed from his office and another installed as provided in Section 11.

Sec. 9. Certificates of election.

As soon as the result for such election for Mayor and Councilmen is ascertained, the inspectors of election shall sign a certificate containing complete returns of the polls taken at their place of voting for all of said officers, and shall enclose the certificate in an envelope, which shall be sealed up and endorsed by each of such inspectors. The inspectors, or one of them, shall, within three days after the day on which such election was held, deliver said certificates to the Mayor of said Town. At the next meeting of the Council thereafter the Mayor shall present such certificates to the Council, who shall examine the same and ascertain the true result of such election in said Town, and the person respectively appearing to have received the highest number of votes for the several offices shall be declared elected, and a certificate thereof signed by the Mayor shall be granted to the person so elected.

Sec. 10. Who may vote.

Every person who shall have resided within the boundaries of said Town for one month, and who is a qualified voter under the laws and constitution of this State, and no others, shall be entitled to vote at any election held in said Town.

Sec. 11. Vacancies in office.

All vacancies occurring from any cause in any elective office of the Town shall be filled by appointment by the Council until the next election held in said Town for Councilmen.

Sec. 12. Mode of voting.

At all elections the mode of voting shall be that prescribed by the State Constitution for election of State officers.

Sec. 13. Tie votes.

Whenever two or more candidates for the same office at any election shall receive an equal number of votes, the Council shall, in an equitable mode, determine which of the persons so voted for shall be returned elected.

Sec. 14. Contested elections.

All contested elections shall be heard and decided by the Council for the time being; but the Council may order a new election if satisfied the ends of justice will be better attained thereby.

Sec. 15. Quorum.

A majority of the Councilmen elected shall be necessary for the transaction of any business.

Sec. 16. Number, terms, duties and compensation of appointive officers.

If the Council should deem it necessary there shall be one or more Sergeants, a Clerk, and Treasurer. The duties of Sergeant, Clerk, and Treasurer may be discharged by the same person, or otherwise, as the Council may from time to time determine; but no member of the Council shall hold any of said offices. The compensation and need for said officers shall be in the discretion of the Council.

Sec. 17. Oath of Mayor and Councilmen.

The Mayor and Councilmen and all officers herein provided for, shall each, before entering upon the duties of his office, and within ten days of the time of his election or appointment, take and subscribe an oath to faithfully and impartially discharge the duties of his office, and the oath to support the Constitution of the United States, and the Constitution of the State of West Virginia. The Mayor, having taken such oath or affirmation, may administer the same to the Councilmen and other officers. Certificates of said oaths or affirmations shall be recorded in the journal of said Council, and whenever two-thirds of the members of the Council shall have qualified, they shall enter upon said offices.

Sec. 18. Failure to qualify.

If any one who shall have been elected Mayor or Councilman shall not be eligible as herein prescribed, or shall refuse or fail to take the oath or affirmation required under this Act, within the time prescribed, the Council may declare his office vacant and fill the vacancy as provided in Section 11.

Sec. 19. Presiding officer.

The Council shall be presided over at its meetings by the Mayor, or in his absence, by the Mayor Pro Tem, who shall be chosen annually by a majority of the Council present at the first meeting of said Council, from the members of the Council after the election and qualification; and such Mayor Pro Tem shall, in the absence of the Mayor, have all the powers and perform all the duties of the Mayor.

Sec. 20. Journal of Council.

The Council shall cause to be kept, in a well-bound book, an accurate record of all its proceedings, bylaws, acts and orders, which shall be fully indexed, and open to the inspection of citizens of the Town. The proceedings of each meeting shall be read and corrected at the succeeding meeting, and signed by the person presiding for the time being. Upon the call of any member the yeas and nays shall be called and recorded in the journal. In all cases of a tie the person presiding at the time shall have the casting vote.

Sec. 21. Powers of Council.

