

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 223

An Act to amend and reenact §§ 3 through 7, § 8 as amended, §§ 10, 12 and 13, § 15 as amended, §§ 16, 18, 21, 22, 23 and 26, § 32 as amended, § 40, § 44 as amended, § 45, § 46 as amended, and § 48 of Chapter 662 of the Acts of Assembly of 1966, which provided a charter for the City of Lexington, and to repeal §§ 51, 52 and 53 of such chapter, relating to powers of the city, city council and city officers and departments.

[H 144]

Approved April 2, 2000

Be it enacted by the General Assembly of Virginia:

1. That §§ 3 through 7, § 8 as amended, §§ 10, 12 and 13, § 15 as amended, §§ 16, 18, 21, 22, 23 and 26, § 32 as amended, § 40, § 44 as amended, § 45, § 46 as amended, and § 48 of Chapter 662 of the Acts of Assembly of 1966 are amended and reenacted as follows:

§ 3. Powers generally.

The powers set forth in ~~§§ 15.1-837 through 15.1-915~~ of Title ~~15.1~~ 15.2 of the Code of Virginia as in force on ~~January 1, 1966~~ July 1, 1998, and all other powers which are now or may be conferred upon or delegated to cities under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of a city government are hereby specifically conferred upon the city of Lexington, and no enumeration of particular powers in this charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers.

In addition to the powers granted by other sections of this charter, the city shall have the power to raise annually by taxes and assessments, as permitted by general law, in the city such sums of money as the council shall deem necessary to pay the debts and defray the expenses of the city, in such manner as the council shall deem expedient. In addition to, but not as a limitation upon, this general grant of power the city shall have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools; to levy and collect taxes for admission to or other charge for any public amusement, entertainment, performance, exhibition, sport or athletic event in the city, which taxes may be added to and collected with the price of such admission or other charge; to levy and collect taxes on hotel and motel rooms; to levy and collect privilege taxes, and capitation taxes; unless prohibited by general law to require licenses, prohibit the conduct of any business, profession, vocation or calling without such a license, require taxes to be paid on such licenses in respect of all businesses, professions, vocations and callings which cannot, in the opinion of the council, be reached by the ad valorem system; and to require licenses of all owners of vehicles of all kinds for the privilege of using the streets, and other public places in the city, require taxes to be paid on such licenses and prohibit the use of streets, alleys and other public places in the city without such license.

§ 4. Mayor generally; qualifications; to be chief elected officer; compensation.

The mayor shall be a qualified voter and a bona fide resident of the city. By virtue of the office, the mayor shall be the chief ~~executive~~ elected officer of the city. ~~He~~ The mayor shall receive such annual compensation as may be fixed by the council in accordance with the laws of the Commonwealth.

§ 5. Powers and duties generally.

The mayor shall preside over the meetings of the council and shall have the same right to speak therein as other members. ~~He~~ The mayor shall have no vote in the proceedings of the council except in case of a tie. ~~He~~ The mayor shall have authority to appoint such committees of the council as deemed necessary and expedient to the proper administration of the city government.

~~He~~ The mayor shall be recognized as the head of the city government for all ceremonial purposes, the purpose of military law and the service of civil process. ~~He~~ The mayor shall authenticate, by his or her signature, such instruments as the council, this charter or the laws of the Commonwealth shall require.

§ 6. Vice mayor.

Immediately upon assuming office, the mayor shall designate a ~~councilman~~ member of council who shall be known as the vice mayor and who, in the event of the mayor's death, or during his or her absence or disability, shall become or perform the duties of the mayor.

§ 7. Mayor and Council generally.

In addition to a mayor, the city of Lexington shall be governed by a city council which shall be composed of six (6) members elected at large and who shall be qualified voters and bona fide residents of the city.

Vacancies in either the office of mayor or in the council shall be filled within thirty (30) days by a recorded majority vote of the council ~~for the unexpired term~~. *Such appointment shall be for the unexpired term.*

In absence, or in the case of disability of both the mayor and vice mayor, one of the other ~~councilmen~~ *members of council* selected by a majority vote of the council shall have all of the powers heretofore conferred upon the mayor and vice mayor.

The council shall have the right to fix salaries for the members thereof, and the same shall not be increased or diminished during their respective terms of office *except as governed by § 15.2-1414.6.*

§ 8. Election and term of mayor and council.

