

CHARTER
OF
THE CITY OF BENWOOD
WEST VIRGINIA

Prepared by Charter Board - 1948

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**CHARTER
OF
THE CITY OF BENWOOD
WEST VIRGINIA**

ARTICLE I.

INCORPORATION

Sec. 1. The inhabitants of Marshall County in this State, now and hereafter residing within the boundaries prescribed in the next section hereof, or as hereafter established in the manner prescribed by law, shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Benwood."

BOUNDARIES AND WARDS

Sec. 2.

(a) The boundaries of said City shall be as follows: Beginning at a point on the west side of the Ohio River in the state line, where the line between Ohio and Marshall Counties intersects the same; thence with the Ohio and Marshall County lines crossing the river; south eighty-five degrees east to a stake on the hillside; thence south twenty-four degrees twenty-five minutes west one hundred and forty-two and five-tenth poles to a point in the middle of Bogg's Run located south forty-seven degrees forty-five minutes east nine and one-tenth poles from a notch cut in the face and top of the east wing of the abutment of the turnpike bridge over said run; thence following a line which passes through the center of the top (at its north end) of the river hill south of the run, south twelve degrees forty-five minutes west fifty-three fifteen hundredths poles to a point north of and near the top of the said hill; thence south thirty-seven degrees west thirty-three twenty-two hundredths poles to a stake; thence south twenty-seven degrees thirty minutes west forty-three poles to a stake; thence south fourteen degrees west seventeen poles. to a stake; thence south ten degrees east thirty-four five-tenths poles to a white oak; thence south three degrees thirty minutes west thirty-five poles to a stake; thence south eight degrees east twelve poles to a stake; thence south three degrees west fifty-five five-tenth poles to a stake; thence south two degrees east seventy-three poles to a red oak; thence south eleven degrees thirty minutes east twenty-four poles to a stake; thence south two degrees thirty minutes west twenty-five five-tenths poles; thence south twenty-four degrees east thirty-four twenty-five hundredths poles to a stake; thence south eleven degrees east thirty-eight poles to a stake; thence south thirty degrees thirty minutes east fifty-one five-tenths poles to the southeast corner of the original corroration on top of the river hill; thence with the top of the ridge of the said hill, south one degree west nine hundred thirty feet to a stake; thence south thirty-seven degrees forty-five minutes west five hundred sixty feet to a double honey locust tree on the south point of the hill; thence south twenty-three degrees thirty minutes west three hundred ninety-eight feet to a honey locust on the point of the hill above

the hill road; thence leaving the ridge south twenty-one degrees fifteen minutes east three hundred eighty-four feet to a stake on the north side of McMechen's Run located south twenty-one degrees fifteen minutes east seven five-tenth feet from a large sycamore standing on the said bank; thence down the run south seventy-one degrees fifteen minutes west one hundred thirty-two feet; south seventy degrees fifteen minutes west ninety-two feet; south sixty-eight degrees forty-five minutes west two hundred nine five-tenths feet; north eighty-five degrees forty-five minutes west one hundred sixteen feet; south seventy-four degrees forty-five minutes west four hundred feet; south fifty-two degrees west one hundred eight feet; south eighty-six degrees west one hundred eighty-five feet; south eighty-eight degrees thirty minutes west two hundred forty-seven feet; north sixty-four degrees thirty minutes west one hundred seven feet; north seventy-eight degrees west two hundred twelve feet; south eighty-nine degrees fifteen minutes west one hundred seventy-nine five-tenths feet; north eighty-four degrees fifteen minutes west one hundred forty feet; south eighty-six degrees fifteen minutes west one hundred forty-eight five-tenths feet; west ninety-one feet south sixty-nine degrees thirty minutes west one hundred seventy-eight feet to the mouth of said McMechen's Run; thence crossing the Ohio River south eighty-one degrees fifteen minutes west to a point in the mouth of Pinch Run, at its intersection with the state line; thence up the river with the said state line, to the place of beginning.