The Council shall have power to open and grade new streets and extend, widen, straighten, repair and grade old streets and alleys; to curb and pave streets, sidewalks and gutters for public use, and to alter, improve and light the same, and shall have control of all the avenues for public use in said Town; to have the same kept in good order and free from obstructions on or over them; to regulate and determine the width of all streets, sidewalks and public alleys; to order and direct the curbing and paving of all sidewalks and footways for public use in said Town, to be done and kept in good order by the owners or occupants of the adjacent property; to control the construction and repair of all houses, bridges, and culverts; the opening and construction of all ditches, drains and gutters; to widen, deepen and clear the same of stagnant water and filth and to determine at whose expense the same shall be done; to purchase, lay off and appropriate public grounds and control the use of the same; to provide, contract for and take care of all public buildings proper to the Town; to provide for the regular building of houses or other structures; to cause the removal of unsafe walls or buildings; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated anything which, in the opinion of the majority of the whole Council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles and explosives; to provide in or near the Town places for the burial of the dead, and regulate the interments in the Town, and provide ornamental trees; to provide for making division fences, and for the draining of lots by proper drains and ditches; to make regulations for guarding against danger or damages from fire; to provide for the poor of the Town; to organize one or more companies, and provide the necessary apparatus, tools, implements, engines, or any of them for their use to provide a sufficient revenue for said Town, and appropriate the same to its expenses; to issue bonds of the corporation and make sale thereof, but no such bonds shall be sold by said corporation for less than par, nor bearing a higher rate of interest than six percent per annum; nor shall said corporation be indebted on account of such issue at any period in a greater sum than ten thousand dollars without the consent of a majority of the voters of the Town expressed at an election held for that purpose; nor shall the whole indebtedness of said Town at any time over exceed the sum of one hundred thousand dollars; to provide for the annual assessment of taxable persons and property in the Town; to adopt rules for the transaction of business and for the government and regulation of its own body; to promote the general welfare of the Town, and to protect the persons and the property of the citizens therein; to appoint the officers authorized by Section sixteen of this Act, fix their terms of service and compensation, require and take from them bonds, with such sureties and in such penalties as the Council may determine, conditioned for the true and faithful discharge of their duties, and remove them at pleasure; but all bonds taken by the Council shall be made payable to the Town by its corporate name; to provide for and regulate the weighing of hay, coal, wood and other articles sold or for sale in said Town, and to regulate the transportation thereof

through the streets; to establish and regulate markets, to prescribe the time for holding the same, and what articles shall be sold only in said markets; to protect places of divine worship; to lay off the Town into wards, prescribing the boundaries of said wards; but should any change in the boundaries of the wards be made, the new wards shall be equal in population as nearly as possible; to appoint and publish the places of holding Town elections; to erect or authorize or prohibit the erection of gas works in or near the Town; to prevent injuries to and provide protection of the same; to provide for the purity of the water and the healthfulness of the Town; for all of which purposes except that of taxation, the Council shall have jurisdiction for one mile beyond the corporate limits of said Town; to prescribe and enforce ordinances for the purpose of protecting the health, decency, morality and order of the Town and its inhabitants, and to punish violators of such ordinances, even if the offenses under and against such ordinances shall also constitute offenses under the laws of the State of West Virginia, or the common law, for which purpose also the jurisdiction of said Town shall extend for one mile beyond the corporate limits thereof.

Sec. 22. Power to repair sidewalks, etc.

If the owner or occupant of any sidewalk, footway, gutter or pavement in said Town, or of the real property next adjacent thereto, shall fail or refuse to curb, pave or keep the same clean, in the manner and within the time required by the Council, it shall be the duty of the Council to cause the same to be done at the expense of the said Town and to assess the amount of such expense upon such owner or occupant, and the same may be collected by the Town Sergeant in the manner herein provided for the collection of Town taxes.

Sec. 23. General powers.

To carry into effect these enumerated powers, and all other powers conferred upon the said Town, or its Council, expressly or by implication, by this or any future act of the legislature of this State, the Council shall have power to make, pass and enforce all needful orders, bylaws, ordinances, resolutions, rules and regulations, not contrary to the constitution and laws of this State; and to prescribe and impose reasonable fines, penalties, and imprisonment in the county jail for a term not exceeding thirty days, for violations thereof. Such fines, penalties and imprisonment shall be recovered and enforced under the judgment of the Mayor of said Town, or the person lawfully exercising the functions of Mayor. And the authorities of said Town may, with the consent of the County Court of Jefferson County, entered of record, use the jail of said County for any purposes for which the use of a jail may be needed by them, under the acts of the Council or of the State.

Sec. 24. Licenses.

Whenever anything for which a State license is required is to be done within the said Town, the Council may require a Town license therefor, and may impose a tax thereon for the use of the Town. The Council may require from the persons so licensed a bond with sureties, payable to the Town, in such penalties and with such conditions as it may think proper, and may revoke such license at any time, after due notice and a hearing thereon, if the conditions of said bond be broken.

Sec. 25. Prohibitions of shows.

The Council may prohibit any theatrical or other performance, show or exhibition which it may deem injurious to the morals or good order of the Town.

Sec. 26. Bonds of Sergeant and Treasurer.

