

CODIFIED ORDINANCES OF BENWOOD

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PART ONE - ADMINISTRATIVE CODE

CHAPTER ONE - General Provisions

- Art. 101. Codified Ordinances.
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ARTICLE 101 Codified Ordinances

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CROSS REFERENCES

See sectional histories for similar State law
 Maximum penalty permitted - see W. Va. Code 8-11-1, 8-12-5(57)
 Authority to impose penalties - see W. Va. Code 8-11-1, 8-12-2(11)
 Codification of ordinances - see W. Va. Code 8-11-4(b)

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, recodified, rearranged, renumbered and consolidated into component codes, chapters, articles and sections shall be known and designated as the Codified Ordinances of Benwood, West Virginia, 2010, for which designation "Codified Ordinances" may be substituted. Code, chapter, article and section headings do not constitute any part of the law as contained in the Codified Ordinances.

(b) All references to codes, chapters, articles and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless otherwise expressly provided or the context otherwise requires:

- (a) Council means the legislative authority of the Municipality.
- (b) County means Marshall County, West Virginia.
- (c) Land or lands and real estate or real property include lands, tenements and hereditaments, and all rights thereto and interests therein except chattel interests.
- (d) Laws of the State includes the Constitution of the State and the Constitution of the United States, and treaties and laws made in pursuance thereof. (WVaC 2-2-10)
- (e) Municipality or City means the City of Benwood, West Virginia.
- (f) Offense includes every act or omission for which a fine, forfeiture or punishment is imposed by law. (WVaC 2-2-10)
- (g) Owner, when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
- (h) Person or whoever includes corporations, societies, associations and partnerships.
- (i) Personal estate or personal property includes goods, chattels, real and personal, money, credits, investments and the evidences thereof.
- (j) Preceding, succeeding or following used in reference to any section or sections of an article means next preceding, next succeeding or next following that in which such reference is made. (WVaC 2-2-10)
- (k) Premises, as applied to property, includes land and building.
- (l) Property or estate embraces both real and personal estate. (WVaC 2-2-10)
- (m) Public place includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance or any other place for the sale of merchandise, public accommodation or amusement.
- (n) Registered mail includes certified mail.
- (o) State means the State of West Virginia or any department, division, commission, board, educational or other institution of the State.
- (p) Street includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
- (q) Tenant or occupant, as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises alone or with others.
- (r) Written or in writing includes any representation of words, letters or figures, whether by printing, engraving, writing or otherwise. But when the signature of any person is required, it must be in his own proper handwriting, or his mark, attested, proved or acknowledged. (WVaC 2-2-10)

101.03 RULES OF CONSTRUCTION.

(a) General Rule. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(b) Gender and Plural. A word importing the singular number only may be applied to several persons or things, as well as to one person or thing; a word importing the plural number only may be applied to one person or thing as well as to several; and a word importing the masculine gender only may be applied to females as well as males.
(WVaC 2-2-10)

(c) Computation of Time. The time within which an act is to be done shall be computed by excluding the first day and including the last, or if the last be a Saturday, Sunday or legal holiday it shall also be excluded.
(WVaC 2-2-3)

(d) Joint Authority. Words purporting to give a joint authority to three or more persons confer such authority upon a majority of them, and not upon any less number.
(WVaC 2-2-10)

(e) Exceptions. The rules of construction shall not apply to any law which contains any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

101.04 REPEAL OF REPEALING ACT; EFFECT OF REPEAL.

(a) When a law which has repealed another is itself repealed, the former law shall not be revived without express words for that purpose.
(WVaC 2-2-9)

(b) The repeal of a law, or its expiration by virtue of any provision contained therein, shall not affect any offense committed, or penalty or punishment incurred, before the repeal took effect or the law expired, save only that the proceedings thereafter shall conform as far as practicable to the laws in force at the time such proceedings take place, unless otherwise specially provided; and that if any penalty or punishment be mitigated by the new law, such new law may, with the consent of the part affected thereby, be applied to any judgment pronounced after it has taken effect.
(WVaC 2-2-8)

(c) The repeal by any provision of the Codified Ordinances of an ordinance validating previous acts, contracts or transactions shall not affect the validity of such acts, contracts or transactions, but the same shall remain as valid as if there had been no such repeal, but no further.
(WVaC 2-2-11)

101.05 CONSTRUCTION OF SECTION REFERENCES.

When reference is made to any section or group of sections of the Codified Ordinances, such reference shall extend to and include any amendment of or supplement to the section or group of sections so referred to or any section or sections hereafter enacted in lieu thereof; and unless otherwise provided, whenever a reference to a section or group of sections is made in any amendment or supplement to any section of the Codified Ordinances hereafter enacted, such reference shall be deemed to refer to the section or sections as the same shall then stand or as thereafter amended.

Whenever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in such reference.

References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances.

If a section refers to a series of numbers or letters, the first and the last numbers or letters in the series are deemed to be included.

101.06 ACTS BY AGENT OR DEPUTY.

When a section requires that an act be done by an officer or person, it shall be sufficient if it be done by his agent or deputy, unless it be such as cannot lawfully be done by deputation. (WVaC 2-2-5)

101.07 CONFLICTING PROVISIONS.

If the provisions of different codes, articles or sections of the Codified Ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

101.08 SEPARABILITY.

Each section of the Codified Ordinances and every part of each section is an independent section and part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof.