The mayor and *council* members of the council in office at the time of the passage of this chapter shall continue in office for the terms for which they were elected or until their successors have been elected and qualified shall be elected for four-year staggered terms at the regular municipal elections. The mayor and three council members shall be elected at one such election and the remaining three members of council shall be elected at the next regular municipal election.

At the regular municipal election to be held on the second Tuesday in June, 1967, and every four (4) years thereafter, on the first Tuesday in May, the mayor and three (3) councilmen shall be elected for terms of four (4) years each. At the regular municipal election to be held on the second Tuesday in June, 1969, and every four (4) years thereafter, on the first Tuesday in May, three (3) councilmen shall be elected for terms of four (4) years each.

§ 10. Oath of office; effect of failure to qualify.

The mayor and other municipal officers of the city, *on or before the day on which their terms of office begin, and* before entering upon the duties of their respective offices, shall be sworn in according to the laws of the Commonwealth *before the circuit court and* by anyone authorized to administer oaths, which said oaths shall be subscribed in writing and filed with the clerk of the council.

The failure of any person elected or appointed to an office under this charter to qualify within thirty (30) days after the commencement of the term for which he *or she* was elected or appointed, or if elected or appointed to fill a vacancy, for thirty (30) days after such election or appointment shall vacate *his* the office.

§ 12. Quorum; presiding officer.

Four (4) members of the council and the mayor, or in the absence of the mayor, ~~five (5)~~ *four (4)* members of the council, shall constitute a quorum for the transaction of business; but no ordinance or resolution shall be adopted, having for its object the levying of taxes or the appropriating of moneys, except by an affirmative vote of two-thirds of all the members of the council. The mayor shall preside at all meetings of the council when present, but in the absence or inability of the mayor or the vice mayor, the members of the council present shall select one of their body to preside over the meeting. ~~The presiding officer over such meeting shall not be entitled to vote except in case of a tie. In the absence of the mayor, the officer presiding over such meeting shall vote.~~

§ 13. Forfeiture of office upon conviction of felony.

Any member of the council or other officer of the city who shall have been convicted of a felony while in office shall thereby forfeit his *or her* office.

§ 15. Organization meeting and meetings generally.

On the first day of ~~July~~ *regular meeting following the end of the fiscal year and* following the regular municipal election, the council shall meet in the council chambers at 8 P.M. and at which that time the newly elected ~~councilmen~~ *council members* and mayor, after first having taken the oath of office prescribed by law, shall assume the duties of their offices. Thereafter the council shall meet at such time as may be prescribed by ordinance or resolution; except that they shall meet regularly not less than once each month.

§ 16. Special meetings of council.

The mayor, or any two (2) members of the council, may call special meetings of the council, at any time, after a written notice of six (6) hours, with the purpose of the meeting stated therein, served personally on each member of the council and the mayor, or left at his *or her* usual place of business or residence if ~~he be not found with due diligence~~, or such meeting may be held at any time, without any service of notice, provided all members of the council attend. No business other than that mentioned in the call shall be considered at such meeting.

§ 18. Clerk to the council.

The council shall appoint a clerk to the council to serve at the pleasure of the council. ~~He~~ *The clerk* shall keep the journal of the council's proceedings and shall record all ordinances in a book kept for the purposes. He *or she* shall be the custodian of the corporate seal of the city and shall be the officer authorized to use and authenticate it. ~~He~~ *Such person* shall receive such compensation as clerk to the council as may be determined by the council.

§ 21. Publication of ordinances.

Every ordinance of a general or permanent nature shall be published in full once within ten days after its enactment either by posting a copy thereof at one of the public entrances to the city hall, one copy at the front door of the Rockbridge County Courthouse and at least four (4) other public places in the city; or, upon order of the council, by publication in a newspaper published in the city of Lexington for such time as the council may direct. No ordinance or resolution having the effect of an ordinance enacted by the mayor and council, for the violation of which any penalty is imposed, shall take effect

unless and until the same shall have been published as hereinbefore provided, and a certificate of such publication filed with the clerk of the council. *Except for emergency ordinances, every ordinance shall be advertised in summary form at least once seven days prior to being acted upon in a newspaper of general circulation in the City of Lexington, Virginia. City council may, after certification by a majority of the members of council that an emergency exists, adopt an ordinance without advertising as set forth above. Every ordinance of a general or permanent nature shall be published in full once within ten days after its enactment by posting a copy thereof at one of the public entrances to the city hall and at two other public locations within the city.*

§ 22. City manager generally; appointment, qualifications and term of office.

