

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 373

An Act to amend and reenact § 2.1 of Chapter 912 of the Acts of Assembly of 1993, which provided a charter for the City of Manassas Park, relating to city powers.

[H 419]

Approved April 1, 2002

Be it enacted by the General Assembly of Virginia:

1. That § 2.1 of Chapter 912 of the Acts of Assembly of 1993 is amended and reenacted as follows:

§ 2.1. General grant of powers.

Except as may be otherwise provided in this charter, all powers of the City and the administration and government of the City shall be vested in the Mayor and City Council, as defined in §§ 3.4 and 3.6, as the Governing Body, as defined below, of the City of Manassas Park, and in such boards and officers as are hereafter mentioned, or as may be by law otherwise provided. The powers set forth in the Code of Virginia, and all other powers which are now or may hereafter be conferred upon or delegated to cities under the Constitution and laws of the Commonwealth, are hereby conferred on and vested in the City of Manassas Park, Virginia.

The enumeration of certain powers in this charter shall not be construed to impair or diminish any of the rights, powers or authority conferred upon cities or their officers by the general laws of the Commonwealth.

The Governing Body shall have, subject to the provisions of this charter, the control and management of the fiscal and municipal affairs of the City and make such ordinances and bylaws relating to the same as it shall deem proper and necessary to carry out the following powers, which are hereby vested in it:

A. Eminent domain.

The powers of eminent domain as set forth in the Code of Virginia, as amended, are hereby conferred upon the City of Manassas Park with respect to lands and improvements thereon, machinery and equipment for any lawful purpose of the City, including but not limited to, *mutatis mutandis*, the rights, privileges and obligations set forth in the Code of Virginia, as amended, applicable to the Commonwealth Transportation Commissioner and the Department of Transportation, as set forth in Title 33.1, Chapter 1, Title 45 15.2 and Title 25, Chapter 1.1, of the 1950 Code of Virginia with respect to all lawful purposes for which the City is permitted to exercise the power of eminent domain.

B. Financial powers.

In addition to the powers granted elsewhere in this charter, the City shall have the power:

1. To raise by taxes and assessments, as permitted by general law, in the City, such sums of money as the Governing Body may deem necessary to pay the debts and defray the expenses of the City. In the event the fees, rents or charges payable for the use and services of any public utility or public service supplied by the City of Manassas Park for or in connection with any real property shall not be paid when due, interest may be charged on such unpaid balance at the legal rate of interest. Such fees, rents or charges and the interest due thereon shall constitute a lien against such property, ranking on a parity with liens for unpaid town, city or county taxes, and shall also be recoverable by the City in an action at law or a suit in equity. 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 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* local general retail sales and use taxes as provided by law; ~~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 to all businesses, professions vocations and callings which cannot, in the opinion of the Governing Body, be reached by the ad valorem system; and to require licenses of all owners of vehicles or trailers of all kinds for the privilege of using the streets, and other public places of 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, said City to have the power to require as a condition precedent to the issuance of motor vehicle licenses the exhibiting by the motor vehicle license applicant of adequate proof of the payment of all personal property taxes then due and payable to the City of Manassas Park.

2. To impose, levy and collect, in such manner and in an amount permitted by the Code of Virginia, a consumer or subscriber tax upon the amount paid for use of water, gas, electricity, telephone, and any other public utility services, and may provide that such tax shall be added to and collected with bills

rendered consumers and subscribers for such services.

C. Grants.

The City of Manassas Park shall have the power to receive and accept from any federal, state or private agency, grants of any kind for or in aid of the construction of any project, the procuring or reserving of park land, open spaces, or any recreational facility and to do all such things or make any covenants or agreements which may be necessary or required in order to obtain and use such grants. The City may receive and accept aid or contributions from any source or money, property, labor or other things of value, to be held, used and applied only for the purpose for which such grants and contributions may be made.