(b) Beginning at a cross on a rock, said cross being at the northeasterly corner of Lot No. 21 in the Boggs Run Mining and Manufacturing Company's Subdivision No. 3, said subdivision being recorded in the office of the Clerk of the County Court of Marshall County in Deed Book 172, page 601; thence S. 84° 36' E. 518.17 feet to a stake on the top of the river hill; thence N. 86° 06' E. 354.13 feet to the center of a high tension tower; thence, following the high tension tower line, S. 17° 23' E. 2045.67 feet to the center of a high tension tower on the top of the hill; thence, following the top of the ridge, S. 33° 23' W. 1005.88 feet to a fallen black oak, said black oak being the most easterly corner of a tract of land formerly owned by J. J. Jones; thence with his line, S. 65° 47' W. 326.40 feet to a stone, corner to said J. J. Jones, Louisa Keller and others; thence, S. 59° 42' W. 884.60 feet to a post, corner to said J. J. Jones, Louisa Keller and Charles Norman et al; thence, with the said Keller, Norman line, S. 17° 55' W. 266.39 feet to a post, corner to Keller, Norman and Gail Huss et ux; thence, with Gail Huss and Norman's line S. 54° 33' W. 125.67 feet to a point; thence, S. 14° 56' W. 305.00 feet to a point at the southerly side of Brown's Run Public Road; thence following the southerly side of the said Brown's Run Road, N. 57° 01' W. 329.89 feet to the northwest corner of the northwest wing wall of the bridge crossing Boggs Run; thence crossing Boggs Run and with a line up the hill S. 86° 05' W. 662.21 feet to a point in the present Corporation Line of the City of Benwood; thence, following the present Corporation Line, N. 4° 10' W. 119.24 feet to a stake; thence, N. 7° 20' E. 577.50 feet to a white oak; thence, N. 6° 10' W. 569.25 feet to a stake; thence N. 17° 50' E. 280.50 feet to a stake; thence, N. 31° 20' E. 709.50 feet to a stake; thence, N. 40° 50' E. 548.13 feet to a point; thence N. 16° 35' E. 876.98 feet to a point in the center of Boggs Run; thence, N. 28° 15' E. following along the easterly line of the said Boggs Run Mining and Manufacturing Company's Subdivision No. 3 565.0.0. feet to the place of beginning.

(c) The City shall be divided into six wards. A change in the wards may be made by the Council by ordinance, but in making any such change regard must be had to the compactness of the territory of every ward, and no ordinance shall be passed which affects a gerrymander of territory, or which does not more nearly equalize population of the several wards.

POWERS

Sec. 3. Except as limited by the Constitution and laws of the United States or West Virginia or restricted by this Charter, the City shall have and may exercise all powers, functions, rights, privileges and immunities of every name and nature whatsoever belonging or appertaining to municipal corporations or cities. These shall include, without limitation, the power to acquire property within or without its corporate limits for any City purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation; to sell, lease, mortgage, hold, manage and control such property that its interest may require; to sue and be sued, contract and be contracted with, and to tax all persons and all real and personal property within the City which are subject to taxation under the Constitution and laws of West Virginia.

FORM OF GOVERNMENT**Sec. 4.**

(a) The elective officers of the City shall be a Mayor, Chief of Police, and two Councilmen from each ward. The Mayor and Chief of Police shall be elected by the qualified voters of the City. The Councilmen shall be elected by the qualified voters of their respective wards. The Council shall appoint the officers named in Article V below, and shall have power to appoint such other officers as it may choose. Except as specifically provided herein, no person shall be eligible for any office whether elective or appointive, unless he is a qualified voter of the City and has resided therein for at least one year before his election; and in the case of a Councilman, he shall be a bona fide resident of the ward from which he is elected. Upon the cessation of any of the above qualifications or upon conviction of any crime involving moral turpitude, the office shall automatically become vacant.

(b) The municipal authorities of said City shall consist of the Mayor and Councilmen, who together shall form a common Council, and all the corporate powers of said corporation shall be exercisable by said Council or under its authority except where otherwise provided herein.

**ARTICLE II.
ELECTIONS****CONDUCT OF ELECTIONS**

Sec. 1. The first election hereunder shall be held on the first Tuesday in June, one thousand nine hundred and fifty, and biennially thereafter. Every person who has been a bona fide resident of the said City for one year next preceding any election, and otherwise a qualified voter, under the Constitution and laws of the State, shall be entitled to vote at such election, in the ward in which he resides. The elections shall be held, conducted, returned, and the results ascertained, certified and determined, under such rules and regulations as may be prescribed by the Council, which shall not be inconsistent with the general laws of the State governing municipal elections, and shall conform as nearly as practicable to such laws. Contested elections shall be heard and determined by the Council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of county and district officers. The Council shall be the judge of the election, returns and qualifications of all officers. In case two or more persons receive an equal number of votes for the same office, the Council shall decide by vote which of them shall be returned elected, and shall make their return accordingly.