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both. Each day any such violation continues shall constitute a separate offense.

ARTICLE 103
Wards and Boundaries

103.01 Wards established.

CROSS REFERENCES

Boundaries and wards - see CHTR. Sec. 2

Wards - see W. Va. Code 8-5-7

Annexation - see W. Va. Code Art. 8-6

Decrease of corporate limits - see W. Va. Code Art. 8-7

103.01 WARDS ESTABLISHED.

The boundaries of wards of the City shall be as follows:

- (a) First Ward. The First Ward shall consist of those parts of the City lying east of West Virginia State Route 2 and north of an imaginary line extending from Sixth Street in an easterly direction to the Benwood Corporate Limits.
- (b) Second Ward. The Second Ward of the City is bounded and described as follows: Beginning at a point on the banks of the Ohio River where a westerly extension of Fourth Street would intersect with the Ohio River, then going in a southerly direction along the banks of the Ohio River to a point in the River bank where a westerly extension of Eighth Street would intersect the River; thence in an easterly direction along the center of Eighth Street to a point in the center line of the Baltimore and Ohio Railroad right of way; thence in a southerly direction along the center line of the Baltimore and Ohio Railroad right of way to a point where a westerly extension of Fourteenth Street would intersect such right of way; then in an easterly direction along the center line of Fourteenth Street, and extensions thereof, to a point on the easterly side of State Route 2 where such extension of Fourteenth Street would intersect with the easterly right of way of West Virginia State Route 2; thence in a northerly direction along the eastern right-of-way line of West Virginia State Route 2 to a point where an easterly extension of Fourth Street would intersect such right-of-way line; and then in a westerly direction along the center line of Fourth Street, and extensions thereof, to the place of beginning.

- (c) Third Ward. The Third Ward of the City is bounded and described as follows: Beginning at a point where an easterly extension of Sixth Street would intersect with the corporate line of the City, thence in a westerly direction along such line to a point where such line would intersect with the easterly right-of-way line of West Virginia State Route 2; thence in a southerly direction along the eastern right-of-way line of West Virginia State Route 2 to a point where an easterly extension of Fourteenth Street would intersect with such right-of-way line; thence in a westerly direction along the center line of Fourteenth Street, and extensions thereof, to a point in the Baltimore and Ohio Railroad where such line would intersect with the center line of the Baltimore and Ohio Railroad right-of-way; thence in a northerly direction following the center line of the Baltimore and Ohio Railroad right-of-way to a point where such right-of-way intersects with Eighth Street in the City; thence following the center line of Eighth Street in a westerly direction and extending it to a point on the banks of the Ohio River; thence following the banks of the Ohio River in a southerly direction to the Benwood Corporation Limit line to a point on such line; thence following such Benwood Corporation Limit line in easterly and northerly directions to the place of beginning.
- (d) Fourth Ward. The Fourth Ward of the City shall consist of that part of the City lying west of West Virginia State Route 2 and north of Fourth Street in the City. (Ord. 3-11-80.)

ARTICLE 107
Elections

107.01 Voting by absentees.
107.02 Election official.

107.03 County's electronic tabulating machine to calculate ballots from certain Municipal elections.
107.04 Filing dates and fees.

CROSS REFERENCES

Nomination and elections - see CHTR. Art. II
Municipal elections - see W. Va. Code 3-1-2a
Municipal voting precincts - see W. Va. Code 3-1-6
Municipal precinct registration records - see W. Va. Code 3-1-27
Absentee voting in municipal elections - see W. Va. Code 3-3-13
Integration of municipal elections with systems of permanent registration - see W. Va. Code 8-5-13
Special elections - see W. Va. Code 8-5-15a

107.01 VOTING BY ABSENTEES.

West Virginia Code Article 3-3 is hereby adopted for absentee voting in City elections.

107.02 ELECTION OFFICIAL.

The chief election official of the City shall be the Clerk-Treasurer who shall perform such duties as required by the Charter, ordinances and by West Virginia Code Chapter 3.

107.03 COUNTY'S ELECTRONIC TABULATING MACHINE TO CALCULATE BALLOTS FROM CERTAIN MUNICIPAL ELECTIONS.

(a) Ballots from municipal elections held contemporaneously with County elections shall be calculated by the County's electronic tabulating machine.

(b) Current election ordinances to the extent they conflict with the implementation of the electronic tabulating machine to the above mentioned municipal elections are hereby repealed. (Ord. 2-24-98.)

107.04 FILING DATES AND FEES.

(a) Candidates' filing dates shall be established as follows: Not earlier than the second (2nd) Monday in January and by filing no later than the last Saturday on January preceding the General Municipal Election, by filing a Candidate's Certificate of Announcement with the City Clerk which must be received before midnight Eastern Standard Time, or, if mailed, be postmarked by the United States Postal Service before midnight Eastern Standard Time on the last day of filing.

(b) Filing fees for candidates shall be as follows:

Mayor	\$75.00
Council	\$35.00
Chief of Police	\$75.00

(c) Said fees shall be payable to the City Clerk at the time of filing of said Certificate of Announcement.

(d) Ballot Positioning shall be determined by drawing by lot on the fourth (4th) Tuesday following the close of candidate filing at 9:00 a.m. in the City Clerk's Office.
(Ord. 1-13-04)

CHAPTER THREE - Legislative
Art. 113. Council.

