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SENATE BILL NO. 496

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Local Government
on January 22, 2002)

(Patron Prior to Substitute—Senator Edwards)

A BILL to amend and reenact § 1.1, as amended, §§ 2.1, 2.2 and 3, §§ 4 through 10, as amended, § 11, §§ 12 through 18, as amended, § 20, §§ 21 and 21.1, as amended, § 22, § 23, as amended, § 24, § 25.1, as amended, § 25.2, §§ 26, 31, 32 and 33, as amended, §§ 35 and 36, § 37, as amended, §§ 38 and 39, §§ 40, 41, 42 and 44, as amended, § 45, §§ 47, 51 and 52, as amended, §§ 53 and 54, §§ 56 and 57, as amended, § 58, §§ 59, 60 and 62, as amended, §§ 62.1, 63, 65 and 66, § 67, as amended, and § 72 of Chapter 216 of the Acts of Assembly of 1952, which provided a charter for the City of Roanoke; to amend Chapter 216 by adding sections numbered 62.01 and 62.02; and to amend Chapter 216 by repealing sections numbered 27.1, 29, as amended, 48, 49, as amended, and 55, relating to updating, reorganizing and revising the city's charter.

Be it enacted by the General Assembly of Virginia:

1. That § 1.1, as amended, §§ 2.1, 2.2 and 3, §§ 4 through 10, as amended, § 11, §§ 12 through 18, as amended, § 20, §§ 21 and 21.1, as amended, § 22, § 23, as amended, § 24, § 25.1, as amended, § 25.2, §§ 26, 31, 32 and 33, as amended, §§ 35 and 36, § 37, as amended, §§ 38 and 39, §§ 40, 41, 42 and 44, as amended, § 45, §§ 47, 51 and 52, as amended, §§ 53 and 54, §§ 56 and 57, as amended, § 58, §§ 59, 60 and 62, as amended, §§ 62.1, 63, 65 and 66, § 67, as amended, and § 72 of Chapter 216 of the Acts of Assembly of 1952, which provided a charter for the City of Roanoke, are amended and reenacted and Chapter 216 is amended by adding sections numbered 62.01 and 62.02 as follows:

§ 1.1. The city and its boundaries.

The inhabitants of the territory comprised within the present limits of the city of Roanoke, as hereinafter described, or as the same may be hereafter altered and as provided by law, shall continue to be a body politic and corporate, to be known and designated as the city of Roanoke, and as such shall have and may exercise all powers which are now, or hereafter may be, conferred upon, or delegated to, cities under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though said such powers were specifically enumerated herein, and no enumeration of particular powers by this charter shall be held to be exclusive; and the said city of Roanoke as such shall have perpetual succession, may sue and be sued, contract and be contracted with, and may have a corporate seal which it may alter, renew, or amend at its pleasure.

The present boundaries of the said city shall be as described in Chapter 216, Acts of Assembly, 1952, as enlarged by orders of the Circuit Court of Roanoke County, Virginia, as follows:

(a) Order of Annexation entered September 14, 1964, recorded in Deed Book 984, Page 539, in the Clerk's Office of the Circuit Court of Roanoke County, Virginia, and in Deed Book 1166, Page 161, in the Clerk's Office of the Circuit Court of the City of Roanoke, Virginia, (formerly Hustings Court); and

(b) Order of Annexation entered September 30, 1966, recorded in Deed Book 984, Page 549, in the Clerk's Office of the Circuit Court of Roanoke County, Virginia, and in Deed Book 1207, Page 618, in the Clerk's Office of the Circuit Court of the City of Roanoke, Virginia, (formerly Hustings Court); and

(c) Order of Annexation entered May 16, 1967, recorded in Deed Book 827, Page 492, in the Clerk's Office of the Circuit Court of Roanoke County, Virginia, and in Deed Book 1220, Page 291, in the Clerk's Office of the Circuit Court of the City of Roanoke, Virginia, (formerly Hustings Court); and

(d) Order of Annexation entered May 10, 1975, recorded in Deed Book 1017, Page 516, in the Clerk's Office of the Circuit Court of Roanoke County, Virginia, and in Deed Book 1361, Page 548, in the Clerk's Office of the Circuit Court of the City of Roanoke, Virginia.

§ 2.1. Differences in rate of taxation on real estate within areas added to city limits; taxing districts.

Pursuant to Article X, Section 1 on the Constitution of Virginia, the council may, from time to time, provide for differences in the rate of taxation to be imposed upon real estate by the city within all or parts of areas added to its territorial limits. Such differences in the rate of taxation shall bear a reasonable relationship to differences between nonrevenue producing governmental services giving land urban character which are furnished in one or several areas in contrast to the services furnished in other areas of the city. In so doing, the council may, from time to time, establish such taxing districts as may be necessary to reasonably differentiate between those areas added to the territorial limits of the city receiving contrasting services as hereinabove provided, and having once established such taxing districts the council may, from time to time thereafter alter, amend or abolish the same taxing districts as the character or extent of such services are changed.

§ 2.2. Transit system.

60 The city shall have the power to:

61 ~~(1)(a)~~ Acquire, own, operate, maintain or otherwise provide for a transit system and transit facilities;

62 ~~(2)(b)~~ Enter into agreements or leases with private companies for the operation of a transit system or
63 operate such system itself;

64 ~~(3)(c)~~ Make application for and accept loans and grants of money or materials or property at any
65 time from the United States of America and the Commonwealth of Virginia or any agency or
66 instrumentality of either; and

67 ~~(4)(d)~~ Enter into contracts with ~~counties, cities and towns adjoining the city~~ *other localities* to
68 provide or cause to be provided transit facilities and services to such ~~counties, cities and towns~~
69 *localities*.

70 § 3. Creation and general powers of council.

71 There is hereby created a council, which shall have full power and authority, except as herein
72 otherwise provided, to exercise all of the powers conferred upon the city, and to pass all laws and
73 ordinances relating to its municipal affairs, subject to the Constitution and general law of the State and
74 of this charter. It shall by ordinance ~~fix the salaries of~~ *establish a system of compensation for* all officers
75 and employees of the city, and may, so far as is not inconsistent with the provision of this charter,
76 define the powers and prescribe the duties of all such officers and employees.

77 § 4. Composition of council; terms of members; designation of vice-mayor; vacancies.

78 The Council as presently composed shall continue and shall consist of seven members, one of which
79 shall be the mayor, all of whom shall be elected at large and shall serve for the respective terms as
80 hereinafter provided. The members of council shall serve for terms of four years, from the first day of
81 July next following the date of their election and until their successors shall have been elected and
82 qualified. The mayor shall serve for a term of four years from the first day of July next following the
83 date of election and until a successor shall have been elected and qualified; provided, however, that on
84 the first Tuesday in May, nineteen hundred seventy-two, and on ~~said~~ *such* day each four years thereafter,
85 three ~~councilmen~~ *council members* and a mayor shall be elected for a term of four years, and on the
86 first Tuesday in May, nineteen hundred seventy-four, and each four years thereafter, three ~~councilmen~~
87 *council members* shall be elected for a term of four years.

88 Notwithstanding the foregoing provisions in this section, the terms of the mayor and of the three
89 members of council elected in 1968 shall continue for four years from the first day of September, 1968,
90 and until such time as their successors shall have been elected as hereinabove provided and qualified,
91 and the terms of the mayor and of the three members of the council to be elected as hereinabove
92 provided in 1972 shall be for three years and ten months, to commence on September 1, 1972; and,
93 further, the terms of the three members of council elected in 1970 shall continue for four years from the
94 first day of September, 1970 and until such time as their successors shall have been elected and
95 qualified, and the terms of the three members of council to be elected as hereinabove provided in 1974
96 shall be for three years and ten months, to commence on September 1, 1974.

97 The member of council receiving the largest number of votes in each regular councilmanic election
98 shall be the vice-mayor of the city, for a term of two years, to commence on the first day of July next
99 following the date of such election and until ~~his~~ *the vice-mayor's* successor shall have been elected and
100 qualified; provided, however, that in the years 1972 and 1974 such term shall commence on the first
101 day of September next following said regular councilmanic election; and provided, further, that the term
102 of the vice-mayor so elected in the regular councilmanic election held in 1974 shall be for one year and
103 ten months.

104 The council shall be a continuing body, and no measure pending before such body shall abate or be
105 discontinued by reason of the expiration of the term of office or removal of the members of said
106 ~~body~~ *council*, or any of them. No person may be a candidate for the office of mayor and for the office
107 of ~~councilman~~ *council member* in the same election.

108 Vacancies in the council or vacancy in the office of mayor shall be filled within thirty days, and
109 until the day upon which the terms of office of ~~councilmen~~ *council members* elected in the next
110 following regular councilmanic election shall commence, by a majority vote of the remaining members
111 of council, and if as much as two years of any such unexpired term of a member of council or of the
112 mayor remains at the time of such next regular councilmanic election, a ~~councilman~~ *council member* or
113 a mayor, as the case by be, shall be elected at ~~said~~ *such* election for the remaining portion of such
114 unexpired term.

115 § 5. Qualification of members of council; conduct of candidates.

116 Any person qualified to vote in ~~said~~ *the* city shall be eligible to the office of ~~councilman~~ *council*
117 *member* or mayor therein. No candidate for the office of councilman or mayor shall promise any money,
118 office, employment or other thing of value, to secure a nomination or election, or accept in connection
119 with his candidacy any money except as permitted by the general laws of the State; and any such
120 candidate violating this provision shall be guilty of a misdemeanor, and upon conviction thereof shall be
121 punished by a fine not exceeding five hundred dollars, or imprisonment for a term not exceeding six

months, or both, in the discretion of the court or jury, and shall forfeit his office, if elected; in which event, the person receiving the next highest number of votes, who has not violated ~~the said these~~ provisions shall be entitled to ~~said~~ such office.

§ 6. Compensation of the mayor, vice-mayor and of council members.

The salary of the mayor, vice-mayor and each council member shall be such as is from time to time fixed by *an* ordinance of city council within the limits established by general law. Such salaries shall be payable no less frequently than monthly.