TERMS OF OFFICE

Sec. 2. At each biennial election there shall be chosen a Mayor. One (1) Councilman shall be chosen for each ward who shall serve four (4) years, with the Second Councilman from the ward being chosen at the succeeding election.

Commencing with the next regular municipal election, the term of office of the Mayor shall be for four (4) years.

Commencing with the next regular municipal general election to be held in the year 1994, and thereafter, the term of office of the Chief of Police shall be for four (4) years.

All short term vacancies in Council shall be filled at the next regular election. The Mayor, Chief of Police and Councilmen now in office shall serve out the terms for which they were respectively elected. (Amended 5-10-94, 5-13-08.)

INDUCTION OF OFFICERS

Sec. 3. Each newly elected officer shall take office on the first day of July following his election. and shall continue in office until replaced by a duly elected successor.

**ARTICLE III.
COUNCIL**

MEETINGS

Sec. 1.

(a) The regular meetings of Council shall be held on the second and fourth Tuesday of each month, at such place in the City as Council may by ordinance appoint. A special meeting of Council may be called by the Mayor, or by such member or members of Council as may be specified by ordinance, but reasonable notice of such meeting shall be given in writing to all of the members who can be found. The call and notice must specify the business of the meeting, and no other business shall be considered. The presence of the majority of the whole number of Councilmen shall be necessary to constitute a quorum for the transaction of business at any meeting, but a smaller number may adjourn from time to time and compel the attendance of absent members in such a way as Council may provide by ordinance. The Council shall, except as herein provided, determine its own rules and order of business. It shall keep a journal of its proceedings. At the request of any Councilman present, the ayes and nays on any question shall be taken and entered upon the journal. All meetings and investigations shall be open to the public. If the Mayor shall for any reason be unable to preside, Council shall elect a president pro tem, but said president pro tem shall continue to have a vote on all questions.

(b) Any Councilman who is unable to be present at any Council meeting shall cause the City Clerk to be notified, stating the reason for his inability to be present. Such notice shall be given at least one hour prior to the convening time of Council. Unauthorized absence for an unreasonable number of times from Council meetings shall be grounds for City Council to declare the office of the offending Councilman vacant and to elect a successor. Notice of such intended action shall be given to the offending Councilman in writing, which notice shall state the time and place for a public hearing to be had upon the matter. Council can only act to remove an offending Councilman by two-thirds vote.

ORDINANCES

Sec. 2. In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness, shall be by ordinance. The enacting clause of all ordinances shall be, "The Council of the City of Benwood hereby ordains." Ordinance procedure shall be in accordance with the general laws of the State.

APPOINTMENT OF OFFICERS AND EMPLOYEES

Sec. 3. Except for the Mayor and Chief of Police, all City officers and employees, including policemen, shall be appointed by Council and shall hold office at the pleasure of Council. The officers appointed shall be those listed in Article V plus such additional officers as Council shall from time to time think proper. Council may increase or change the duties of each office as it may see fit, but shall not abolish the offices and duties specified in this Charter. All acts of appointive officers and employees shall be subject to the control of the Mayor and of the Council.

SALARIES

Sec. 4. Council shall have power to fix the salaries of all officers both elective and appointive, including its own, and of all employees. The salaries of the Mayor and Chief of Police may be increased but not diminished during their current term of office. Salaries of appointive officers and employees shall be at pleasure of Council.

INVESTIGATIONS

Sec. 5. The Council or any committee of Council shall have power to inquire into the conduct of any office, department or agency of the City and to make investigation as to municipal affairs and for that purpose may subpoena witnesses, administer oaths, and compel production of books, papers and other evidence. Failure to comply with such orders shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment not to exceed six months or both.