ARTICLE 113
Council

113.01 Meetings.

113.02 Roberts' Rules adopted.

**113.03 Council members to be covered
by Workers' Compensation.**

113.04 Notice of meetings; agenda.

CROSS REFERENCES

General provisions - see CHTR. Art. III

Open meeting law - see W. Va. Code Art. 6-9A

General powers - see W. Va. Code Art. 8-12

Adoption of rules - see W. Va. Code 8-12-5(45)

Extraterritorial exercise of powers - see W. Va. Code 8-12-19

113.01 MEETINGS.

(a) All members of Council of the City shall attend all regular and all duly called special meetings of Council, as is provided in Section 1, Article III of the City Charter, unless excused from attendance by a majority vote of the members of Council.

(b) Special Council meetings may be called by the Mayor, or by a majority of the duly elected members of Council, as is provided in Section 1, Article III of the City Charter. (Ord. 8-10-65.)

(c) The regular meetings of Council shall be held on the second and fourth Tuesdays of each month, at 7:00 p.m. at the Benwood City Building. (Ord. 3-23-93.)

113.02 ROBERTS' RULES ADOPTED.

After the effective date of this section, Roberts' "Rules of Order, Revised" shall govern all matters of parliamentary procedure at meetings of Council, except such as are specifically set forth in the Charter of the City. (Ord. 8-9-66.)

113.03 COUNCIL MEMBERS TO BE COVERED BY WORKERS' COMPENSATION.

(a) The Mayor and Clerk of the City are authorized and directed to enroll the members of Council as covered individuals under West Virginia Workers' Compensation.

(b) The Mayor and Clerk of the City are authorized and directed to pay any and all necessary premiums to enroll the members of Council as covered individuals under West Virginia Workers' Compensation.
(Ord. 4-25-00.)

113.04 NOTICE OF MEETINGS; AGENDA.

(a) Regular Meetings. A notice shall be posted and maintained by the Clerk at the front door or bulletin board of the City Hall of the date, time and place fixed and entered of record by Council for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same location by the Clerk not less than 3 business days before such regular meeting is to be held. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the same location as soon as feasible after such cancellation or postponement has been determined.

(b) Special Meetings. A notice shall be posted by the Clerk at the front door or bulletin board of the City Hall not less than two business days before a specially scheduled meeting is to be held, stating the date time, place and purpose for which such special meeting shall be held. If the special meeting is canceled, a notice of such cancellation shall be posted at the same location as soon as feasible after such cancellation has been determined.
(Passed 6-27-17.)

CHAPTER FIVE - Administrative

- Art. 125. Mayor.
 - Art. 129. City Attorney.
 - Art. 133. Clerk-Treasurer.
 - Art. 145. Board of Park and Recreation Commissioners.
 - Art. 149. Benwood Sanitary Board.
 - Art. 151. Benwood Flood Wall Board.
 - Art. 153. Municipal Waterworks.
 - Art. 156. Director of Public Works and Development.
 - Art. 155. Coordinator of Public Works.
 - Art. 157. Employment Provisions.
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**ARTICLE 125
Mayor**

EDITOR'S NOTE: There are no sections in Article 125. This article has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

- Position established - see CHTR. Art. I, Sec. 4
- Term of office - see CHTR. Art. II, Sec. 2
- Chief executive officer - see CHTR. Art. IV, Sec. 1
- Other duties - see CHTR. Art. IV, Sec. 3
- Oath - see CHTR. Art. VIII, Sec. 4
- Powers and duties generally - see W. Va. Code 8-10-1
- Member of Sanitary Board - see ADM. 149.01

ARTICLE 129
City Attorney

EDITOR'S NOTE: There are no sections in Article 129. This article has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Office established - see CHTR. Art. V, Sec. 1

Hiring of special counsel - see W. Va. Code 8-10-1a

Notice of suit against municipality - see W. Va. Code 8-12-2

Counsel to Park and Recreation Commission - see ADM. 145.10

ARTICLE 133
Clerk-Treasurer

EDITOR'S NOTE: There are no sections in Article 133. This article has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Position established - see CHTR. Art. V, Sec. 2, 6
Supervision of public offices - see W. Va. Code Art. 6-9
Purchasing; competitive bidding - see W. Va. Code 8-12-10
Collection of moneys - see W. Va. Code 8-13-15 et seq.
Financial statements - see W. Va. Code 8-13-23
Accounting principles; funds - see W. Va. Code 8-13-17 et seq.
Chief election official - see ADM. 107.02

ARTICLE 145
Board of Park and Recreation Commissioners

<p>145.01 Establishment.</p> <p>145.02 Powers of the Board.</p> <p>145.03 Members; quorum; qualifications; term.</p> <p>145.04 Filling vacancies.</p> <p>145.05 Oath of members; organization; secretary; treasurer.</p> <p>145.06 Expenses; personal interest in contracts or property.</p> <p>145.07 Office; powers.</p> <p>145.08 Purchase, lease or condemnation of property.</p>	<p>145.09 Authority to take title to property; conveyances.</p> <p>145.10 General powers; rules and regulations; counsel.</p> <p>145.11 Charges for use of facilities; use of funds.</p> <p>145.12 Use of City appropriations and other funds.</p> <p>145.13 Public Park and recreation bonds.</p>
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CROSS REFERENCES

Authority to regulate - see W. Va. Code 8-12-5(37)

Board of Park and Recreation Commissioners - see W. Va. Code Art. 8-21

145.01 ESTABLISHMENT.

Pursuant to the authority of West Virginia Code Article 8-21, the City hereby creates a Board of Park and Recreation Commissioners, for the purpose of establishing, constructing, improving, extending, developing, maintaining and operating a City public park and recreation system on the property located to the North of Fourth Street from McMechen Street west to Water Street, known as the Benwood City Park. The Board shall have no authority over any of the other ward playgrounds and/or any and all other recreational facilities located in the City of Benwood. (Ord. 4-14-98.)