§ 7. Limitation of the powers of the council.

Neither the mayor, the council, nor any of its members, shall dictate, urge or suggest the appointment of any person to office or employment by the city manager, or in any manner interfere with the city manager, or prevent ~~him~~ *the city manager* from exercising his *or her* own judgment in the appointment of officers or employees in the administrative service; provided, however, that the city manager's appointments of ~~directors of directorates~~ *deputy or assistant city managers*, but not of department heads, shall be subject to confirmation by a majority of the members of the council. Except for the purpose of inquiry, the mayor, the council and its members shall deal with the administrative service solely through the city manager, and neither the mayor, the council, nor any member thereof, shall give orders to any of the subordinates of the city manager either publicly or privately.

§ 8. Officers elective by council; rules; journal of council proceedings; quorum of council.

The council shall elect a city manager, a city clerk, a director of finance, a municipal auditor, and a city attorney, none of whom need be a resident of the city at the time of their election ~~or during their tenure in such office but who shall take up residence within the city within three months of their election if not already a resident~~. Unless herein otherwise specifically provided, the council shall also appoint the members of such boards and commissions as are hereafter provided for. All elections by the council shall be viva voce and the vote recorded in the journal of the council. The council may determine its own rules of procedure; may punish its members for misconduct and may compel the attendance of members in such manner and under such penalties as may be prescribed by ordinance. It shall keep a journal or its proceedings. A majority of all of the members of the council shall constitute a quorum to do business, but a smaller number may adjourn from time to time.

Upon a vacancy occurring in any such office the council shall elect a person to fill the unexpired portion of any term created by such vacancy; or, in the council's discretion, it may elect a person as an acting city manager, city clerk, director of finance, municipal auditor, or city attorney to hold such office for such lesser term and for such compensation as the council shall then determine; and any person so elected shall have, during the term for which he was elected, all of the authority and shall be charged with all of the duties and responsibilities of the office for which he was elected.

§ 9. Elections by council, when held, terms, et cetera.

During the month of September, 1974 and during the month of September of every second year thereafter, the council shall elect a city clerk, a director of finance, a municipal auditor, and a city attorney, each of whom shall serve for a term of two years from the first day of October next following the date of ~~his~~ *their* election and until ~~his~~ *their* successor shall have been elected and qualified. ~~Prior to the first day of September, 1974, the council may elect a director of finance and a municipal auditor whose terms shall expire on the last day of September 1974, or at such time thereafter as their successors shall have been elected and qualified.~~

No officer elected by the council pursuant to §§ 8, 9 or 21.1 of this charter shall be more than sixty-five years of age at the time of such election; and any such officer attaining the age of sixty-five years during any term of office for which he was elected shall be deemed to have vacated such office upon his sixty-fifth birthday.

§ 10. Meetings of council generally.

At two o'clock post meridian on the first Monday of July next following each regular municipal election, or if such day be a city holiday, then on the day following, the council shall meet at the usual place for holding meetings of the legislative body of the city, at which time the newly elected ~~councilmen~~ *council members* shall assume the duties of their offices. Thereafter the council shall meet at such times as may be prescribed by ordinance or resolution, provided, that it shall hold at least two regular meetings each calendar month, and it shall so order and schedule meetings as to promptly and orderly attend to the business and legislative affairs of the city. The mayor, any member of the council, or the city manager, may call special meetings of the council at any time upon at least twelve hours written notice to the mayor and each member, served personally or left at his usual place of business or residence; or such meeting may be held at any time without notice, on call of the mayor or the city manager provided at least five members of the council attend such meeting. All meetings of the council shall be public, ~~except where the public interest may require executive sessions~~, and any citizen may have access to the minutes and records thereof at all reasonable times, ~~except where the public interest may require closed meetings~~.

§ 11. Penalty of absence from council meetings.

Absence from five consecutive regular meetings shall operate to vacate the seat of a member *of the council*, unless the absence is caused by ~~his~~ *the member* being incapacitated by sickness or is excused by the council by a resolution setting forth the reason thereof and entered upon the journal.

§ 12. Legislative procedure generally.

Except in dealing with questions of parliamentary procedure the council shall act only by ordinance or resolution, and all ordinances except ordinances making appropriations, or authorizing the contracting of indebtedness or issuance of bonds or other evidence of debt, shall be confined to one subject, which shall be clearly expressed in the title. Ordinances making appropriations or authorizing the contracting of indebtedness or the issuance of bonds or other obligations and appropriating the money to be raised thereby shall be confined to those subjects respectively.

The enacting clause of all ordinances passed by the council shall be, "be it ordained by the council of the city of Roanoke." No ordinance, unless it be an emergency measure, shall be passed until it has been read by title at two regular meetings or the requirement of such reading has been dispensed with by the affirmative vote of five-sevenths of the members of the council. Any ordinance introduced and adopted on its first reading at one meeting of the council may be amended and adopted as amended at the next such meeting or subsequent meeting provided that the amendment does not materially change the purpose and character of the proposed ordinance. No ordinance or section thereof shall be revised or amended by its title or section number only, but the new ordinance shall contain the entire ordinance, or section or subsection as revised or amended. The ayes and nays shall be taken upon the passage of all ordinances or resolutions and entered upon the journal of the proceeding of the council and every ordinance or resolution shall require, on final passage, the affirmative vote of a majority of the members. No member shall be excused from voting except on matters involving the consideration of his own official conduct, or where his financial or personal interests are involved.

In authorizing the making of any public improvements, or the acquisition of real estate or any interest therein; or authorizing the contracting of indebtedness or the issuance of bonds or other evidences of indebtedness (except temporary loans in anticipation of taxes or revenue or of the sale of bonds lawfully authorized); or authorizing the sale of any property or rights in property of the city of Roanoke, or granting any public utility franchise, privilege, lease or right of any kind to use public property or easement of any description or any renewal, amendment or extension thereof, the council shall act only by ordinance *unless otherwise permitted by law*; provided, however, that after any such ordinance shall have taken effect, all subsequent proceedings incidental thereto and providing for the carrying out of the purposes of such ordinance may, except as otherwise provided in this charter, be taken by resolution of the council.

§ 13. Effective date of ordinances and resolutions; emergency measures.

All ordinances passed by the council shall be in effect ~~from and after ten days from the date of~~ *upon* their passage, except that council may, by the affirmative vote of five-sevenths of its members, pass emergency measures to take effect at the time indicated therein. An emergency measure is an ordinance or resolution immediately necessary, in the discretion of council, for the preservation of the public peace, property, health or safety, or providing for the usual daily operation of the municipal government of or a municipal department, in which measure the emergency shall be set forth and defined in a preamble thereto, or in which measure there is contained a statement of such immediate necessity. Ordinances appropriating money for any such emergency may be passed as emergency measures, but no measure providing for the sale or lease of city property, or making a grant, renewal or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility, shall be so passed. All resolutions of the council shall be effective upon passage.

§ 14. Record, authentication and numbering of ordinances and resolutions; admission of ordinances and resolutions in evidence.

Every ordinance or resolution upon its final passage shall be recorded in a book kept for the purpose, and shall be authenticated by the signature of the presiding officer and the city clerk. Lack of authentication of any such ordinance or resolution by signature of the presiding officer and the city clerk ~~as provided in the first sentence of this section~~ shall not, of itself, affect the validity of any such measure heretofore or hereinafter duly adopted by the council. The city clerk shall assign every ordinance and resolution adopted by the council a permanent serial number.

A record of entry made by the city clerk or a copy of such record or entry duly certified by ~~him~~ *the city clerk* shall be prima facie evidence of the terms of the ordinance or any amendment thereof and its due publication, or its receipt in quantity as a printed code of ordinances.

All ordinances and resolutions of the council may be read in evidence in all courts and in all other proceedings in which it may be necessary to refer thereto, either from a copy thereof certified by the clerk or from the volume or code of ordinances printed by authority of the council.

§ 15. General powers and duties of the mayor.

The mayor shall preside at meetings of the council, and perform such duties as are imposed upon

~~him~~ *the mayor* by this charter and such other duties consistent with ~~his~~ *the mayor's* office as may be imposed by the council. ~~He~~ *The mayor* shall be entitled to a vote, but shall possess no veto power. ~~He~~ *The mayor* shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for military purposes. ~~He may, as mayor,~~ *The mayor may* execute all requisite contracts or other legal instruments in writing for and on behalf of the city and ~~as such mayor~~ perform all other functions or requirements arising from federal or State ~~state~~ law, procedure, rules or regulations but these authorizations shall not be construed as conferring upon ~~him the mayor~~ the administrative or judicial functions, ~~or other powers or functions, of a mayor, under the general laws of the State.~~ In time of public dangers or emergency, ~~he the mayor~~ may, with the consent of the council, take command of the police and maintain order and enforce the laws, and for this purpose may deputize such special ~~police~~ *police* as may be necessary. During ~~his the mayor's~~ absence or disability ~~his the mayor's~~ duties shall be performed by the vice-mayor of the city.

The powers and the duties of the mayor shall be such as are conferred upon ~~him the mayor~~ by this charter, together with such others as may be conferred by the council in pursuance of the provisions of this charter, and no others.

§ 16. Time of holding municipal elections.

A municipal election shall be held on the first Tuesday in May in nineteen hundred seventy-two, and every second year thereafter which shall be known as the regular election for the election of ~~councilmen~~ *council members*.

§ 17. Method of conducting municipal elections.

The candidates at any regular municipal election for the election of ~~councilmen~~ *council members*, equal in number to the places to be filled, who shall receive the highest number of votes at such election, shall be declared elected to the council, and the candidate receiving the highest number of votes for the office of mayor shall be declared elected mayor.

In any such election each ~~elector~~ *voter* shall be entitled to vote for as many persons as there are vacancies to be filled, and no more; and no ~~elector~~ *voter* shall in such elections cast more than one vote for the same person.