IMPEACHMENT

Sec. 6. Council shall have authority, upon the filing before it by any person of charges in writing against any elective officer of the City, to make an investigation of such charges. For this purpose also, it may exercise the powers set forth in Section 5 above. The accused shall be entitled to a public hearing, to the assistance of legal counsel and to the right of subpoena of witnesses and documents on his behalf. After such investigation the Council may remove the said officer upon a two-thirds vote. The accused shall not vote on the question.

AUDITS

Sec. 7. In addition to the regular annual audit made by the State Tax Commissioner, the Council may at any time employ qualified public accountants to make a special independent audit of the finances of the City or of the accounts of any City officer.

VOTING

Sec. 8. Except as herein provided, all action of the Council shall be by majority vote. No member of Council shall discuss or vote on any question in which he is interested other than as a citizen of the City.

TAXES

Sec. 9. No tax on real or personal property shall be levied to exceed fifty cents on every \$100.00 of the assessed value, and all taxes shall be uniform with regard to persons and property. No capitation tax shall be levied in excess of \$1.00 per person.

MAXIMUM PENALTIES

Sec. 10. Punishment for violation of a City ordinance shall not exceed a fine of \$100.00 or imprisonment for six months or both.

FRANCHISES

Sec. 11. Franchises may be granted by the Council allowing to persons or corporations for a limited time such occupancy of portions of the streets and alleys as may be necessary for works of public utility and service. But no such franchise shall hereafter be granted except under the following restrictions and conditions:

- a. No ordinance granting any franchise for the using of the streets, alleys or public grounds of the City shall take effect until the following steps are taken in the order named, and each step shall be completed before initiation of the next step:
 - 1. The ordinance shall be proposed in Council.
 - 2. It shall be published in a newspaper of general circulation in Marshall County once a week for four successive weeks.
 - 3. It shall be read at a regular meeting of Council and then laid over at least until the next regular meeting.
 - 4. It shall be passed by two-thirds vote at a regular meeting.
- b. Every grant of a franchise shall be for a limited period of time. If no limit be expressly provided, the franchise shall be valid for one year only. In no case shall the franchise extend for a period exceeding thirty years.
- c. No grant of a franchise shall be made without at the time of making it providing that the grantee, its successors and assigns, shall indemnify the City against all damages caused by the construction of such works. All reasonable additional provisions and conditions shall be made for the protection of the public from unnecessary damage or inconvenience by reason of such works and the operation thereof. Failure of compliance with any condition imposed by the ordinance granting such franchise shall cause said franchise at the option of Council to become null and void.

**ARTICLE IV.
MAYOR AND CHIEF OF POLICE**

MAYOR IS CHIEF EXECUTIVE OFFICER

Sec. 1. The Mayor shall be the chief executive officer of the City and shall see that all the orders, by-laws, ordinances and resolutions of the Council thereof are faithfully executed. He shall have control of the police of the City, and may with the consent of Council appoint special officers whenever he deems it necessary, and it shall be his duty to see that the peace and good order of the City are preserved. He shall, subject to action of Council, supervise the work of all appointive officers and employees. He shall from time to time recommend to Council such measures as he may deem needful for the welfare of the City. He shall preside over the meetings of the Council but shall have no vote except in case of a tie.

MAYOR'S COURT

Sec. 2. The Mayor shall hold court at such times and places as he may deem necessary, and shall have such jurisdiction and powers as are now or may hereafter be prescribed by law.

- a. The Mayor shall have jurisdiction over all offenses against or violation of the ordinances of the City, and authority to inflict punishment for such violations in the manner lawfully prescribed by such ordinances upon and against offenders or violators of the same: Provided, however, that no jury shall be allowed in any trial in said court for the violation of any ordinance of the City.