There shall be a city manager who shall be responsible to the council for the proper administration of the city government. ~~He~~ *The manager* shall be chosen by the council without regard to his political beliefs and solely upon the basis of his executive and administrative qualifications. He shall be appointed for an indefinite period and shall hold office at the pleasure of the council. At the time of his appointment ~~he~~ *the manager* need not be a resident of the city or the Commonwealth, but during ~~his~~ *the* tenure of office ~~he~~ shall reside within the city.

§ 23. Duties.

- (1) To see that all laws and ordinances of the city are enforced.
- (2) To exercise supervision and control over all administrative departments and divisions.
- (3) To attend all regular meetings of council with the right to take part in the discussion but having no vote.
- (4) To recommend to the council for adoption such measures as he *or she* may deem necessary or desirable.
- (5) To execute all contracts on behalf of the city.
- (6) To prepare and submit to the council the annual budget.
- (7) To keep the council advised as to the present and future needs of the city and as to all operations of its government.
- (8) To perform all such duties as may be prescribed by the charter or be required ~~of him~~ by the council.

§ 26. Councilmen not to succeed to office of city manager.

No ~~councilman~~ *council member* shall be appointed as city manager during the term for which he *or she* shall have been elected nor within one year after the expiration of his *or her* term.

§ 32. City Attorney.

There shall be a city attorney appointed by council for a term of four (4) years and ~~he~~ *who* shall receive such compensation as council may determine. He *or she* shall be an attorney at law licensed to practice under the laws of the Commonwealth. The city attorney shall be the chief legal adviser of the council, the city manager, and of all departments, boards, commissions and agencies of the city including the school board in all matters affecting the interest of the city *except in those situations when such representation would be a conflict*. He *or she* shall represent the city in all civil proceedings and shall prosecute those persons accused of violations of the city ordinances both in the Lexington General District Court and those cases which are appealed to the Circuit Court of Rockbridge County. It shall be ~~his~~ *the city attorney's* duty to perform all services as may be required by the laws of the Commonwealth, this charter or by ordinance.

§ 40. Chief of Police.

The head of the police department shall be the chief of police who shall be appointed by the city manager with the approval of the council. ~~He~~ *The chief* shall appoint all members of the department and assign all members of the department to their respective posts, shifts, details and duties. He *or she* shall, with the approval of the city manager, make rules and regulations in conformity with this charter and the ordinances of the city concerning the operation of the department, the conduct of the officers and employees thereof, their uniforms, arms and other equipment, their training and the penalties to be imposed for infractions of such rules and regulations. The chief of police shall be responsible for the efficiency, discipline and good conduct of the department. Orders of the city manager relating to the police department shall be transmitted in all cases through the chief of police or in his *or her* absence from the city or incapacity through an officer of the department designated as acting chief by the city manager.

§ 44. City sheriff.

The council may appoint a city sheriff who shall not be a member of the police force. He shall be paid such a salary as the council may fix and all fees collected by him shall belong to the city. The council may appoint such deputy city sheriffs as may be necessary. The sheriff and any deputy city sheriffs shall have the authority and powers and jurisdiction which is granted to sheriffs of cities of the second class by the general laws of the Commonwealth and of the ordinances of the city of Lexington and they shall perform such duties as may be prescribed by the State laws and ordinances of the city. The city sheriff shall be a conservator of the peace and in criminal matters or offenses, the city sheriff and deputy city sheriffs shall have jurisdiction for one mile beyond the city limits of the city of Lexington, in enforcing the criminal laws of the Commonwealth of Virginia. Any vacancy in the office

~~of city sheriff and the deputy city sheriffs shall be filled by the council. The constitutional office of sheriff has been consolidated with that of Rockbridge County and is governed by state law.~~

§ 45. School district and division.

The city of Lexington shall remain a separate school district and subject to the approval of the State Board of Education, shall become a separate school division.

§ 46. School board; number and qualifications of members.

The school board shall consist of five (5) ~~trustees~~ *members* who shall be bona fide residents and qualified voters of the city.

§ 48. Compensation.

The compensation to be paid each ~~trustee~~ *member* shall be fixed by the ~~council~~ *school board* in accordance with state law.

2. That §§ 51, 52 and 53 of Chapter 662 of the Acts of Assembly of 1966 are repealed.