§ 18. Election and terms for Commonwealth's attorney, commissioner of revenue, city treasurer, city sheriff and circuit court clerk.

The attorney for the Commonwealth, commissioner of revenue, city treasurer and city sheriff elected at the general election held in November of 1973, shall hold office until their respective terms expire; thereafter, there shall be elected by the qualified voters of said city, on the Tuesday after the first Monday in November, 1977 and quadrennially thereafter, the following officers: one attorney for the Commonwealth, one commissioner of revenue, one city treasurer, and one city sheriff, who shall hold their offices for the term of four years from the first day of January ensuing their election and until their successors are duly elected and qualified. ~~The clerk of the Hustings Court of the City of Roanoke elected at the general election held in November of 1969, shall hereafter be and be known as the clerk of the Circuit Court of the City of Roanoke, and he shall hold office until the term prescribed for such clerks by the General Assembly of Virginia shall expire; thereafter, there~~ *There* shall be elected by the qualified voters of ~~said the city~~ on the Tuesday after the first Monday in November, 1979, and every eight years thereafter, one clerk of the Circuit Court of the City of Roanoke, who shall be clerk of all courts of record in this city, whose term shall begin and end as is now, or may hereafter be prescribed by the General Assembly of Virginia.

§ 20. The city manager; appointment, qualifications.

The city manager shall be the administrative head of the municipal government. ~~He~~ *The city manager* shall be chosen by the council without regard to his ~~or her~~ political beliefs and solely upon the basis of ~~his~~ executive and administrative qualifications. The choice shall not be limited to inhabitants of the city or State. ~~He~~ *The city manager* shall be appointed for an indefinite period and shall hold office during the pleasure of the council. ~~He~~ *The city manager* shall receive such compensation as shall be provided by the council by ordinance. ~~He and~~ shall be bonded as the council may deem necessary. During the ~~absence~~, disqualification or disability of the city manager the council may designate some properly qualified person to perform the duties of the office.

§ 21. Powers and duties of city manager.

The city manager shall be responsible to the council for the efficient administration of all offices of the city. ~~He~~ *The city manager* shall have ~~the power~~, and ~~it shall be his~~ *the* duty:

(a) To see that all laws and ordinances are enforced.

(b) Subject to the limitations contained in § 7 of this charter and except as otherwise provided in this charter, the city manager or his ~~or her~~ designees shall appoint such city officers and employees as the council shall determine are necessary for the proper administration of the affairs of the city, and the city manager or his ~~or her~~ designees shall have the power to discipline and remove any such officer and

306 employee.

307 (c) To attend all meetings of the council, with the right to take part in the discussion, but having no
308 vote.

309 (d) To recommend to the council for adoption such measures as he may deem necessary or
310 expedient.

311 (e) To make reports to the council from time to time upon the affairs of the city and to keep the
312 council fully advised of the city's financial condition and its future financial needs.

313 ~~(f) [Repealed.]~~

314 ~~(f)~~ *To be responsible for the day-to-day operation of the city, and to execute such documents as may*
315 *be necessary to accomplish the same.*

316 ~~(f1)~~(g) To appoint in writing a city officer reporting to the city manager as acting city manager for a
317 time period not to exceed thirty days when the city manager will be absent from the city.

318 ~~(f2)~~(h) To acquire on behalf of the city easements, licenses, permits, privileges or other rights of any
319 kind to use property for nominal consideration.

320 ~~(g)~~(i) To perform such other duties as are prescribed by this charter or as may be prescribed by the
321 council.

322 § 21.1. Deputy and assistant city managers.

323 The city manager may appoint ~~an a deputy and one or more~~ assistant city ~~manager managers~~ subject
324 to confirmation by a majority of the members of council. The ~~deputy and~~ assistant city ~~manager~~
325 ~~managers~~ shall hold office at the pleasure of the city manager making the appointment. ~~He~~ They shall
326 be responsible to the city manager for the administration of all city affairs placed in ~~his~~ their charge by
327 the city manager or under this charter. During the absence, ~~disqualification or disability~~ of the city
328 manager, ~~he the deputy or an assistant city manager~~ shall perform the duties of that office unless the
329 city manager has designated in writing some other city officer to serve as acting city manager.

330 § 22. Investigations.

331 The council, the city manager, and any other officer, board or commission authorized by them, or
332 either of them, shall have power to make investigations as to city affairs, and for that purpose to
333 subpoena witnesses, administer oaths, and compel the production of books and papers.

334 Any person refusing or failing to attend, or to testify or to produce such books and papers, may by
335 summons issued by such board or officer be summoned before the ~~Municipal Court~~ *general district*
336 *court* of the city by the board or official making such investigation, and upon failure to give satisfactory
337 explanation of such failure or refusal, may be fined by a ~~municipal~~ judge not exceeding one hundred
338 dollars or imprisoned not exceeding thirty days, such person to have the right to appeal to the ~~Hustings~~
339 ~~Court circuit court~~ of the city. Any person who shall give false testimony under oath at any such
340 investigation shall be liable to prosecution for perjury.

341 § 23. Creation of departments and department heads; deputies and assistants.

342 The council may by ordinance provide for administrative departments, and when such departments
343 are created may define the functions which such departments are to administer, may provide for the
344 appointment of heads for such departments and define their duties and responsibilities.; ~~and, further, the~~
345 ~~council may provide for the city manager's administration of the various departments under directorates,~~
346 ~~the heads of which shall be known as directors. In addition, the~~ The council may by ordinance provide
347 for the appointment of one or more assistants or deputies in the offices of the city attorney, the director
348 of finance, the municipal auditor and the city clerk and may define their duties and responsibilities. Such
349 assistants or deputies, when acting in such official capacity, shall possess all of the power and authority
350 and shall be subject to all of the duties and responsibilities given to or imposed upon their respective
351 superiors under this charter.

352 § 24. City clerk.

353 The city clerk shall be elected at the time, in the manner, and for the term provided by § 9 of this
354 charter. ~~He~~ The city clerk may by and with the consent of the council appoint one deputy and such
355 number of assistants as may be provided for by ordinance. ~~He~~The city clerk shall be the clerk of the
356 council; shall keep a record of its proceedings, and either ~~he or his~~ the city clerk or the deputy city clerk
357 shall attend all meetings thereof. ~~He~~ The city clerk shall keep all books and papers, which by the
358 provisions of this charter or by direction of the council, are required to be kept by or filed with ~~him~~the
359 city clerk. ~~He~~ The city clerk shall be the keeper of the city seal, and shall affix and attest the same when
360 so directed by the council. ~~He~~ The city clerk shall transmit copies of all ordinances or resolutions to
361 such officers and persons as are affected thereby. ~~He~~ The city clerk shall give information to persons
362 presenting communications or petitions to the council of the final action of the council thereon. ~~He~~ The
363 city clerk shall, except as otherwise expressly provided in this chapter, publish or cause to be published,
364 all reports, ordinances, and other documents required by this charter to be published, and also such other
365 reports as the council may by ordinance or resolution direct. ~~He~~ The city clerk shall perform such other
366 duties as are required by this charter, and in general shall perform such acts and duties as the council
367 shall by ordinance or resolution require of ~~him~~the city clerk. Any of the duties of ~~said~~ the city clerk

may be performed by ~~his~~ *the* deputy city clerk. The city clerk and ~~his~~ deputy city clerk shall receive such compensation and give such bond as the council may by ordinance provide.

§ 25.1. Director of finance.

The director of finance shall be elected by the council at the time, in the manner, and for the term provided by § 9 of this charter; ~~provided, however, that the term of the first director of finance elected hereunder, if elected prior to the first day of September 1974, shall expire on the last day of September 1974, or at such time thereafter as his successor shall have been elected and qualified.~~

(a) The director of finance shall have charge and shall maintain control of the keeping of all accounts and financial records of the city of ~~Roanoke~~, in accordance with generally accepted principles of accounting, wherein shall be stated, among other things, the appropriations for the year for each distinct object and branch of expenditures, and also the receipts from each and every source of revenue, so far as it can be ascertained. All such accounts and financial records shall be public records, and shall be subject to the examination of the city manager and members of the city council, or other person or persons required by order of the city manager or ordinance of the council to make such examination.

(b) The director of finance shall be charged with and shall exercise a general fiscal supervision over all the officers, departments, offices, agencies and employees of the city charged in any manner with the assessment, receipt, collection or disbursement of the city revenues, and with the collection and return of such revenues into the city treasury; and ~~he~~ *the director* shall prescribe such system and regulation as is necessary for the proper reporting and accounting for all city ~~revenue~~ *revenues* and receipts.

(c) The director of finance shall have the power to and shall examine and audit all accounts, claims and demands for or against the city; and, unless otherwise provided by law or by this charter, no money shall be drawn from the treasury or be paid by the city to any person unless the balance due and payable by the city be first settled and adjusted by the ~~said~~ director of finance.

(d) The director of finance shall draw a ~~warrant~~ *check* on the treasury for such money as is determined by ~~him~~ *the director* to be due and payable to any person, stating the particular fund or appropriation to which the same is chargeable and the person to whom payable; and no money shall be drawn from the treasury except on the ~~warrant~~ *check* of the director of finance as aforesaid, countersigned by the city manager. The director of finance is forbidden to issue ~~his warrant~~ *a check* for the payment of any money in excess of the appropriation on account of which such money is drawn.