- b. The proceedings for the recovery of the fine or for the enforcement of the penalty prescribed by any ordinance shall conform to the regulations, in so far as they are applicable, including the provisions as to costs and appeals, prescribed in chapter 50 of the Code of 1943 for the enforcement of penalties against persons convicted of misdemeanors; but the Mayor by *capias pro fine* or other process may cause the defendant to be arrested and brought before said court to be dealt with according to law.
- c. The Mayor shall have full power and authority to enforce his orders and judgments, by any process of law which may be necessary and proper for the purpose and all processes, executions and orders of his court shall be signed by the Mayor. All process and executions shall be directed in the name of the City of Benwood as plaintiff to the Chief of Police, and be executed by him or one of his deputies at any place within the County. In the execution of any process or order of said court, the Chief of Police or deputy shall have the same powers, be governed in his proceedings by the same rules of law, and be subject to the same liabilities as the Sheriff of Marshall County, West Virginia, in the performance of like services. There may be charged for the services of such officer the same fees as the Sheriff is entitled to charge for like services, but all such fees, as well as all fines imposed by said Mayor, shall be collected by the Mayor, and accounted for and paid by him to the Treasurer of the City. The City shall in no event be liable for any such fees.
- d. The Mayor shall have authority to administer oaths within the City. He shall be ex-officio a justice of the peace within the City and shall within the same have and exercise all the powers and duties whether in civil or criminal proceedings vested by law in a justice of the peace.
- e. The Mayor may charge the same fees for his services whether in enforcement of City ordinances or other matters as are allowed to be charged by justices of the peace for similar services, which fees shall be paid to the City Treasurer.
- f. A docket and other books required by the records and a seal shall be provided for the Mayor by the Council. Full faith and credit shall be given to the records and certificates of the Mayor's Court, in like manner and with the same effect as if the same were records of the Circuit Court similarly authenticated.

OTHER DUTIES OF THE MAYOR

Sec. 3. The Mayor shall perform such other duties as may be prescribed by this Charter, or required of him by the Council not inconsistent with this Charter.

DUTIES OF CHIEF OF POLICE

Sec. 4. The Chief of Police shall, subject to the direction of the Mayor and Council, control, have charge over, and be responsible for the police force of the City. He shall also perform such other duties as may be prescribed by Council.

QUALIFICATIONS OF CHIEF OF POLICE.

Sec. 5. Any person desiring to be placed upon the ballot seeking election as Chief of Police of the City of Benwood must prior to being placed upon the ballot present proof to the Clerk of the City of Benwood that they are a currently certified law enforcement officer as provided for in West Virginia Code Section 30-29-1, et seq., and the regulations promulgated pursuant thereto. Further any person appointed to fill a vacancy in the position of Chief of Police must be currently certified as a law enforcement officer as provided for in the aforesaid code section and the regulations promulgated pursuant thereto.
(Enacted 12-14-21.)

**ARTICLE V.
APPOINTIVE OFFICERS**

CITY SOLICITOR

Sec. 1. The City Solicitor shall prosecute and defend all suits for or against the City, and when requested to do so shall give his opinion in writing to the Mayor or Council upon such legal questions affecting the City as may be referred to him. He shall in addition perform such other services as Council may require. The Solicitor shall be a duly licensed attorney at law, but need not be a resident of the City.

CITY CLERK

Sec. 2. The City Clerk shall give notice of the meetings of Council, keep the journal of its proceedings, and authenticate by his signature all ordinances and resolutions of Council. He shall have charge of and preserve the seal and the records of the City. He shall be Clerk of the Mayor's Court. He shall perform such other duties as may be required by the Council. He shall collect all taxes, special assessments, license fees and other revenues of the City or for whose collection the City is responsible and receive all money receivable by the City from the State or Federal Government or from any court or from any office, department or agency of the City. The City Clerk need not be a resident of the City.
(Amended 5-25-10.)

STREET COMMISSIONER

Sec. 3. The Street Commissioner shall have charge of the City streets and alleys and shall perform such other duties as Council may require.

BUILDING INSPECTOR

Sec. 4. The Building Inspector shall issue building permits, see that building and maintenance ordinances are complied with and perform such other duties as Council may require.

ZONING COMMISSION

Sec. 5. The Zoning Commission shall consist of three or more persons and shall supervise and administer such Zoning Ordinances as Council may establish.

CITY TREASURER

Sec. 6. The City Treasurer shall have charge of the administration of the financial affairs of the City, and to that end he shall have the following authority and duties:

- a. He shall have custody of all funds belonging to or under the control of the City and deposit all such funds in such depositories as may be designated by resolution of Council, or if none, by the Mayor, subject to the requirements of law as to surety and the payment of interest on deposits.
- b. He shall have custody of all bonds, notes, certificates, and other evidences of indebtedness to the City, together with all valuable papers which may be placed in his hands by the Council.
- c. He shall assist the Mayor in preparing the annual budget. He shall prepare and submit to Council complete quarterly reports of the finances of the City.
- d. He shall be the disbursing officer of the City and no funds shall be paid except under his signature.
- e. He shall prescribe the forms of receipts, vouchers, bills or claims to be used by the City government.