D. Debts, bonds, notes, etc.

Governing Body may, in the name and for the use of the City, contract debts and make and issue, or cause to be made and issued, as evidence thereof, bonds, notes or other obligations, upon the credit of the City or solely upon the credit of specific property owned by the City or solely upon the credit of income derived from property used in connection with any public utility owned and operated by the City subject to the provisions of the Code of Virginia and the Constitution of Virginia.

1. Pending the issuance and sale of any bonds, notes or other obligations by this charter authorized, or in anticipation of the receipt of taxes and revenues of the current fiscal year, it shall be lawful for the City to borrow money temporarily and to issue notes or other evidences of indebtedness therefor, and from time to time to renew such temporary loans or use current funds, to be ultimately repaid from the proceeds of the said bonds, notes or other obligations or from city taxes and revenues, as the case may be, subject to the provisions of the Code of Virginia and the Constitution of Virginia.

2. The credit of the City shall not, directly or indirectly, under any device or pretense whatsoever, be granted to or in aid of any person, firm, association or corporation.

3. Every ordinance authorizing the issuance of bonds shall specify the purpose or purposes for which they are to be issued, the aggregate amount of the bonds, the terms for which they shall be issued, and the maximum rates of interest to be paid thereon. Any such ordinance may be amended by ordinance at any time before the bonds to be affected by such amendment have been sold; however, if there is omitted from this charter any provision essential to the valid authorization, sale, execution and issuance of any bonds of the City, the provisions of general law with reference to similar bonds shall supply said omission.

4. Any bonds issued by the City under this charter shall be signed by the Mayor and attested by the City Clerk, as defined below, under the Seal of the City, and shall be made payable in the office of the City Treasurer, as defined below, or such other place in or out of the Commonwealth as the Council may provide in the ordinance authorizing the issuance of the particular bonds. Such bonds shall be advertised by the Mayor and sold by the City Treasurer, or by the City Manager, as defined below, as may be provided in such ordinance, under the supervision of the Mayor, City Manager and City Clerk, and the sale reported to and approved by the Governing Body, and the proceeds from said sale shall be paid to the City Treasurer.

5. So long as there exists any unpaid bonded indebtedness, the Governing Body shall set aside, or cause to be set aside, a sufficient portion of the revenues of the City during each fiscal year for the sinking fund requirement for that year and none of the funds so set aside shall be appropriated or used for any purpose other than the retirement of outstanding bonds and the payment of the interest on same.

E. Public improvements.

With the exception of electric utilities, the Governing Body shall have the power to construct, maintain, regulate and operate public improvements of all kinds, including municipal and other buildings and structures necessary or appropriate for the use and proper operation of the various departments of the City and the performance of its duties and functions.

F. Waterworks and sewers.

The Governing Body shall have the power to establish, maintain, and operate waterworks and sewer systems within and without the City; to purchase water therefor; to contract and agree with the owners of any land, springs, wells or water supplies for the use of or purchase thereof; or have same condemned according to law, for the location, extension, or enlargement of the said waterworks, or sewer system, either or both, the pipes connected therewith, and the fixtures or appurtenances thereof; and to protect from injury by ordinance, prescribing adequate penalties, the said waterworks, water supply, sewer systems, pipes, fixtures, and land, or anything connected therewith, whether within or without the limits of the City.

G. Streets, sidewalks and alleyways generally.

The Governing Body shall have the power to open, extend, widen or narrow, close, lay out, graduate, curb, and pave, and otherwise improve streets, sidewalks, and public alleys in the City, and have them kept in good order and properly lighted. In order to properly light the streets of the City, the Governing Body may erect and operate such number of lamps and fixtures thereto belonging as it may deem necessary. It may build bridges in and culverts under streets, and may prevent or remove any structure, obstruction, or encroachment over, or under, or in any street, sidewalk, or alley in the City, and may permit shade trees to be planted along streets. No person shall occupy with his works, or any

appurtenances thereof, the streets, sidewalks, or alleyways of the City without the consent of the Governing Body, duly entered upon its records.