The Council shall have power to require and take from the Sergeant and Treasurer bonds, with sureties satisfactory to the Council, in such penalty as it may deem sufficient, except that as to the Sergeant it shall not be for a penalty less than two thousand five hundred dollars; and said bond shall be conditioned for the true and faithful performance of his duties as Sergeant, and for the collecting and accounting for and payment of the taxes, fines and other moneys of the Town which shall come into his hands, or which it shall be his duty to collect at such times and to such persons as the Council may order. The Treasurer's bond shall be conditioned for the true and faithful performance of his duties as Treasurer, and that he will faithfully pay over and account for all moneys that shall come into his hands as Treasurer, when and as he shall be thereto required by the Council.

Sec. 27. Mayor; powers, duties, etc.

The Mayor shall be the chief executive officer of the Town, and shall take care that all bylaws, ordinances and orders of the Council are faithfully executed. He shall be ex officio a conservator and justice of the peace within said Town, and shall, within the same, exercise all the powers and duties vested in justices, except that he shall have no jurisdiction as such in civil cases. He shall have control of the police of the Town, and may appoint special police officers whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of said Town are preserved, and that the persons and property therein are protected; and to this end he may cause the arrest and detention of all riotous and disorderly persons in said Town before issuing his warrant therefor. He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment he may commit the party in default to the jail of Jefferson County until the fine or penalty and costs shall be paid, to be employed during the term of his imprisonment as hereinafter provided; but the term of imprisonment in such case shall not exceed thirty days. He shall, from time to time, recommend to the Council such measures as he may deem needful to the welfare of the Town. He may receive a compensation for his services, to be fixed by the Council, which shall not be increased nor diminished during the term for which he was elected.

Sec. 28. Clerk; duties and compensation.

It shall be the duty of the Clerk to keep the journal of the proceedings of the Council, and to have charge of and preserve the records, papers, documents, contracts, etc., of the Town. He shall attend the Mayor in all his examinations, issue his orders, swear witnesses, and perform all the duties of a Clerk in the Council and Mayor's Court. He shall receive such compensation for his services as may be fixed by the Council, which shall not be increased nor diminished during his term of office.

Sec. 29. Sergeant; duties, liabilities and compensation.

It shall be the duty of the Town Sergeant to collect the taxes, fines and other income and revenue of the Town, as specified in his bond, and to account for and pay the same to the Treasurer at such times as the Council may order. And it shall be his duty, at least once in every three months, and oftener if required by the Council, to render an account of the taxes, fines and other claims in his hands for collection, and return a list of such as he shall have been unable to collect by reason of insolvency, to which list he shall make an oath that he has used due diligence to collect the same, but has been unable to do so. The Council shall, if it be satisfied that he could not have collected the same by the use of due diligence, allow them. But if the Council shall be of opinion that by the use of due diligence on the part of said Sergeant he could have collected the same, or any part thereof, then he shall be charged with such as he might have collected. The said Sergeant shall do and perform all other acts pertaining to the office of Sergeant of a corporation, and of a police officer within said Town, and as such shall have the same powers, duties, fees, and liabilities as are by law prescribed for a constable when acting as such. He shall for his services receive such compensation as shall be fixed by the Council.

Sec. 30. Treasurer.

All moneys belonging to said Town shall be paid over to the Treasurer, none of which shall be paid out by him except as the same have been apportioned and ordered to be paid by the Council; and the said Treasurer shall pay the same upon the certificate of the Mayor.

Sec. 31. Motion against Treasurer.

If the Treasurer shall fail to account for and pay over all or any moneys that shall come into his hands, when thereto required by the Council, it shall be lawful for the Council, in corporate name of the Town, by motion before the Circuit Court of Jefferson County, or any court having jurisdiction, after ten days' previous notice, to recover from the Treasurer and his sureties, or their personal representatives, any sum that may be due from said Treasurer to said Town.

Sec. 32. Commissioner of Streets.

It shall be the duty of the Commissioner of Streets to superintend the opening, construction and repair of the roads, streets and alleys, sidewalks, crosswalks, footways, drains, and gutters within the said Town, and to put and keep the same in good repair, and to carry into execution all the resolutions, orders and ordinances of the Council in relation thereto.

Sec. 33. Exemption from road and poor tax.

The said Town, and the taxable persons and property therein, shall be exempt and free from the payment of any poor taxes or ordinary road tax, and from contributing to any County expenses for the poor and the ordinary roads and bridges of said County, outside of the corporate limits of the said Town, for any year in which said Town shall, at its own expense, provide for its own poor and keep its streets and bridges in order.

Sec. 34. Hitching yard.