ARTICLE VI. BUDGET

FISCAL YEAR

Sec. 1. The fiscal year of the City government shall begin on the first day of July and shall end on the last day of June of each calendar year. Such fiscal year shall also constitute the budget and accounting year. As used in this Charter, the term “budget year” shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

PREPARATION AND SUBMISSION OF BUDGET

Sec. 2. The Mayor, prior to the beginning of each budget year, shall submit to the Council an itemized budget.

BUDGET A PUBLIC RECORD

Sec. 3. The budget and all supporting schedules shall be a public record in the office of the City Clerk open to public inspection by anyone.

PUBLIC HEARING ON BUDGET

Sec. 4. At the first regular Council meeting after submission of the budget, the Council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof.

DATE OF FINAL ADOPTION

Sec. 5. The budget shall be finally adopted not later than the first Tuesday of August in the fiscal year.

ARTICLE VII. INITIATIVE AND REFERENDUM

POWERS OF INITIATIVE

Sec. 1. The electors shall have power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the Council by a petition signed by qualified electors of the City equal in number to at least ten per centum of the registered voters at the last regular municipal election.

POWER OF REFERENDUM

Sec. 2. The electors shall have power to approve or reject at the polls any ordinance passed by the Council, or submitted by the Council to a vote of the electors, such power being known as the referendum. Ordinances submitted to the Council by initiative petition and passed by the Council without change shall be subject to the referendum in the same manner as other ordinances. Within twenty days after the enactment by the Council of any ordinance which is subject to a referendum, a petition signed by qualified electors of the City equal in number to at least ten per centum of the registered voters at the last preceding regular municipal election may be filed with the City Clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.

FORM OF PETITIONS; COMMITTEE OF PETITIONERS

Sec. 3. All petition papers circulated for the purposes of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.

FILING EXAMINATION AND CERTIFICATION OF PETITIONS

Sec. 4. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Clerk as one instrument. Within twenty days after a petition is filed, the City Clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified voters. The City Clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the City Clerk shall certify the result thereof to the Council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of his findings.

AMENDMENT OF PETITIONS

Sec. 5. An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the City Clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The City Clerk shall, within five days after such an amendment is filed, make examination of the amended petition and, if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

EFFECT OF CERTIFICATION OF REFERENDUM PETITION

Sec. 6. When a referendum petition, or amended petition as defined in Section 5, Article VII of this Charter, has been certified as sufficient by the City Clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors as hereinafter provided.

CONSIDERATION BY COUNCIL

Sec. 7. Whenever Council receives a certified initiative or referendum petition from the City Clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The Council shall take final action on the ordinance not later than sixty days after the date on which such ordinance was submitted to the Council by the City Clerk. A referred ordinance shall be reconsidered by the Council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

SUBMISSION TO ELECTORS

Sec. 8. If the Council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty days nor more than one year from the date the Council takes its final vote thereon. The Council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.

FORM OF BALLOT FOR INITIATED AND REFERRED ORDINANCES

Sec. 9. Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall be prepared in all cases by the City Solicitor of the City. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The ballot used in voting upon any ordinance, shall have below the ballot title the following propositions, one above the other, in the order indicated: "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 elector may vote for or against the ordinance. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot. A ballot used for voting thereon, shall be for that purpose only.

AVAILABILITY OF LIST OF QUALIFIED ELECTORS

Section 10. If any organization or group requests it for the purpose of circulating descriptive matter relating to the ordinance to be voted on, the Board of Elections or City Clerk or other office, department or agency of the City having the list of qualified electors shall either permit such organization or group to copy the names and addresses of the qualified electors or furnish it with a list thereof.

RESULTS OF ELECTION

Sec. 11. If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

REPEALING ORDINANCES; PUBLICATION

Sec. 12. Initiative and referendum ordinances adopted or approved by the electors shall be published, and be amended or repealed by the Council, as in the case of other ordinances.

**ARTICLE VIII.
GENERAL PROVISIONS**

COUNCIL DISCUSSION

Sec. 1. The heads of all departments, and such other officers as may be designated by vote of the Council shall be entitled to seats in the Council, but shall have no vote. They shall be entitled to take part in all discussions of the Council relating to their respective offices, departments or agencies.