1. Removal of street encroachments.

In every case where a street in the City has been, or shall be encroached upon by a fence, building or otherwise, the Governing Body may require the owner to remove the same, and if such removal be not made within the time prescribed, it may impose such penalty as it may prescribe by ordinance for each and every day it is allowed to continue thereafter, and may cause the encroachment to be removed, and collect from the owner all reasonable charges therefor, with costs, by the same process that it is hereinafter empowered to collect taxes. Except, in any case where there is a bona fide dispute as to the true boundary line or the location of the true street line, and if passage over such street is not seriously impeded, the same shall first be established and determined by an adjudication of a court of competent jurisdiction in a proceeding instituted by either the City or the property owner for that purpose before the City shall take any steps to remove the said obstruction or encroachment, or to impose a penalty therefor. No encroachment upon any street, however long continued, shall constitute any adverse possession to or confer any rights upon persons claiming thereunder as against the City.

2. Dedication of streets.

Dedication of any street, alley or lane in the City may be made by plat or deed. Any street or alley reserved in the division or subdivision into lots, of any portion of the territory within the corporate limits of the City, by a plan or plot of record, shall be deemed and held to be dedicated to public use, unless it appears by said record that the street or alley so reserved is designated for private use. The Governing Body shall have the right to elect, by resolution entered on its minutes whether it will, or will not accept the dedication of any street or alley.

H. Encumbering streets, sidewalks, etc.

The Governing Body shall have the power to prevent the encumbering of streets, sidewalks, alleyways, lanes, or bridges throughout the City in any manner whatever.

I. Route and grade of public utilities.

The Governing Body shall have the power to determine and designate the route and grade of any public utility laid out in the City, which power may be delegated to the appropriate officer of the City.

J. Nuisances, unsafe or unsanitary structures, dangerous and unhealthy businesses, transportation of explosives, garbage, etc., and speed of trains; dangerous buildings.

1. The Governing Body shall have the power to require and compel the abatement and removal of all nuisances within the City, at the expense of the person or persons causing the same, or the owner or owners of the ground whereon the same shall be; to require all lands, lots, and other premises within the City to be kept clean, sightly, sanitary and free from weeds or to make them so at the expense of the owners or occupants thereof; to make such rules, regulations, orders or ordinances as will protect its citizens from unsafe and unsanitary structures or walls, and to that end it shall have the power to cause to be condemned and taken down any such structure or wall, but no such condemnation shall be made or such structure or wall taken down until the owner thereof, or in the case of an infant or person declared incompetent pursuant to the Code of Virginia, his guardian or committee, is duly summoned before a board or a committee of the Governing Body or the full Governing Body as charged by the ordinances with such duty, and allowed reasonable opportunity to show cause against such action; to regulate the exercise of any dangerous, offensive or unhealthy business, trade or employment within the City; to regulate the transportation of coal, explosives, garbage and other articles through the streets of the City; to restrain and regulate the speed of locomotive engines and cars upon the railroads within the City.

2. The Governing Body may by resolution, duly adopted and recorded, order the repair, wrecking or removal of any building or structure which has been complained of by the City Manager or other authorized agent as a menace to adjoining property or to persons using a public thoroughfare or a public place adjacent to such building or structure; and condemnation shall be made only after such building or structure has been inspected and found unsafe by a committee composed of the City Manager or other authorized agent and two reputable builders appointed by the Governing Body. If the owner of such menace fails or refuses to repair, wreck or remove the same within thirty days from the date of written notice from the City Clerk, transmitting such resolution of condemnation, the Governing Body may then order the City Manager or other authorized agent to repair, wreck or remove such building or structure, and the cost of such repair, wrecking or removal by the City Manager or other authorized agent shall be a charge against the property on which such menace is located; such costs shall be collectible by due process of law.

K. Accumulations of stagnant water, unwholesome substances, etc., on private grounds; removal; collection of expenses, etc.