145.02 POWERS OF THE BOARD.

The Board of Park and Recreation Commissioners shall be a public corporate body, with perpetual existence and a common seal. It shall be known as the Benwood Board of Park and Recreation Commissioners. Subject to the oversight, supervision, approval and permission of the Mayor and City Council of the City of Benwood, it shall have the power to purchase, hold, sell and convey real or personal property; receive any gift, grant, donation, bequest or devise; sue or be sued; contract and be contracted with; and do any and all things and acts which may be necessary, appropriate, convenient or incidental to carry out and effectuate the purposes and provisions enumerated hereinafter. (Ord. 4-14-98.)

145.03 MEMBERS; QUORUM; QUALIFICATIONS; TERM.

The Board shall consist of seven members, a majority of whom shall constitute a quorum for the transaction of business, except as hereinafter provided. Each member of the Board must be a resident of the City. The members of the Board shall be appointed by Council. Membership on Council shall not disqualify any member to election to the Board. However, not more than two members of Council, if otherwise qualified, may be so appointed. The term of the Board membership of any such member of Council so appointed shall continue during his term as a member of Council and until his successor is appointed and qualified. The terms of the other appointed members shall be for one year, and until their successors have been duly appointed or elected and qualified. When any member of the Board, during his term of office, shall cease to be a resident of the City, they shall thereby be disqualified as a member of the Board and their office shall thereupon become vacant.

(Ord. 4-14-98.)

145.04 FILLING VACANCIES.

When a vacancy occurs on the Board by reason of death, resignation, change of residence from the City or due to any other cause, the Mayor shall recommend to Council, names of candidates to fill the said vacancy. Council shall then vote on which candidate shall fill the said vacancy. The Mayor and Council shall take into consideration the residency of the candidates to ensure that the entire City is represented as equally as reasonably possible on the Board.

(Ord. 4-14-98.)

145.05 OATH OF MEMBERS; ORGANIZATION; SECRETARY; TREASURER.

After appointment, the members of the Board shall qualify by taking and filing with the Clerk-Treasurer of the City the oath prescribed by law for public officials, and they shall not be permitted to serve upon the Board until they have so qualified. If any member of the Board fails to so qualify on or before the date upon which they should assume the duties of their office, a vacancy shall exist which shall be filled as provided for in Section 145.04.

At the first meeting held after the first board has been appointed, as hereinbefore provided, and thereafter on the first Thursday of March of every year, the members of the Board shall organize by electing one of their number president, and another vice president, and by electing a secretary who need not be a member of the Board. The secretary shall keep an accurate record of all the fiscal affairs of the Board, and shall keep a minute book in which they shall record the proceedings and transactions of each meeting of the Board. The Clerk-Treasurer shall be ex officio Treasurer of the Board.

(Ord. 4-14-98.)

145.06 EXPENSES; PERSONAL INTEREST IN CONTRACTS OR PROPERTY.

The members of the Board shall receive no compensation for their services. They shall not be personally interested, directly or indirectly, in any contract entered into by the Board, or hold any remunerative position in connection with the establishment, construction, improvement, extension, development, maintenance or operation of any of the property under their control as members of the Board.

(Ord. 4-14-98.)

145.07 OFFICE; POWERS.

The Board, under the supervision and direction of Council, shall control and manage all of the properties aforementioned in Section 145.01, which shall be operated in connection with the public park and recreation system for the City. Further, the Board, with the permission and approval of the Mayor and Council, shall have the power to employ such persons as may be necessary for the establishment, construction, improvement, extension, development, maintenance or operation of the said property under its control, and shall have full control of all employees. Any and all wages of employees and prices of goods, rentals, entrance fees and/or services shall not be increased or decreased without the approval and permission of the Mayor and Council. (Ord. 4-14-98.)

145.08 PURCHASE, LEASE OR CONDEMNATION OF PROPERTY.

The Board, subject to the supervision and approval of the Mayor and Council, is hereby granted the power and authority to acquire in its name or in the name of the City by purchase, lease or by exercise of the power of eminent domain, or otherwise, such land or lands as it shall determine to be necessary, appropriate, convenient or incidental to the establishment, construction, improvement, extension, development, maintenance or operation of the facility known as the Benwood City Park, consisting of a miniature golf course, swimming pool, playground, basketball court, athletic fields, shelters and land described by Section 145.01. (Ord. 4-14-98.)