The municipal authorities of the Town shall have power to provide, maintain and operate a hitching yard for the use of the public, and to this end may acquire by purchase, condemnation or otherwise, a sufficient amount of real estate, either within or without the corporate limits. It is authorized to make reasonable rules and regulations for the use of the same, including the rights to make reasonable charges against persons using and occupying it; to erect suitable buildings and sheds thereon; to keep the same clean; to provide a watchman or caretaker, and to prescribe his powers, duties and compensation, taking from him such bond as may be thought proper. The County Court of Jefferson County is hereby authorized to appropriate such sums annually as it may think proper for the purpose of maintaining in connection with the authorities of the Town of Bolivar such hitching yard. Should said County Court make such appropriation, rules and regulations respecting the use thereof shall be prescribed by a joint committee of the County Court of Jefferson County and the Council of the corporation of Bolivar. The amount of the appropriation by the County Court in each year shall not be less than one hundred nor more than five hundred dollars.

Sec. 35. Former toll roads within the corporate limits.

Nothing contained in this Act shall be deemed to place upon the corporation of Bolivar the duty of maintaining and keeping in good order and repair and covered with gravel such streets and roads within the corporate limits as were formerly toll roads or turnpikes, the duty to maintain which and keep in good order and repair and covered with gravel, is placed upon the County Court by the acts of the legislature of one thousand nine hundred and three, one thousand nine hundred and seven and one thousand nine hundred and nine. The County Court of Jefferson County may, however, upon the request of the Council of the corporation of Bolivar surrender its jurisdiction and control of any or all of such roads or streets within the corporate limits to the corporation of Bolivar, and keeping them in good order and repaired and covered with gravel, shall be placed upon the corporation of Bolivar; and in such case the County Court of Jefferson County shall pay to the corporation of Charles Town annually such amounts as may be expended by it in maintenance of such roads and streets; or the said County Court of Jefferson County may, at its option, pay to the corporation of Bolivar such lump sum as may be agreed upon between them, in consideration of the corporation of Bolivar assuming jurisdiction of such roads and streets, and becoming liable for their upkeep, maintenance and repair, as aforesaid.

Sec. 36. Other provisions of law applicable.

The corporation of Bolivar, except as is herein otherwise provided, shall have all the powers, rights and privileges, and be entitled to all the benefits now conferred on municipal corporations by chapters forty-seven, forty-seven-a, and forty-eight of the Code of West Virginia of one thousand nine hundred and thirteen, or which may hereafter be granted to municipal corporations by general law.

Sec. 37. Rights reserved.

All rights, privileges and properties of the said Town, heretofore acquired and possessed, owned and enjoyed by said Town under any act now in force, shall continue undiminished and remain vested in said Town under this Act; and all laws, ordinances and resolutions of the Council now in force and not inconsistent with this Act shall be and continue in full force and effect until regularly repealed by a Council elected as provided under this Act.

Sec. 38. Duties of the Council.

The Council shall adopt all needful and just ward regulations, whether general or special, for the good of the citizens thereof. It shall authorize street expenditures as equity and justice shall demand; and may authorize the collection of a special tax in the Town, for a specified purpose, when requested to do so by a majority of the voters thereof. Whenever in the opinion of the Council it becomes necessary to lay off said Town into wards, the said Council shall lay it off, into the necessary number.

Sec. 39. Prisoners; how employed.

The Council shall provide for the employment and safekeeping of persons who may be committed for default in payment of fines, penalties, or costs under this Act, and who are otherwise unable to discharge the same, by putting them to work for the benefit of the Town; shall keep on hand an ample supply of necessary material for the same, and shall provide all necessary tools, implements, fixtures, and facilities for the immediate employment of any and all of such persons; shall fix a reasonable rate per diem as wages to be allowed every person, until such fine and costs against him are discharged; and the Clerk shall keep an account of all fines and penalties so collected and expended.

Sec. 40. Opening streets.

The Council of said corporation shall be entitled to all the benefits of Chapter forty-two of the Code of West Virginia, for the condemnation of land for streets, alleys and public buildings in said corporation, and the commissioners appointed under said chapter shall in cases of opening of streets or alleys or in widening the same, not only assess what is a just compensation as provided in said chapter, but they shall also assess the damages and benefits to all lot owners or property holders having lots or land adjacent to and abutting on said street or alley, whose lot or land may be benefitted or injured by the opening of such street or alley or by the widening of any such street or alley, and shall make report as provided in said chapter, but lot owners and property holders shall be named in the application and served with notice as required by said chapter, and the duties of such commissioners and their oaths shall cover the duties herein imposed. All assessments for benefits under this Act shall be a lien on the property against which the same are assessed, and may be enforced in a court of equity. But either party to such assessment of damages or benefits shall have the right to call for a jury as provided in said chapter.