(e) It shall be the duty of the director of finance to charge all officers in receipt of revenues or moneys of the city with the whole amount, from time to time, of such receipts. ~~He~~ *The director* shall also require of all officers in receipt of city moneys that they submit reports thereof, with vouchers and receipts of payment therefor into the city treasury, daily, weekly or monthly, or at such times as may be otherwise provided by ordinance of the council; and if any such officer shall neglect to make adjustment of his accounts, when required, as ~~aforesaid~~, and to pay over such moneys as received, it shall then be the duty of ~~said~~ *the* director of finance to issue notice in writing, directed to such officer and ~~his~~ *such officer's* surety or sureties, requiring him or them within ten days to make settlement of his ~~said~~ *or their* accounts with the director of finance, and to pay over the balance of moneys found to be due and in his ~~or their~~ hands belonging to ~~said~~ *the* city, according to the books of ~~said~~ *the* director of finance; and in case of the refusal or neglect of such officer to adjust his ~~said~~ accounts or to pay over such balance into the treasury of the city, as required, it shall be the duty of the director of finance to make report of the delinquency of such officer to the council, the city manager, the municipal auditor and the city attorney. For good cause appearing, the city attorney shall at once take action to have such officer suspended from office, and shall proceed forthwith to institute the necessary proceedings for the removal of such officer from office, and shall institute suit in the name of the city against such officer and his surety or sureties to recover the balance of moneys so found by the director of finance to be due ~~and in his hands~~ belonging to ~~said~~ *the* city.

(f) The director of finance shall prepare an annual statement, promptly after the end of each fiscal year, giving full and detailed statement of all the receipts and expenditures during the year, which statement ~~he~~ *the director* shall forthwith file with the city manager and ~~he~~ shall lay the same before the next meeting of the council. When required by the council, such annual statement shall be certified by independent certified public accountants.

(g) It shall be the duty of the director of finance, each and every month, to prepare a monthly statement, giving a full and detailed account of all moneys received, from what sources and on what account received, and of all moneys ordered to be paid or drawn by ~~warrant~~ *check* by ~~him~~ *the director*, and on what account the same have been paid; and ~~he~~ *the director* shall deliver ~~said~~ *such* statement to the city manager, and shall lay the same before the council at its next meeting.

(h) No contract, agreement or other obligation involving the expenditure of money shall be entered into nor shall any ordinance of the council or order of any officer of the city authorizing the city's obligation for expenditure of money be effective until and unless the director of finance shall have certified in writing that the money required for such contract, agreement, obligation or expenditure is in

the city treasury to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certification may be endorsed on or recited in such ordinance, endorsed upon the contract, agreement or other instrument creating such obligation or upon such order, or may be contained in separate certification filed and preserved in the office of the city clerk; provided, however, that requirement of such certification shall not be applicable to the city's execution or issuance of bonds or notes under §§ 47, 48 and 49 of this charter. The sum so certified shall not thereafter be considered unencumbered, until the city is discharged from the contract, agreement or obligation.

(i) For the purpose of the certification required in subsection (h); ~~supra of this section~~, all moneys actually in the treasury to the credit of the fund from which they are to be drawn and all moneys applicable to the payment of the obligation or appropriation involved that are anticipated to come into the treasury before the maturity of such contract, agreement or obligation from taxes, assessments, license fees or from sales of property or of services, products, or by-products of any city undertaking and all moneys to be derived from lawfully authorized bonds or from other sources, shall be deemed in the treasury to the credit of the appropriate fund and subject to such certification.

(j) Unless otherwise provided in this charter, the director of finance shall have all of the duties, responsibilities, powers and authority heretofore imposed upon or lodged in the city auditor by this charter or by the ordinances and resolutions of the council heretofore or hereafter adopted prior to the council's election of a director of finance.

(k) The director of finance shall have the power and the authority to use any and all collection methods available to the treasurers of the counties and cities under general law to collect delinquent real estate taxes, provided the responsibility for such collection has been transferred to the director of finance by ordinance adopted by city council.

§ 25.2. Municipal auditor.

The municipal auditor shall be elected by the council at the time, in the manner and for the term provided by § 9 of this Charter; ~~provided, however, that the term of the municipal auditor first elected hereunder, if elected prior to the first day of September, 1974, shall expire on the last day of September, 1974, or at such time thereafter as his successor shall have been elected and qualified.~~

(a) The municipal auditor shall have such qualifications as the council shall from time to time establish.

(b) It shall be ~~his~~ *the duty of the municipal auditor:*

(1) ~~to~~ To examine and audit all accounts, books and records of the city that reflect transactions involving financial activities of the city, including those for which the city has a responsibility as an agent, custodian or trustee, ~~said~~ *such* audit to be made in a timely manner or as prescribed by ordinance.

(e)(2) ~~It shall be his duty to~~ To work closely with the Director of Finance in promulgation of systems and procedures employed in the accounting for revenue received and expenditures made by the city.

(d)(3) When so directed by the council, ~~it shall be his duty~~ to see to implementation of and to supervise all systems recommended to be established by independent public accountants making audits for city functions.

(e)(4) ~~It shall be his duty to~~ To report to the Council within sixty days after the close of the fiscal year a summary of the activities of ~~his~~ *the auditor's* office during the preceding fiscal year; ~~It shall be his duty and~~ to report to the council in writing within sixty days after the completion of an examination of any department, agency or activity of the city, a summary of all findings resulting from ~~his~~ *the auditor's* examination. A copy of each audit report shall be submitted to the council, the city manager and to the department, agency or office audited.

(f)(5) ~~It shall be his duty to~~ To report immediately in writing to the city manager and to the council any unauthorized, illegal or irregular act or practice ~~he discovers~~ *discovered* affecting or involving public funds or the financial affairs of the city.

(g)(c) In the performance of ~~his~~ *the auditor's* duties, ~~he~~ *the auditor* shall have access at any and all times to all books, records and accounts of each department, office, officer, employee or agency of the city subject to examination or audit by ~~him~~ *the auditor*.

(h)(d) Subject to the provisions of § 9 of this charter, ~~he~~ *the auditor* shall have power to appoint such assistants and employees as the council shall authorize and appropriate funds to provide for.

(i)(e) The municipal auditor shall devote ~~his~~ full time and effort to post-audit examinations and reporting and shall receive only such compensation as may be fixed for the position by ordinance of the council. ~~He~~ *The auditor* shall not serve in any capacity on any administrative board, commission, district, or agency of the city, county, or the ~~State Commonwealth~~, nor shall ~~he~~ *the auditor* have a material direct or indirect financial or other economic or personal interest in the transactions of any officer, department, board, commission, district, or other organization for which ~~he~~ *the auditor* is responsible to audit or cause to be audited. ~~He~~ *The auditor* shall not be directly responsible for the collection or any money belonging to the Commonwealth of Virginia, the city of Roanoke, or other political subdivisions of the State or the city, nor shall ~~he~~ *the auditor* be directly responsible for the

handling or custody of state or local public funds. Neither ~~he the auditor~~ nor any member of ~~his the auditor's~~ staff shall engage in or be associated with any partisan political activity or hold any other public office.

~~He~~ *The Auditor* shall neither conduct nor supervise an audit or post-audit of any office, department, program or activity of the city of ~~Roanoke~~ for which ~~he the auditor~~ was responsible or in which ~~he the auditor~~ may have participated or been employed during any preceding two years. The council shall provide otherwise for any necessary audit or post-audit of any such office, department, program and activity falling within the proscription of this provision.

The council shall assign to ~~him the auditor~~ no administrative or other duties, except such as may be incidental to the objectives and functions of post-auditing or such as do not act to impair the independence of ~~his the auditor's~~ audits.

§ 26. City attorney.

The city attorney shall be elected at the time, in the manner, and for the term provided by § 9 of this charter. ~~He~~ *The city attorney* shall be the legal advisor of and attorney and counsel for the city and the school board of the city and for all officers, and departments thereof, in matters relating to their official duties. ~~He~~ *The city attorney* shall prosecute all suits, actions and proceedings for and on behalf of the city and the school board of the city, and defend all suits, actions and proceedings against the same, and shall prepare all contracts, bonds and other instruments in writing, in which the city or the school board of the city are interested or concerned, and shall endorse on each his *or her* approval of the form and correctness thereof, provided that in the case of bonds to be issued by the city, it shall be sufficient if ~~he the city attorney~~ *certify certifies* to the council his *or her* approval thereof as to form in a separate writing, to be filed and preserved with the records of the council.

The council, the city manager, or any officer, board or commission may require the opinion of the city attorney upon any question of law involving their respective powers and duties.

The city attorney shall apply in the name of the city to a court of competent jurisdiction for such injunction or injunctions as may be necessary to restrain and prevent the misapplication of the funds of the city, or the invasion or abuse of its corporate powers, or the usurpation of authority by any city official, or the execution or performance of any contract made in behalf of the city in contravention of law, or which was procured by fraud or corruption.

When an obligation or contract made on behalf of the city granting a right or easement or creating a public duty is being evaded or violated, the city attorney, when directed by council, shall institute and prosecute such suit or suits as may be necessary to enforce the forfeiture thereof, or the specific performance thereof, as the nature of the case may require.

In case any officer, board or commission shall fail to perform any duty required by law, the city attorney shall apply to a court of competent jurisdiction for a writ of mandamus to compel the performance of such duty.

Whenever the city or school board shall purchase or otherwise acquire real estate or any interest therein, unless other provision is made by the council, the city attorney shall conduct such title examination as ~~he or she~~ deems appropriate before the purchase price thereof shall be paid. The ~~said~~ city attorney shall perform such other duties as may be required of him *or her* by ordinance or resolution of the council.

§ 31. Police department.

The police department shall be composed of a ~~superintendent or~~ chief of police and such officers, patrolmen and other employees as the council may determine. The ~~superintendent or~~ chief of police shall have the immediate direction and control of the ~~said~~ department, subject, however, to the supervision of the city manager and to such rules, regulations and orders as the ~~said~~ city manager may prescribe. The ~~superintendent or~~ chief of police shall issue all orders, rules and regulations for the government of the whole department. ~~In case of the disability of the superintendent or chief of police to perform his duties by reason of sickness, absence from the city or other cause, the city manager shall designate some member of the police department to act as superintendent or chief of police during such disability, and the officer so designated, shall serve without additional compensation.~~ The members of the police department shall be appointed and may be removed by the city manager or ~~his the city manager's~~ designee. The council may by ordinance prescribe rules and regulations governing the residence or nonresidence of any or all members of the police department. ~~Each member of the police department, both rank and file, shall have issued to him a warrant of appointment signed by the city manager, in which the date of his appointment shall be stated, and such warrant shall be his commission. Each member of the said department shall, before entering upon the duties of his office, take and subscribe an oath before the city clerk that he or she will faithfully without fear or favor perform the duties of his or her office, and such oath shall be filed with the city clerk and preserved with the records of his the clerk's office. And in addition, the several officers of the said department shall, if so required by the council, give bond in such penalty and with such security as the council may by ordinance prescribe.~~

552 No person except as otherwise provided by general law or by this charter shall act as special police,
553 special detective or other special police officer for any purpose whatsoever except upon written authority
554 from the city manager. Such authority, when conferred, shall be exercised only under the direction and
555 control of the ~~superintendent or~~ chief of police and for a specified time; provided, however, that the
556 council may from time to time designate the maximum number of such special police, special detective
557 or other special police officers.