145.09 AUTHORITY TO TAKE TITLE TO PROPERTY; CONVEYANCES.

Subject to the supervision, permission and approval of the Mayor and Council, the Board is hereby empowered and authorized to take title in its name or in the name of the City to all real and personal property acquired by it for the use of the public or useful to the public in the establishment, construction, improvement, extension, development, maintenance or operation of the said Benwood City Park facility as described in Section 145.01. The Mayor and Council shall have the right to sell and convey only such part of the real property that it may acquire by gift, devise, purchase or otherwise, as it may determine to be of no advantage in the establishment, construction, improvement, extension, development, maintenance or operation of the public parks, parkways, playgrounds, athletic fields, stadiums, swimming pools, skating rinks or arenas and other public park and recreational facilities, whether of a like or different nature; except that the Mayor and Council shall have the power and authority to make such sales and conveyances of its real property as may be necessary, appropriate or convenient to enable the City to obtain the benefits of West Virginia Code 8-16 or any other similar act or legislative authorization. Under no circumstances shall any of such real property of the said Benwood City Park be sold or conveyed except by unanimous vote of the Council. All deeds conveying the real property of the said Benwood City Park shall be executed in its official name by the Mayor and Council, shall have its seal affixed and shall be duly attested by the City Clerk. (Ord. 4-14-98.)

145.10 GENERAL POWERS; RULES AND REGULATIONS; COUNSEL.

Subject to the supervision and permission of the Mayor and Council, the Board shall have the necessary, appropriate, convenient and incidental powers and authority to manage and control the said Benwood City Park as described in Section 145.01 as a means of maintaining places of beauty, education and recreation, and promoting the health, property, lives, decency, morality and good order of the general public, and particularly of the inhabitants of the City and vicinity; to abate or cause to be abated all nuisances affecting same; to regulate or prohibit the selling of any article, goods, wares or merchandise within the park and recreation system so designated, or the grounds immediately adjacent thereto; to have the same kept in good order and free from obstruction for the use and benefit of the public; to restrict and prohibit vagrants, mendicants, beggars, tramps, prostitutes or disorderly individuals therefrom; to establish, construct, improve, extend, develop, maintain and operate the said Benwood City Park; to acquire for public use by lease or otherwise lands either within or without the corporate limits of the City; to cause any public street, avenue, road, alley, way, bridle path or walkway, which is a part of the said Benwood City Park, to be graded, drained and surfaced; to construct, maintain and operate all necessary sewers and water lines in connection with the said Benwood City Park; and to do any and all other things or acts which may in any way be necessary, appropriate, convenient or incidental to the use and enjoyment of the said Benwood City Park by the general public as a place or places of beauty, education, entertainment and recreation.

In order to accomplish the foregoing purposes, the Board is hereby empowered and authorized to promulgate, and amend from time to time, such rules and regulations as may be necessary, appropriate, convenient or incidental thereto; after codification of such rules and regulations, or any amendments thereto, by ordinance of Council which may provide penalties for a violation thereof, which codification is hereby authorized, to enforce the same by appropriate proceedings in any proper tribunal of this State, or any county, district or municipality thereof; and to employ such police officers as it shall deem proper and necessary. The City Attorney shall be the official counsel for the Board and shall advise it on all legal matters.

(Ord. 4-14-98.)

145.11 CHARGES FOR USE OF FACILITIES; USE OF FUNDS.

Subject to the supervision and permission of the Mayor and Council, the Board may make reasonable charges to the public for the privilege of using any of the recreational facilities provided at the said Benwood City Park, and may use the funds so received for the purpose of establishing, constructing, improving, extending, developing, maintaining or operating the said park and recreation system.

(Ord. 4-14-98.)

145.12 USE OF CITY APPROPRIATIONS AND OTHER FUNDS.

Subject to the supervision and permission of the Mayor and Council, in carrying out the purposes of this article, the Board is hereby empowered and authorized to receive and disburse for such purposes, any moneys appropriated to it by Council, together with any other funds which may come into its hands by gift, grant, donation, bequest, devise or from its own operation, or otherwise. (Ord. 4-14-98.)

145.13 PUBLIC PARK AND RECREATION BONDS.

The City is hereby empowered and authorized to issue, in the manner prescribed by law, bonds for the purpose of raising funds to establish, construct, improve, extend, develop, maintain or operate, or any combination of the foregoing, a system of public parks and recreation facilities for the City, or to refund any bonds of the City, the proceeds of which were expended in the establishing, constructing, improving, extending, developing, maintaining or operating of such public park and recreation system, or any part thereof. Any bonds issued for any of the purposes stated in this section shall contain in the title or subtitle thereto the words "public park and recreation bonds", in order to identify the same, and shall be of such form, denomination and maturity and shall bear such rate of interest as shall be fixed by ordinance of Council. Council may provide for the issuance of bonds under the provisions of this section. The Board shall pay all of the costs and expenses of any election which shall be held to authorize the issuance of public park and recreation bonds only. The cost and expenses of holding an election to authorize the issuance of public park and recreation bonds and bonds for other City purposes shall be paid by the Board and the City respectively, in the proportion that the public park and recreation bonds bear to the total amount of bonds authorized.