If any ground in the City shall be subject to be covered with stagnant water, or if the owner or owners, occupier or occupiers thereof shall permit any offensive or unwholesome substance to remain or accumulate thereon, the Governing Body may cause such grounds to be filled, raised, or drained, or may cause such substance to be covered or to be removed therefrom, and may collect the expense of so doing from the owner or owners, occupier or occupiers, or any of them, except in cases where such

nuisance is caused by the action of the city authorities or their agents, or by natural causes beyond the control of the owner or occupant, in which case the City shall pay the expense of abating the same, by distress and sale in the same manner in which taxes levied upon real estate for the benefit of the City are authorized to be collected; provided that reasonable notice and opportunity to be heard shall be first given to such owners or their agents. In the case of nonresident owners who have no agent in the City, such notice shall be given by publication at least once a week for not less than two consecutive weeks in any newspaper having general circulation in the City.

L. Establishing fire zones; adoption of building codes, etc.; fire prevention; discharge of fireworks and firearms.

The Governing Body shall have the power to establish fire zones and regulate the character of buildings which may be erected or restored within same; to regulate and direct the storage of explosives and combustible substances and liquids; to prohibit the discharge of fireworks and firearms within the City, the building of bonfires within the City and the use of candles or lights in barns, stables, warehouses, etc.

M. Franchises.

Subject to the provisions of the Code of Virginia, the Constitution of Virginia and the provisions of this charter, the Governing Body shall have the power to grant franchises under terms and conditions to be fixed by the Governing Body.

N. Diversion of streams.

The Governing Body shall have the power to divert the channels of creeks and flowing streams and for that purpose to acquire property by condemnation pursuant to the Code of Virginia and this charter.

O. Passage of ordinances, etc., to promote general welfare, etc.

The Governing Body shall have the power to do all things whatsoever necessary or expedient, and to pass all ordinances, resolutions and bylaws for promoting or maintaining the security, general welfare, comfort, education, morals, peace, government, health, trade, commerce and industries of the City, or its inhabitants, not in conflict with the Code of Virginia and the Constitution of Virginia or the Constitution of the United States.

P. Public utilities generally.

The Governing Body shall have full control and regulation over the public utilities now owned or that may hereafter be acquired by the City, and to this end it shall have full authority to employ from time to time such employees as it deems necessary to properly maintain, conduct and operate the same. The Governing Body shall have full authority to incur indebtedness, unless otherwise prohibited by law, whenever the Governing Body may deem it necessary for the proper conduct, management and maintenance of the public utilities now owned by the City, or such as may hereafter be acquired by it.

Q. Requiring connection with sewers.

The Governing Body shall likewise have authority, by ordinance duly enacted, to compel all owners of real estate within the corporate limits of the City to connect with such sewerage pipes or connection as may hereafter be installed or constructed by the City, whenever public health may render necessary such connection, upon such reasonable terms as may be prescribed by the Governing Body, together with all other authority necessary to proper maintenance and operation of an effective sewerage system.

R. Special election required for sale of public utilities.

The Governing Body shall have no authority to sell its public utilities, without first submitting the question of such sale at a special election to be called for that purpose only, to the qualified voters of the City of Manassas Park, which election shall be conducted as now provided by general law governing special elections. The Circuit Court of Prince William County shall order such special election upon the petition of twenty-five percent of the qualified voters of the City of Manassas Park or upon a resolution passed by a majority of the Governing Body of the City. For a period of not less than four weeks prior to such special election, the substantial terms of any proposed sale shall be published over the signature of the City Clerk, once a week for four successive weeks in some newspaper having general circulation in the City of Manassas Park. The qualifications of voters in said special election shall be determined by existing statutes governing special elections.

S. Penalty for ordinance violations.

Where, by provision of this charter, or by general law, the Governing Body has the authority to pass ordinances on any subject that it may prescribe a penalty, the penalty for a violation of such ordinances shall not exceed the penalty authorized by general law; however, such penalty shall not exceed the penalty authorized in general law for a like offense. Such penalties may be pursued through all avenues available under general law and recovered with the costs in the name of the City of Manassas Park.