558 The officers ~~and privates~~ constituting the police department of ~~said the~~ city shall be, and they are,
559 hereby invested with all of the power and authority which pertains to the office of constable at common
560 law in taking cognizance of and in enforcing criminal laws of the state and the ordinances and
561 regulations of ~~said the~~ city, and it shall be the duty of each such officer ~~and private~~ to use his *or her*
562 best endeavors to prevent the commission within the ~~said~~ city of offenses against the laws of ~~said the~~
563 State, and against the ordinances and regulations of ~~said the~~ city; to observe and enforce all such laws,
564 ordinances and regulations; to detect and arrest offenders against the same; to preserve the good order of
565 ~~said the~~ city, and to secure the inhabitants thereof from violence and the property therein from injury.
566 *Except as provided by general law, Such policeman such officers* shall have no power or authority in
567 civil matters, but shall execute any criminal warrant or warrant of arrest that may be placed in ~~his their~~
568 hands by any judge ~~or municipal judge~~ of the city, and shall make due return thereof.

569 The ~~manager~~ *chief of police* shall prescribe the uniforms and badges for the members of the police
570 department, and direct the manner in which the members of ~~said the~~ department shall be armed. Any
571 person other than a member of said department who shall wear such uniform or badge as may be
572 prescribed as ~~aforsaid~~, may be subjected to such fine or imprisonment, or both, as may be prescribed
573 by the council by ordinance.

574 § 32. Fire Department.

575 The fire department shall be composed of a chief and such other officers, firefighters and employees
576 as the council may determine. The fire chief shall have immediate direction and control of the ~~said~~
577 department, subject, however, to the supervision of the city manager, and to such rules and regulations
578 and orders as the ~~said~~ city manager may prescribe. The city manager shall issue all orders, rules and
579 regulations for the government of the whole department.

580 The members of the fire department shall be appointed and removed by the city manager or his *or*
581 *her* designee. In case of riot, conflagration or emergency, the city manager or his *or her* designee may
582 appoint additional firefighters and officers for temporary service.

583 The chief of the fire department and ~~his the chief's~~ assistants are authorized to exercise the powers of
584 police officers while going to, attending or returning from any fire or alarm of fire. ~~The fire chief and~~
585 ~~each of his assistants shall have issued to him a warrant of appointment signed by the city manager, in~~
586 ~~which the date of his appointment shall be stated, and such warrant shall be his commission. The city~~
587 ~~manager fire chief shall prescribe the uniform and badges for the members of the fire department.~~

588 Whenever any building in ~~said the~~ city shall be on fire it shall be lawful for the chief of the fire
589 department to order and direct such building or any other building ~~which he that the chief~~ may deem
590 hazardous and likely to communicate fire to other buildings, or any part of such buildings, to be pulled
591 down or destroyed; and no action shall be maintained against ~~said the~~ chief or any person acting under
592 ~~his the chief's~~ authority or against the city therefor. ~~But any person interested in the property so~~
593 ~~destroyed may within one year thereafter apply in writing to the council to assess and pay the damages~~
594 ~~he has sustained. The council may thereupon pay to the claimant such sum as may be agreed upon~~
595 ~~between him and the council. If no agreement be effected, such claimant may give to the city attorney~~
596 ~~of said city ten days' written notice of his intention to apply to the Circuit Court of said city for the~~
597 ~~appointment of commissioners to ascertain and assess his said damage. Upon it appearing that such~~
598 ~~notice has been given, the Circuit Court of said city shall appoint five disinterested freeholders, residents~~
599 ~~of said city, any three or more of whom may act, for the purpose of ascertaining and assessing the~~
600 ~~amount of such damages. Thereupon the said commissioners shall proceed to ascertain and assess the~~
601 ~~amount of such damages in the same manner as is now or may hereafter be provided by law in the case~~
602 ~~of taking private property for public use, and the procedure upon the filing of the report of said~~
603 ~~commissioners shall conform as nearly as may be to the procedure under the statutes of Virginia relating~~
604 ~~to eminent domain.~~

605 The council may establish, within the fire department, a rescue squad, emergency squad or first-aid
606 crew to aid the injured and ill *an emergency medical service*.

607 § 33. The annual budget.

608 The city manager, at least sixty days prior to the beginning of each fiscal year, shall submit to the
609 council a budget for the ensuing fiscal year. It shall be the duty of the head of each department, the
610 judge of each court, each board or commission, including the school board, and each other office or
611 agency supported in whole or in part by the city, including the commissioner of the revenue, the city
612 treasurer, the sheriff, the attorney for the Commonwealth and clerk of courts to file with the director of
613 finance by March 15 of each year estimates of revenue and expenditure for that department, court,

board, commission, office or agency for the ensuing fiscal year. Such estimates shall be submitted on forms furnished by the director of finance and it shall be the duty of the head of each such department, judge, board, commission, office or agency to supply all the information required to be submitted thereon. The director of finance shall assemble and compile all such estimates and supply such additional information relating to the financial transactions of the city as may be necessary and present them to the city manager for the timely preparation of the budget. The city manager, with the assistance of the director of finance, shall review the estimates and other data pertinent to the preparation of the budget and make such revisions in such estimates as ~~he~~ *the city manager* may deem proper subject to the laws of the Commonwealth relating to obligatory expenditures for any purpose, except that in the case of the school board budget ~~he~~ *the city manager* may recommend a revision in category totals only.

The budget submitted to the council shall contain the following:

(a) An itemized statement of the appropriations recommended with comparative statements showing appropriations made for the current and next preceding year.

(b) An itemized statement of the taxes required and of the estimated revenues of the city from all other sources for the ensuing fiscal year, with comparative statements of the taxes and other revenues for the current and next preceding year, and of the increases or decreases estimated or proposed.

(c) A fund statement showing a condition of the various appropriations, the amount of appropriations remaining unencumbered, and the amount of revenues remaining unappropriated.

(d) ~~Explanatory text relative to the conditions, reasons, et cetera, connected with~~ *An explanation of* the estimates for the ensuing year; also a work program showing the undertakings to be begun and those to be completed during the next year and each of several years in advance.

(e) A statement of the financial condition of the city.

(f) Such other information as may be required by the council.

(g) Such other information as the city manager deems appropriate or advisable.

In no event shall the expenditures recommended by the city manager in the budget exceed the receipts estimated, unless the city manager shall recommend new or increased revenues within the power of the city to levy and collect in the ensuing fiscal year.

The city manager shall submit to the council with the budget a budget message which shall incorporate the most current statement of the financial condition of the city, shall be ~~explanatory of~~ *explain* the budget and shall describe ~~the~~ *its* important features of ~~the budget plan~~. It shall set forth the reasons for salient changes from the previous year in cost and revenue items. As a part of the budget message, with relation to the proposed expenditures for capital projects included in the budget, the city manager shall include a statement of pending capital projects and proposed new capital projects, relating the respective amounts proposed to be raised therefor by appropriations in the budget and the respective amounts, if any, proposed to be raised therefor by the issuance of bonds during the budget year.

§ 35. Fiscal year; determination of when licenses and taxes payable.

The council may determine when the fiscal year of the city shall begin and end, and may change the same from time to time. The council may also determine when city licenses and taxes ~~shall be~~ *are* payable.

§ 36. Unencumbered balances; money not to be withdrawn or obligations incurred except pursuant to appropriations.

At the close of each fiscal year, or upon the completion or abandonment at any time within the year of any work, improvement, or other object for which a specific appropriation has been made, the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to further appropriation. No money shall be drawn from the treasury of the city nor shall any obligation for the expenditure of money be incurred except pursuant to the appropriations made by the council.

§ 37. City treasurer.

The city treasurer shall be elected at the time, in the manner and for the term provided in § 18 of this charter. ~~He~~ *The treasurer* shall give bond in such sum as the council may prescribe with surety to be approved by the council, conditioned for the faithful discharge of ~~his~~ *the treasurer's* official duties in relation to the revenue of the city, and of such other official duties as may be imposed upon ~~him~~ *the treasurer* by this charter and the ordinances of the city. ~~He~~ *The treasurer* shall collect and receive all city taxes, levies, assessments, license taxes, rents, school funds, fees and all other revenues or moneys accruing to the city, except such as council shall by ordinance make it the duty of some other officer or persons to collect, and for that purpose shall be vested with any and all powers which are now or may hereafter be vested in such city treasurer as collector of ~~State~~ *state* taxes. ~~He~~ *The treasurer* shall be the custodian of all public money of the city, and all other money coming into his hands as city treasurer. The city treasurer shall keep and preserve such moneys in such banks or trust companies as may be determined by ordinance or by the provisions of any law applicable thereto, and may permit securities pledged by the depositories of city funds to be held in custody by the Federal Reserve Bank of

Richmond, Virginia, in accordance with any operating circular or circulars of such bank. ~~He~~ *The treasurer* shall perform such other duties, have such powers and be liable to such penalties as are now or may hereafter be prescribed by law or ordinance. For such services the city treasurer shall receive such compensation as the council may from time to time prescribe by ordinance in conformity with general law.

§ 38. Commissioner of revenue.