Whenever the governing body of the City and the requisite majority of the legal votes cast at the election thereon shall authorize, in the manner prescribed by law, the issuance of bonds for the purpose of establishing, constructing, improving, extending, developing, maintaining or operating, or any combination of the foregoing, a system of public parks and recreation facilities for the City, or for refunding any outstanding bonds, the proceeds of which were applied to any of the purposes, the bonds shall be issued and delivered to the Board to be by it sold in the manner prescribed by law, and the proceeds thereof shall be paid into the Treasury of the Board, and the same shall be applied and utilized by the Board for the purposes prescribed by the ordinance authorizing the issuance of such bonds. In any statement of the purposes for creating the debt to specify that the same is for the purpose of establishing, constructing, improving, extending, developing, maintaining or operating, or any combination of the foregoing, a public park and recreation system for the City, without specifying the particular establishment, construction, improvement, extension, development, maintenance or operation contemplated; but an ordinance for refunding bonds shall designate the issue and the number of bonds which it is proposed to refund. (Ord. 4-14-98.)

ARTICLE 149
Benwood Sanitary Board

- | | |
|--------------------------------------------------------------|-----------------------------------------------|
| 149.01 Re-established | 149.03 Powers, duties and limitations. |
| 149.02 Composition; chairman; appointment of members. | 149.04 Compensation. |

CROSS REFERENCES

Composition of board - see W. Va. Code 16-13-18
Publication of financial statement - see W. Va. Code 16-13-18a
Powers and duties - see W. Va. Code 16-13-3 et seq.

149.01 RE-ESTABLISHED.

The Council does hereby re-establish a Sanitary Board to be known as “The Benwood Sanitary Board” (the “Sanitary Board”) with all powers and duties as provided in and pursuant to the Act. (Passed 12-13-16.)

149.02 COMPOSITION; CHAIRMAN; APPOINTMENT OF MEMBERS.

The Sanitary Board shall be composed of the Mayor of the City, who shall act as Chairman of the Sanitary Board, and two persons appointed by the Council. The appointees shall originally be appointed for terms of 2 and 3 years respectively, and upon the expiration of each such term and each succeeding terms, appointment of a successor shall be made in like manner for a term of 3 years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. No officer or employee of the City, whether holding a paid or unpaid office, shall be eligible to appointment on the Sanitary Board until at least 1 year after the expiration of the term of this public office.
(Passed 12-13-16.)

149.03 POWERS, DUTIES AND LIMITATIONS.

The Sanitary Board’s powers, duties and limitations are those as defined and described in Chapter 16, Article 13 of the West Virginia Code of 1931, as amended from time to time.
(Passed 12-13-16.)

149.04 COMPENSATION.

(a) Appointed members of the City of Benwood Sanitary Board shall be compensated at the rate of \$25.00 per meeting attended.

(b) Members of the City of Benwood Sanitary Board are entitled to reimbursement for reasonable expenses incurred in the performance of their duties.

(c) The compensation for the secretary and/or treasurer of the Sanitary Board shall be \$25.00 per meeting. Provided if one person holds both titles that person's total compensation shall be no more than \$25.00 per meeting. Further provided that if the secretary and/or treasurer of the Sanitary Board are appointed members of said Board their total compensation shall not exceed \$25.00 per meeting.
(Passed 2-28-17.)

**ARTICLE 151
Benwood Flood Wall Board**

151.01 Created.

151.02 Members.

151.03 Meetings; compensation.

151.04 Duties.

151.05 Secretary; minutes.

151.01 CREATED.

There is hereby created a Board that shall hereinafter be known as the Benwood Flood Wall Board. (Ord. 6-12-18.)

151.02 MEMBERS.

The Board shall consist of six (6) to eight (8) persons. The Mayor of the City of Benwood and the Chief of Police shall be two (2) of the members. A third member shall be a Council person chosen by Council. The remaining members of the Board shall be residents of the City of Benwood and shall be appointed by Council to one (1) year terms. (Ord. 6-12-18.)

151.03 MEETINGS; COMPENSATION.

The Board shall meet one (1) time a month at the Benwood City Building. Members of the Board who are not elected officials of the City of Benwood shall be compensated at twenty-five dollars (\$25.00) per meeting. (Ord. 6-12-18.)

151.04 DUTIES.

The duty of the Board shall be to discuss and evaluate any and all matters related to the condition of the Benwood Flood Wall. They are further expected to make recommendations and/or reports to Council regarding the flood wall or any action they deem necessary regarding the same. (Ord. 6-12-18.)

151.05 SECRETARY; MINUTES.

The Clerk of the City of Benwood shall be the Secretary of the Board and shall cause minutes to be prepared for each meeting. (Ord. 6-12-18.)

ARTICLE 153
Municipal Waterworks

153.01 Management and control.
153.02 Composition; meetings;
rules.

153.03 Powers and duties.
153.04 Employees.

CROSS REFERENCES

Municipal waterworks systems - see W. Va. Code Article 8-19

Combined water and sewer systems - see W. Va. Code Article 8-20

153.01 MANAGEMENT AND CONTROL.

The management and control of the Municipal Waterworks plant and system of the City shall be carried on by the Common Council, which shall perform the functions as hereinafter prescribed. (Ord. 2-9-93.)

153.02 COMPOSITION; MEETINGS; RULES.

All of the rules and regulations concerning Council's composition, meetings, quorum, vacancies, removal and rules as set forth in the City Charter, ordinances and applicable state law shall govern and control the Common Council in its operation of the Municipal Waterworks plant and system. (Ord. 2-9-93.)