RECORDS AVAILABLE TO PUBLIC

Sec. 2. All records, minutes and accounts of every office, department or agency of the City, including the Council, shall be open to inspection by any citizen at all reasonable times and under reasonable regulations established by the Council, excepting where disclosure would tend to defeat the lawful purpose which they are intended to accomplish.

BONDS

Sec. 3. Council may require all officers and employees of the City to give bond for the faithful performance of their duties in such reasonable amounts as shall be necessary to protect the City, the citizens, and the general public. Sureties shall be approved by the Council, and premiums shall be paid by the City.

OATH OF OFFICE

Sec. 4. Every officer of the City shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the City Clerk; "I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of West Virginia, that I will, in all respects, observe the provisions of the Charter and ordinances of the City of Benwood and will faithfully discharge the duties of the office of _____."

EFFECT OF THIS CHARTER ON EXISTING LAW

Sec. 5.

(a) This Charter shall entirely supersede the old Charter of the City of Benwood. All legislative and administrative acts or rules heretofore adopted by the governing body and administrative agencies of the City of Benwood which are inconsistent or in conflict with this Charter, shall continue in force for sixty days after the effective date of the Charter, unless sooner modified or repealed by competent authority; but at the end of this period, shall to the extent of such inconsistency or conflict, be of no further force or effect.

(b) All provisions of the old Charter, all ordinances and acts which are not in conflict with this Charter shall remain in full force and effect unless later modified. In so far as the provisions of this Charter are the same in terms or in substance and effect as provisions of law in force when this Charter shall take effect, the provisions of this Charter are intended to be not a new enactment but a continuation of such provisions of law, and this Charter shall be so construed and applied.

AMENDING THE CHARTER

Sec. 6. Amendments of this Charter may be made in accordance with the general laws of the State.

SEPARABILITY CLAUSE

Sec. 7. If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

ADMINISTRATIVE BOARDS

Sec. 8. Whenever it is deemed advisable, the Council shall have authority to create by ordinance and to provide for financial support of any of the separate administrative boards provided for in Section Five-a, Article Three, Chapter Eight-a of the official Code of West Virginia, as amended, and shall appoint the members of any board so established.

FEES

Sec. 9. All fees received by any officer or employee shall belong to the City government and shall be paid daily into the City Treasury, except as hereinabove provided.

BONDED INDEBTEDNESS AND BORROWING

Sec. 10. The City may create a bonded indebtedness, but only as provided by general law. The City shall not in any year make contracts in excess of its revenues, but it is authorized to borrow money for emergencies provided provision is made for repayment out of the revenues for the current year.

CITY IMPROVEMENTS

Sec. 11. Any City improvement costing more than \$500.00 shall be executed by contract, except where authorized to be executed directly by a City department in conformity with detailed plans, specifications and estimates. All such contracts shall be awarded to a responsible bidder after proper notice, provided that the Mayor shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the Council.

**ARTICLE IX.
SUCCESSION****RIGHTS OF OFFICERS AND EMPLOYEES**

Sec. 1. Nothing in this Charter contained, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the City or of any office, department or agency existing at the time when this Charter shall take effect, or any provision of law in force at the time when this Charter shall take effect and not inconsistent with the provisions of this Charter, in relation to the personnel, appointment, tenure of office, promotion, removal, civil rights or any other rights or privileges of officers or employees of the City or any office, department or agency thereof.

CONTINUATION OF OFFICERS AND SALARIES

Sec. 2. All officers and employees at the time this Charter takes effect shall continue in office and in the performance of their duties and all salaries shall continue as at present until changed.

CONTINUATION OF CONTRACTS

Sec. 3. All contracts entered into by the City, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or Charter provisions existing at the time this Charter takes effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws and Charter provisions.

CONTINUATION OF LEGAL PROCEEDINGS

Sec. 4. No action or proceeding, civil or criminal, pending at the time when this Charter shall take effect, brought by or against the City or any office, department or agency or officer thereof, shall be affected or abated by the adoption of this Charter or by anything therein contained.

EFFECTIVE DATE

Sec. 5. Upon the adoption of this Charter, its provisions shall immediately be in force.