The commissioner of the revenue shall be elected at the time, in the manner and for the term provided in § 18 of this charter. ~~He~~ *The commissioner* shall give bond in such sum as the council may by ordinance prescribe, with surety to be approved by the council, conditioned for the faithful performance of all ~~his~~ *the commissioner's* duties under this charter, and under any ordinance of the city. ~~He~~ *The commissioner* shall perform such duties not inconsistent with the laws of the State in relation to the assessment of property and licenses as may be required by the council for the purpose of levying city taxes and licenses. ~~He~~ *The commissioner* shall have power to administer such oaths as may be required by the council in the assessment of license taxes or other taxes for the city. ~~He~~ *The commissioner* shall make such reports in regard to the assessment of both property and licenses, or either, as may be required by the council. The council may by ordinance require that all tax bills shall be made out by the commissioner of the revenue and delivered in such manner as ~~said~~ *the* ordinance may prescribe. For all such services the ~~said~~ commissioner of the revenue shall receive such compensation as the council may from time to time prescribe by ordinance in conformity with general law.

§ 39. Vacancies in the office of city treasurer or commissioner of revenue.

In case of any vacancy in the office of the city treasurer or commissioner of the revenue, the council shall select a qualified person to fill the office in which such vacancy occurs for the unexpired term; provided that if the term of office so filled does not expire for two years or more after the next regular municipal election for the election of ~~councilmen~~ *council members* following such vacancy, and such vacancy occurs in time to permit it, a city treasurer or commissioner of the revenue, as the case may be, shall then be elected and shall from and after the date of his qualification succeed such appointee and serve the unexpired term.

§ 40. Contracts for public improvements; purchases.

Any purchase, public work, or improvement, costing more than ~~thirty thousand dollars~~ *\$50,000*, except as provided in the next succeeding section, shall be executed by contract. All contracts for more than ~~thirty thousand dollars~~ *\$50,000* shall be awarded after public advertisement and competition, as may be prescribed by general law. The city council shall have the power to reject any and all bids, and all advertisements shall contain a reservation of this right.

§ 41. Improvement by direct labor, emergency work.

After bids shall have been advertised for and received for making any public improvement or doing any public work, the council may authorize the making of such improvement or doing such work by the direct employment of the necessary labor and purchase of the necessary materials and supplies on the basis of detailed estimates submitted by the city manager; provided the probable cost of such work of improvements as shown by such estimate is less than the bid of the lowest responsible bidder for the same work improvement; and provided, further, that the city manager shall certify to the council that in his opinion the cost of making such improvement or doing such work will not exceed ~~the said~~ *such* estimate. Separate accounts shall be kept of all work and improvements so done or made.

In an emergency requiring immediate action, the city manager may make any purchase or cause any such improvements to be made or other public work to be done by direct employment of the necessary labor and purchase of the necessary material and supplies without previously advertising for or receiving bids therefor. Every such case shall be reported by ~~him~~ *the city manager* in writing to the council at its next regular meeting with a statement of the facts constituting such emergency. Separate accounts shall be kept of all such work; provided that nothing in this or the next preceding section shall prevent the ~~said~~ city from doing maintenance and repair work by direct labor and from maintaining a reasonable workforce of ~~men~~ for that purpose.

§ 42. Alterations or modifications of contracts.

When it becomes necessary in the prosecution of any work or improvement under contract to make alterations or modifications of such contract, such alterations or modifications shall be made on order of the city council. However, when the amount involved in the proposed alterations or modifications does not exceed ~~twenty-five thousand dollars~~ *twenty-five percent of the amount of the contract or \$50,000, whichever is greater*, such alterations or modifications may be made on the order of the city manager *if the funds necessary therefor have been appropriated*. No such order shall be effective until the price to be paid for the work and material, or both, and the credits, if any, to be allowed the city, under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor and by the city manager.

§ 44. Actions against the city for damages.

No action shall be maintained against the city for injury to any person or property or for wrongful death alleged to have been sustained by reason of the negligence of the city or of any officer, agent or employee thereof, unless a written statement by the claimant, his agent, attorney or representative, of the nature of the claim and of the time and place at which the injury is alleged to have occurred or been received, shall have been filed with the city attorney, ~~or president of council, or with the mayor, or city manager,~~ within six months after such cause of action shall have accrued, except if the complainant during such six-month period is able to establish by clear and convincing evidence that due to the injury sustained for which a claim is asserted that he was physically or mentally unable to give such notice within the six-month period, then the time for giving notice shall be tolled until the claimant sufficiently recovers from ~~said such~~ injury so as to be able to give such notice.

§ 45. Laying out of streets.

No property within the corporate limits of the city of ~~Roanoke~~ or within three miles of ~~said such~~ limits (or five miles as provided by Article 2, Chapter 23, of Title 15 of the Code of Virginia, 1950, except as to any lands within the overlapping boundaries under the jurisdiction of any incorporated town as defined by said Article), as now or hereafter established, shall be laid out with streets, alleys or public easements or ways thereon, except in accordance with such rules, regulations and provisions which may have been or hereafter be established, from time to time, by ordinance of the city council. To provide for the proper and orderly development of the city and its environs the council shall have the power, by ordinance, to make and enforce rules, regulations and provisions for the laying out of such streets, alleys, public ways or easements and shall have power to require, by the recordation of plats or otherwise, that the title to land so laid out shall thereby vest in the ~~said~~ city or in such county as the land may be situate.

Notwithstanding anything in this section contained, the city shall not be liable for any accidents or injuries which may occur or be sustained upon any street, alley, boulevard or way, heretofore or hereafter laid out, until and unless the ~~said~~ street, alley, boulevard or way shall have been accepted by the city, and the approval of any plan or plat shall not be taken as an acceptance by ~~said the~~ city of any street, alley, boulevard, way or public place shown on such plan or plat.

§ 47. Bond issues; borrowing in anticipation of issuance of bonds.

(a) The council may, in the name and for the use of the city, cause to be issued bonds for any one or more of the following purposes; ~~namely:~~ To provide for parks and other recreational purposes, water supply, water works, electric lights or other lighting system, suitable equipment against fire, or for erecting or improving bridges, viaducts, school buildings, jails, city halls, fire houses, libraries, museums, and other public buildings, incinerators, auditoriums, armories, airports and equipment and furnishings for same; *to provide for hospitals and clinics, a local bus transportation system to operate on regular schedules; grading, paving, repaving, curbing, or otherwise improving any one or more of the streets or alleys, or widening existing ones; or to provide for locating, instituting and maintaining sewers, drains and culverts; or for any other permanent public improvement; to provide for the acquisition of automobiles, trucks and other automotive and movable equipment or a revolving fund of not more than five hundred thousand dollars (\$500,000.00) for the establishment of a pool of automobiles, trucks and other automotive and movable equipment; provided, that the council shall first establish by ordinance such conditions under which the respective departments, courts, bureaus, boards, commissions, offices and agencies of the city shall have the use of such equipment as will recoup the said fund within the estimated life of each class and type of such equipment; provided that no . No such bonds shall be issued under this charter except by an ordinance or a resolution adopted by a recorded affirmative vote of a majority of all members of the council; no such bonds to provide for the acquisition of a supply of water to said city and its inhabitants, or for other specific undertaking, from which the city may derive a revenue, as provided in the Constitution of Virginia and Chapter 358 of the Acts of Assembly of 1918, as amended by Chapter 217 of the Acts of Assembly of 1930, shall be issued except by ordinance adopted by a majority of all members of council; but such bonds shall not be irredeemable for a period greater than thirty-five years elected to council. Any bonds issued under this charter may be dated, may mature at such time or times not exceeding forty years from their date or dates, may be subject to redemption or repurchase at such price or prices and under such terms and conditions and may contain such other provisions, all as determined before their issuance by the council or in such manner as the council shall provide. Any such bonds may bear interest payable at such time or times and at such rate or rates as determined by the council or in such manner as the council may provide, including the determination by reference to indices or formulas or by agents designated by the council under guidelines established by it. The council may fix the denomination or denominations of the bonds and the place or places of payment. Any such bonds may be issued in registered or book entry form, or in any combination of such forms, as the council may determine. The council may sell any bonds authorized under the provisions of this charter in such manner, either at public or private sale, and for such price as the council may determine. All proceeds received by the city from the sale of*

798 *bonds issued under this charter shall be deposited and invested in accordance with the provisions of the*
799 *Public Finance Act of 1991, as from time to time amended.*

800 (b) The council, in its discretion, may require that an ordinance adopted by the council authorizing
801 the issuance of general obligation bonds, as defined by the Public Finance Act of 1991, *as may from*
802 *time to time be amended*, be approved by the affirmative vote of the majority of the qualified voters of
803 the city voting on the question at an election for such purpose to be called, held and conducted in
804 accordance with an ordinance *or a resolution* adopted by the council providing for such election ~~and for~~
805 ~~giving due publicity to the same and also providing by whom and how the ballots shall be prepared and~~
806 ~~return canvassed and the result certified.~~

807 (c) In no case shall the city issue any bonds or other interest-bearing obligations which, including
808 existing indebtedness, shall at any time exceed ten percent of the assessed valuation of the real estate in
809 the city subject to taxation, as shown by the last preceding assessment for taxes. In determining the
810 limitation for the city there shall not be included the classes of indebtedness described in paragraphs (1),
811 (2), (3) and (4) of subsection (a) of Section 10 of Article VII of the Constitution of Virginia.

812 The said council shall not endorse the bonds of any company whatsoever or make the city liable
813 therefor.

814 (d) The said council shall determine the form and the manner of execution of the bonds; ~~including~~
815 ~~any interest coupons to be attached thereto.~~ Any bonds issued under the provisions of this charter and
816 any interest coupons attached thereto, if so authorized by the said council, may bear or be executed with
817 the facsimile signature of any official authorized to sign or to execute such bonds ~~or coupons.~~ In case .
818 If any law shall provide for the sealing of such bonds with the official or corporate seal of the city ~~or of~~
819 ~~the said council or any official thereof~~, a facsimile of such seal may be imprinted on the bonds if so
820 authorized by said council, and it shall not be necessary in such case to impress such seal physically
821 upon such bonds.