153.03 POWERS AND DUTIES.

The Common Council shall have full and complete supervision, management and control of the Municipal Waterworks plant and system of the City, including the administration, maintenance, operation and extension thereof. All contracts for construction or purchase involving the sum of one thousand dollars (\$1,000) or more and all contracts for fuel, or electricity, extending over a period of six months or more, shall be authorized and approved by the full Council. All bills for water and water service shall be collected and accounted for by Council in the manner and form required by law; all collections shall be deposited weekly with the bank designated as a depository for Waterworks funds. The Municipal Waterworks plant and system shall be operated on a fiscal year basis commencing on the first day of July of each year and ending on the thirtieth day of June of the next calendar year. Council shall annually prepare and adopt a budget of the estimated amounts of money to be collected and the amounts and purpose for which expenditures are to be made in connection with the operation of the Waterworks plant and system for the next ensuing fiscal year, which budget shall be filed with the Clerk-Treasurer of the City. No contract affecting the Waterworks plant and system will be entered into or Waterworks revenue bonds issued for extensions, improvements or replacements, without the recommendation or approval of Council. All disbursements for account of such Waterworks plant and system shall be ordered paid upon approval of Council. (Ord. 2-9-93.)

153.04 EMPLOYEES.

Council shall have power to employ, fix the compensation of and discharge all employees of the Waterworks Department. The employees shall perform such duties as may be conferred upon them by Council.
(Ord. 2-9-93.)

ARTICLE 155
Coordinator of Public Works

155.01 Created.

155.02 Responsibilities.

155.03 Compensation.

**155.04 Review of accomplishments;
termination.**

155.01 CREATED.

There is hereby created the position of Coordinator of Public Works of the City.
(Ord. 3-13-07.)

155.02 RESPONSIBILITIES.

The Coordinator of Public Works shall have responsibility for oversight of the Street Department and Water and Sanitary Sewer Departments of the City. The Coordinator's job description will include all job responsibilities of the Street Commissioner and Water and Sanitary Sewer Supervisor in addition to providing that he or she will act as the direct liaison between the City Council, Mayor, Street Department and Water and Sanitary Sewer Department.

(Ord. 3-13-07.)

155.03 COMPENSATION.

Compensation for this position shall be determined by Council. It shall be determined after consideration of the experience and expertise of the person hired.

(Ord. 3-13-07.)

155.04 REVIEW OF ACCOMPLISHMENTS; TERMINATION.

This position shall be reviewed in six months to determine if it is accomplishing the purpose for which it was created. Council at that time will determine whether the position will remain or be terminated.

(Ord. 3-13-07.)

ARTICLE 156
Director of Public Works and Development

156.01 Position created.
156.02 Duties.

156.03 Compensation.

156.01 POSITION CREATED.

There is hereinafter created the position of Director of Public Works and Development.
(Ord. 3-12-19.)

156.02 DUTIES.

The job duties for said position shall consist of those provided in the personnel regulations of the City of Benwood. A copy of the same are attached to original Ordinance 3-12-19 as an exhibit.

(Ord. 3-12-19.)

156.03 COMPENSATION.

The salary for said position shall be set by Council. Benefits shall be provided consistent with those provided to full time employees in the City of Benwood.

(Ord. 3-12-19.)

ARTICLE 157
Employment Provisions

157.01 Personnel regulations.

157.02 Illness and Injury Prevention Plan.

CROSS REFERENCES

Bonds - see CHTR. Art. VIII, Sec. 3
Oath - see CHTR. Art. VIII, Sec. 4
Compensation of officers and employees - see W. Va. Code 8-15-12
Conflict of interest - see W. Va. Code 8-5-19
Bonds - see W. Va. Code 8-12-5(46), (47); 6-2-11
Reimbursement of employment applicant - see W. Va. Code 8-12-5(53)
Employee benefit fund - see W. Va. Code 8-12-5(55)
Insurance and indemnification - W. Va. Code 8-12-7 et seq.
Retirement benefits - see W. Va. Code Art. 8-22
Military leave - see W. Va. Code Art. 6-11; 15-1F-1
Social security - see W. Va. Code 5-7-5
Police holidays - see W. Va. Code 8-14-2a
Fire department holidays - see W. Va. Code 8-15-10a

157.01 PERSONNEL REGULATIONS.

(a) Personnel regulations for all employees of the City are hereby adopted and established as more particularly set forth in the personnel regulations attached to the original ordinance.

(b) Council may, from time to time, amend, supplement or change the regulations herein adopted. (Ord. 1-8-85.)

157.02 ILLNESS AND INJURY PREVENTION PLAN.

(a) The Illness and Injury Prevention Plan attached to original Ordinance 12-27-05 as Exhibit A is hereby adopted as the City's Illness and Injury Prevention Plan.

(b) The employees and officers of the City shall each be provided a copy of the Plan by the Clerk of the City and shall acknowledge receipt of same in writing.

(c) A copy of the Plan shall be posted in a conspicuous place in the City Building and shall be made available upon request of any employee or officer of the City. (Ord. 12-27-05.)

CHAPTER SEVEN - Judicial
Art. 171. Municipal Court

ARTICLE 171
Municipal Court

- 171.01 Municipal Court Judge.**
171.02 Costs assessed.
171.03 Department of Motor Vehicles
notices to defendants; processing
fee.
171.04 Failure of accused person to
appear for court.