822 In case any officer whose signature or a facsimile of whose signature shall appear on any bonds ~~or~~
823 ~~coupons~~ shall cease to be such officer before the delivery of such bonds, such signature or such
824 facsimile shall nevertheless be valid and sufficient for all purposes the same as if ~~he~~ *such officer* had
825 remained in office until such delivery; ~~and any.~~ Any such bond may bear the facsimile signature of, or
826 may be signed by, ~~such persons as any person who~~ at the actual time of the execution of such bonds
827 shall be the proper ~~officers~~ *officer* to sign such bond although at the date of such bond such ~~persons~~
828 ~~person~~ may not have been such ~~officers~~ *officer*. When all signatures on bonds are facsimiles, the bonds
829 *must be authenticated by an agent appointed by the council or in such manner as the council may*
830 *provide.*

831 When all signatures on bonds are facsimiles, the bonds must be authenticated by an approved agent
832 of the said council.

833 The said bonds shall be sold by resolution of the council and the proceeds used under its direction.
834 Every bond issued by the council shall state on its face for what purpose or purposes it is issued, and
835 the proceeds shall be applied exclusively to the purpose or purposes for which such bonds are issued.

836 (e) In anticipation of the issuance of bonds under the provisions of this section or under the
837 provisions of the Public Finance Act of 1991, as from time to time amended, and of the receipt of the
838 proceeds of sale of such bonds, the council may, in the name and for the use of the city, by *an*
839 *ordinance or a resolution* adopted by the council, cause to be borrowed money for the purpose for
840 which such bonds have been authorized and within the maximum authorized amount of the bond issue.
841 ~~The Negotiable notes shall be issued for all moneys borrowed in anticipation of the issuance of bonds~~
842 ~~under this section or of the Public Finance Act of 1991, as from time to time amended. The ordinance~~
843 ~~or resolution authorizing any such borrowing shall specify the maximum rate of interest to be paid by~~
844 ~~the city on such loan notes, and each such loan notes shall mature and be paid within five years from the~~
845 ~~date of its original issue their original issuance. Any such notes may be extended or refinanced from~~
846 ~~time to time, provided that no note issued upon any such extension or refinancing shall mature later~~
847 ~~than five years from the date of the original issuance of such notes.~~ The city may, in its discretion,
848 retire any such loans by means of current revenues, special assessments, or other funds, in lieu of
849 retiring them by means of bonds, and may, thereafter, provide for the issuance of the maximum amount
850 of bonds that has been authorized without reduction by the amount of such loans retired in such manner.
851 Negotiable notes shall be issued for all moneys borrowed in anticipation of the issuance of bonds under
852 this section or of the Public Finance Act of 1991, as amended, and such notes may be renewed from
853 time to time, but all such notes shall mature within the time limited by this section. The issuance of
854 such notes and other details thereof shall be governed by provisions of the *ordinance or the resolution*
855 ~~or ordinance~~ of the council authorizing such borrowing, not inconsistent with the provisions contained in
856 this ~~paragraph~~ *section*.

857 (f) Notwithstanding any other provision of law, the council is authorized and required to levy and
858 collect annually, at the same time and in the same manner as other taxes of the city are assessed, levied
859 and collected, a tax upon all taxable property within the city, over and above all other taxes, authorized

or limited by law and without limitation as to rate or amount, sufficient to pay when due the principal of and premium, if any, and interest on any general obligation bonds or notes of the city issued under the provisions of this charter to the extent other funds of the city are not lawfully available and appropriated for such purpose.

(g) All such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth and are made securities in which public officers and bodies of the Commonwealth, counties, cities and towns and municipal subdivisions of the Commonwealth, insurance companies and associations, savings banks, savings institutions, savings and loan associations, trust companies, beneficial and benevolent associations, administrators, guardians, executors, trustees and other fiduciaries in the Commonwealth may properly and legally invest funds under their control.

§ 51. Lien of taxes.

There shall be a prior lien on all real estate and on each and every interest therein for the city taxes as assessed thereon, from the commencement of the year for which they were assessed, and also for all local assessments which may be made thereon according to law. There shall also be a lien on any land or premises for the amount of expense incurred by ~~said~~ the city in abating any nuisance thereon or cutting or removing weeds therefrom, after notice to the owner thereof by publication or otherwise as may be provided by ordinance; provided, however, that the lien for the amount of any such local assessment or for the expense of abating any nuisance or cutting or removing weeds from any premises shall not be good against a purchaser of land or premises for value without notice except and until from the time that the same shall be recorded in records or books kept for that purpose in the office of the city clerk and recorded and indexed in the office of the clerk of the circuit court in the name of the person or persons owning such estate or land at the time the ~~said~~ lien accrued. The council may require such real estate in the city delinquent for the non-payment of taxes, or assessments or expenses incurred as above provided, to be sold for ~~said~~ taxes or assessments or expenses, with interest thereon at the maximum rate authorized by general law of the Commonwealth, and such percentage as may be prescribed for charges; and the council may regulate the terms on which the real estate so delinquent may be sold or redeemed.

§ 52. Distraint and sale of goods and chattels for unpaid taxes; payment of taxes by tenants or fiduciaries.

All goods and chattels of any person against whom taxes for the city are assessed may be distrained and sold for ~~said~~ taxes when due and unpaid in the same manner and to the same extent that goods and chattels may be distrained and sold for ~~State~~ state taxes.

A tenant by whom payment is made or from whom payment is obtained, by distress or otherwise, of taxes or levies due the city, by a person under whom he holds, shall have credit for the same against such person out of the rents he may owe him, except when the tenant is bound to pay such taxes and levies by an express contract with such persons. And where taxes or levies are paid to the city by any fiduciary on any estate in his hands or for which he may be liable, such taxes and levies shall be refunded out of the ~~said~~ estate.

§ 53. License taxes.

(a) License taxes may be imposed by ordinance on businesses, trades, professions, and callings and upon the persons, firms, associations and corporations engaged therein and the agent thereof, except in cases where taxation by the localities shall be prohibited by the general law of the State, and nothing herein shall be construed to repeal, or amend any general law of the State with respect to taxation.

(b) The council may require every person, firm or corporation using or operating a cart, ~~wagon, dray, buggy, motoreycle, automobile, or motor truck, or other~~ vehicle, on the streets of the city to secure a license and to pay a tax therefor, whether such vehicle is used or operated for compensation or not.

(c) The council may subject any person, firm or corporation who or which without having obtained a license therefor, shall follow any business, occupation, vocation, trade, pursuit, calling, or shall do any other act for which a license is required by this section, to such fine or penalty as it is authorized to impose for any violation of its laws.

(d) The council may, in its discretion, determine whether or not the commissioner of the revenue shall receive fees for issuing and transferring city licenses, and it may fix the amount of such fees and change the same from time to time; provided, however, that no such fees shall be payable out of the city treasury, but shall be paid by the person obtaining the license or transfer, and such license or transfer may be withheld by the commissioner of the revenue until such fees are paid.

(e) Council may provide by ordinance for revoking any license for failure to comply with conditions upon which same is granted.

§ 54. School board members.

The city of ~~Roanoke~~ shall not be subdivided into school districts, but for the purpose of the election and qualification of school ~~trustees~~ board members of the School Board of the City of Roanoke shall be considered as one district. Seven (7) members shall be elected by council as prescribed by ordinance,

921 *and they and shall serve the city at large.*

922 *The members of the school board now in office shall continue until the end of the terms for which*
923 *they were elected.*

924 § 56. Powers and duties of the school board.

925 The school ~~trustees of said~~ *board members of the city school board* shall be a body corporate under
926 the name and style of the School Board of the city of Roanoke, and shall have all of the powers,
927 perform all of the duties and be subject to all of the limitations now provided, or which may hereafter
928 be provided by law in regard to school boards of cities and except that all real estate with the buildings
929 and improvements thereon heretofore or hereafter purchased with money received from the sale of bonds
930 of this city, appropriated by the council or received from any other source for the purpose of public
931 education, shall be the property of the ~~said~~ city of Roanoke, unless such money so received from any
932 other source be received on other conditions. The school board shall transmit to the council and to the
933 city director of finance a detailed statement of all moneys received by ~~said the~~ board or placed to its
934 credit. Separate accounts shall be kept by the ~~said~~ board of moneys appropriated by the council, and
935 moneys received from other sources, and every such statement shall show the balance of each class of
936 funds on hand or under control of ~~said the~~ board as of the date thereof.

937 The school board shall on or before March 15 each fiscal year prepare and submit to the council or
938 its designee for its information in making up its proposed annual budget a detailed estimate, in such
939 form as ~~said the~~ council or its designee shall require, of the amount of money required for the conduct
940 of the public schools of the city for the ensuing fiscal year, with an estimate of the amount of all funds
941 which will probably be received by ~~said the~~ board for the purpose of public education from sources
942 other than appropriations by the council.

943 The council may, at its discretion, by ordinance provide for an audit of the affairs and records of the
944 school board by the municipal auditor or by any other competent person or firm selected by the council.

945 § 57. Extraterritorial jurisdiction of the city and general district court.

946 ~~All courts of record of said city as now constituted and established by law shall be continued with~~
947 ~~the same jurisdiction as heretofore.~~

948 The city shall have and may exercise all police power granted by general law or this charter with
949 respect to city-owned land and property lying beyond the corporate limits of the city.

950 The general district court of the city shall have jurisdiction of all offenses committed within one mile
951 from the corporate limits of the city against its ordinances prescribing rules and regulations, and
952 penalties for violation of such rules and regulations, relating to city-owned land and property beyond its
953 corporate limits. Beyond ~~said such one~~ one-mile limit, the general district court having criminal
954 jurisdiction in the municipal corporation wherein the offense was committed, or the general district court
955 of the county wherein such offense was committed shall have jurisdiction of offenses against the
956 aforesaid ordinances of the city committed more than one mile from its corporate limits; and appeals
957 may be taken in such cases to the court of record having jurisdiction in said other municipality, or
958 county. All fines and costs assessed upon conviction in ~~said such~~ other jurisdictions shall be paid into
959 the treasury of the county or municipality wherein the offense was committed and tried.