CROSS REFERENCES

- Establishment - see CHTR. Art. IV, Sec. 2
 Payment by credit card; suspension of license - see W. Va. Code
 8-10-2a
 General rights of appeal - see W. Va. Code 8-24-1
 Costs for crime victims reparation fund - see W. Va. Code 14-2A-4
 Costs for funding law enforcement training academies - see W. Va. Code
 30-29-4
 Search warrant - see W. Va. Code 62-1A-1
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171.01 MUNICIPAL COURT JUDGE.

(a) City Council shall appoint as an officer of the City a person who shall have the title of Municipal Court Judge and who shall be any qualified resident of Marshall County, West Virginia. The Municipal Court Judge shall serve at the will and pleasure of the City Council and shall receive an annual salary as determined by Council.

- (b) The Municipal Court Judge shall have the following duties, jurisdiction and power:
- (1) He/she shall have charge of and preside over the Municipal Court of the City. He/she shall have the power to summon witnesses for the trial of any case before him/her; to compel the attendance of police officers of the City; to require of said police officers the enforcement of any order of judgment entered or rendered by him/her or under the powers herein given said Municipal Court Judge; and to issue executions for all fines, penalties and costs imposed by him/her. All cases for alleged ordinance violations may be tried by the Municipal Court Judge without a jury, or with a jury if one is demanded. He/she shall have all of the powers, authorities and duties which are now or may hereafter be granted by West Va. Code 8-10-1, or other statutes of the State of West Virginia.

- (2) He/she shall issue warrants upon complaint under oath of any person or officer for the arrest of anyone charged with the violation of any ordinance of the City, or on a state warrant as ex-officio County Magistrate.
- (3) He/she shall keep a record of all warrants issued by him/her, of all persons arrested and brought before him/her, and of all trials, fines or sentences imposed or judgments entered by him/her in a well-bound book to be known as the Municipal Court Docket. A record of the entries made each day in said Docket shall be signed by the Municipal Court Clerk or the Municipal Court Judge at the close of the day. An appeal shall lie to the Circuit Court or to the Criminal Court of Marshall County from all judgments of the Municipal Court Judge wherein and in the manner an appeal from the judgment of a mayor of a city is allowed by law, or as may otherwise be provided by law.
- (4) He/she shall exercise the power to punish within the limits prescribed by the ordinances of the City or by the laws of the State of West Virginia applicable to the City.

(c) In the event of and during the temporary absence or disability of the Municipal Court Judge, Council shall appoint a qualified person to preside over said Court, and perform the duties of the Judge thereof. The compensation of the temporary judge shall be determined by Council.

(d) To the extent prior ordinances or Charter provisions conflict with this section, such ordinances or Charter provisions are hereby abolished, pursuant to West Va. Code 8-10-2. (Ord. 8-26-03.)

171.02 COSTS ASSESSED.

(a) The sum of five dollars (\$5.00) shall be assessed as costs in addition to other costs required to be imposed by law against all persons convicted of any offense under the Codified Ordinances of the city. All such costs collected shall be deposited with the City Treasurer or other person appointed for such purpose in a special fund designated for the purchase, acquisition and maintenance of equipment for the City Police Department upon approval by Council. (Ord. 11-14-89.)

- (b) (1) In addition to all fines imposed upon anyone convicted of any violation of any ordinance, regulation or law of the City, there shall be imposed and assessed the sum of ten dollars (\$10.00) as Court costs incurred by the Municipal Court of the City.
- (2) The above referenced Court costs and fines are in addition to any costs required by state law to be imposed upon persons convicted of such offenses. (Ord. 9-10-96.)

171.03 DEPARTMENT OF MOTOR VEHICLES NOTICES TO DEFENDANTS; PROCESSING FEE.

(a) The processing fee of fifteen dollars (\$15.00) against all defendants for whom the Municipal Court Clerk is required pursuant to West Va. Code 8-10-2A and 8-10-2B to mail notices of said defendants' failure to appear or failure to pay the fines and court costs assessed against them by the City, to the West Virginia Department of Motor Vehicles, shall be increased to the sum of twenty-five dollars (\$25.00).

(b) The Municipal Court Clerk shall cause the West Virginia Department of Motor Vehicles to be notified of the increased processing fee as each defendant incurs the same. (Ord. 8-23-05.)

171.04 FAILURE OF ACCUSED PERSON TO APPEAR FOR COURT.

(a) If a person fails to appear at a duly scheduled hearing or trial in municipal court, who was issued a citation or summons to appear, or who has been arrested, and thereafter released upon his personal recognizance or otherwise admitted to bail, and who shall willfully and without just cause fail to appear as and when it may be required, may be apprehended and brought before the court by *capias*.

(b) Any person, who has been issued a citation or summons to appear, or arrested, and thereafter released upon his personal recognizance or otherwise admitted to bail, and who shall willfully and without just cause fail to appear at a duly scheduled hearing or trial in municipal court, shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or confined in jail for not more than thirty days, or both such fine and confinement.

(c) In addition to any criminal fee, a civil fee of \$20.00 will be charged to all persons who do not appear as directed by a summons or citation; unless prior arrangements are made with, and approved by the Court. This fee will be charged regardless of the final outcome of the Court proceeding and will be charged each time that a failure to appear occurs. (Ord. 4-14-15.)