960 § 58. Ownership and custody of books, records, et cetera.

961 All books, records and documents used by any city officer, or employee, attorney for the
962 commonwealth, commissioner of the revenue, clerk of court, or treasurer for this city, in his office or
963 pertaining to his duties shall be deemed the property of ~~said the~~ city, and the chief officer in charge of
964 such office shall be responsible therefor. Any such officer or person made by this section responsible for
965 the keeping of such books, records and documents shall, within ten days after the end of his term of
966 office, or within ten days after the date of his resignation or removal from office, as the case may be,
967 deliver to his successor or the city clerk, as may be proper, all such records and documents. Any such
968 officer or person failing to deliver such books, records or documents, as required by this section, shall
969 be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one
970 hundred dollars nor more than five hundred dollars, or imprisoned not exceeding six months, or both, in
971 the discretion of the court or jury before whom the case is tried.

972 § 59. Qualification of members of the council and other officials.

973 The members of the council before entering upon the duties of their respective offices shall each take
974 the oaths prescribed by the laws of this State for ~~State state~~ officers. Such oaths may be administered by
975 any judge of a court of record within ~~said the~~ city, and the certificate thereof shall be filed with the city
976 clerk and entered upon the journal of the council. Every other person elected or appointed to any office
977 under this charter or under any ordinance of the council, ~~except clerks and laborers~~, shall before entering
978 upon the duties of his office take and subscribe ~~said~~ oaths together with such other oaths as may be
979 required by ordinance, before any person authorized to administer an oath, and the certificate of the
980 same shall be filed in the office of ~~said the~~ city clerk. The clerk of the circuit court of ~~said the~~ city shall
981 notify all persons elected by the people under this charter of their election, and the city clerk shall notify
982 all persons elected by the council of their election. If any person elected to any office in the ~~said~~ city

shall after receiving notice of election fail to take such oaths and give such bonds, with surety, as may be required by law or ordinance, he shall be considered as having declined said such office, and the same shall be deemed vacant, and such vacancy shall be filled according to the provisions of this charter.

§ 60. Bonds of officers and employees.

Except in the case of officers whose bonds are specially provided for by this charter, the council in fixing the salary of any officer, clerk or employee of the city, shall determine whether such officer, clerk or employee shall give bond and the amount or penalty thereof. All officers required by this charter to give bond, and all officers, clerks and employees of whom bond is required by the council shall, before entering upon their respective duties, give bond with surety to be approved by the council, conditioned for the faithful performance of the duties of their respective offices, which bond, unless otherwise specially provided by this charter, shall be payable to the said city, and in such penalty as the council may by ordinance prescribe. The council shall accept as surety on any such official bond only a good solvent surety or fidelity company authorized to do business in this State. The council may provide that the premium on any such bond shall be paid by the city. The sureties on the bond of any such officer shall be equally liable for the acts of any deputy or deputies of such officer as for those of such officer himself. Unless otherwise specially provided in this charter, all such bonds shall be filed with and preserved by the city clerk. The parties to bonds taken in pursuance of this section shall be subject to the same proceedings on said such bonds for enforcing the conditions and terms thereof by motion or otherwise before the circuit court of said the city, as are now or may hereafter be provided by law in the case of collectors of the county levy and the sureties on their bonds for enforcing payment of the county levies.

§ 62. Zoning.

~~(1)~~(a) For the promotion of health, safety, morals, comfort, prosperity, or general welfare of the general public, the council of the City of Roanoke may, by ordinance, divide the area of the city into one or more districts of such shape and area as may be deemed best suited to carry out the purposes of this act, and in such district or districts may establish, set back building lines, regulate and restrict the location, erection, construction, reconstruction, alteration, repair or use of buildings and other structures, their height, area and bulk, and percentage of lot to be occupied by buildings or other structures, the size of yards, courts and other open spaces, and the trade, industry, residence and other specific uses of the premises in such district or districts. Any ordinance enacted under the authority of this act may exempt from the operation thereof any building or structure used or to be used by a public service corporation (not otherwise exempted) as to which proof shall be presented to the board of zoning appeals city that the exemption of such building or structure is reasonably necessary for the convenience or welfare of the public.

~~(2)~~(b) All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

~~(3)~~(c) Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

~~(4)~~(d) The council of the City of Roanoke shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. However, no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, conducted in conformity with state law, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days notice of the time and place of such hearing shall be published in a paper of general circulation in said city, or in a city official bulletin as provided in §43 of this charter.

~~(5)~~(e) Such regulation, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such change signed by the owners of twenty percent or more either of the area of the lots included in each proposed change, or of those immediately adjacent in the rear thereof, or of those directly opposite thereto, such amendment shall not become effective except by the favorable vote of five-sevenths of all the members of the council. The provisions of the previous section relative to public hearings and official notice shall apply equally to all changes or amendments.

~~(5.1)~~(f) In order to facilitate the creation of a convenient, attractive and harmonious community, the council of the City of Roanoke may, after recommendation from the planning commission and public

notice and hearing pursuant to § ~~15.1-431~~*state law*, establish design overlay districts to encourage compatible development in areas of the city identified on an adopted comprehensive plan as having historic value or unique architectural value and located within an area designated on an adopted plan for conservation, rehabilitation or redevelopment. In such areas, city council shall adopt specific standards as to new construction or rehabilitation within view from public streets and provide for a design review process. City council may establish a fee applicable to such design review process which shall not exceed the actual cost of such review process or \$200.00, whichever is less.

(6)(g) The council of the City of Roanoke shall appoint a commission to be known as the planning commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report or reports and hold public hearings thereon before submitting its final report, and the council of the City of Roanoke shall take such action on said preliminary report or reports, and also on the final report of the commission, as it shall deem necessary.

(7) The council of the City of Roanoke may appoint a board of zoning appeals, and in the regulations and restrictions adopted pursuant to the authority of this act may provide that the said board of zoning appeals may, in appropriate cases and subject to appropriate conditions and safeguards, vary the application of the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

(8) The board of zoning appeals shall consist of five members, each to be appointed for a term of three years and removable for cause by the appointing authority, upon written charges and after public hearing. The preceding sentence notwithstanding, at the expiration of the terms of the members serving on the board of zoning appeals as of January 1, 1991, two members shall be appointed for terms of three years each, two members shall be appointed for terms of two years each, and one member shall be appointed for a term of one year. Thereafter, all members shall be appointed for terms of three years each. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(9) The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this act. Meetings of the board shall be held at the call of the chairman and such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board, and shall be a public record.

(10) Appeals to the board of zoning appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the officer from whom the appeal is taken and with the board of zoning appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

(11) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of zoning appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of zoning appeals or by a court of record on application, and notice to the officer from whom the appeal is taken and on due cause shown.

(12) The board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(13) The board of zoning appeals shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by administrative officials in the enforcement of this act or of any ordinance adopted pursuant thereto.

(b) To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.

(c) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(14) In exercising the above-mentioned powers such board may, in conformity with the provisions of this act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(15) The concurring vote of three members of the board shall be necessary to reverse any order,

requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

(16) Any person or persons, jointly or severally, aggrieved by any decision of the board of zoning appeals, or any officer, department, board or bureau of the municipality, may present to a court of record of the City of Roanoke a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

(17) Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of zoning appeals to review such decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(18) The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(19) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceeding upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(20) Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

(21) All issues in any proceeding under this section shall have preference over all other civil actions and proceedings, except where otherwise provided by general law.

(22)(h) In case any building or structure is erected, constructed, reconstructed, altered, repaired, or converted; or any building, structure or land is used in violation of this act or of any ordinance or other regulation made under authority conferred hereby, the proper authorities of the city, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, to restrain, correct or abate such violation, to prevent the occupancy of said such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

(23)(i) Said Such regulations shall be enforced by the division of building inspection which is empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of the regulations made under authority of this or the preceding paragraph. The owner or general agent of the building or premises where a violation of any provision of said such regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violations shall exist shall be guilty of a misdemeanor, punishable by a fine of not less than \$10.00 nor more than \$1000.00 as permitted by state law. In any case of the existence of a violation of any provision of said such regulations the owner, lessee, tenant or agent shall be subject to a civil penalty of \$50.00 as permitted by state law. Any such person who having been served with an order to remove any such violation, shall fail to comply with said order within ten days after such service or shall continue to violate any provisions of the said regulations in the respect named in such order shall also be subject to a civil penalty of \$250.00.

(24) The council of the City of Roanoke shall appoint an Architectural Review Board. Such Board may be authorized to delegate to an agent its authority to issue any certificate of appropriateness. The agent, pursuant to such delegation, shall act only upon an application completed pursuant to the applicable city ordinance, and shall apply the same guidelines and review standards applicable to the Board. Any person aggrieved by any decision of the agent made pursuant to this delegation may appeal to the Board within a reasonable time as provided by city ordinance by filing with the Board a notice of appeal specifying the grounds thereof. A decision of the Board may be appealed to the city council and thereafter to the circuit court pursuant to § 15.1-503.2 of the Code of Virginia.

§ 62.01. Board of Zoning Appeals.

(a) The council may appoint a board of zoning appeals, and in the regulations and restrictions adopted pursuant to the authority of this act may provide that the board of zoning appeals may, in

1167 appropriate cases and subject to appropriate conditions and safeguards, vary the application of the
1168 terms of the ordinance in harmony with its general purpose and intent and in accordance with general
1169 or specific rules therein contained.

1170 (b) The board of zoning appeals shall consist of seven members, each to be appointed for a term of
1171 three years and removable for cause by the council, upon written charges and after public hearing.
1172 Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

1173 (c) The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant
1174 to this act. Meetings of the board shall be held at the call of the chairman and such other times as the
1175 board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and
1176 compel the attendance of witnesses. All meetings of the board shall be open to the public. The board
1177 shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent
1178 or failing to vote, indicating such fact, and shall keep records of its examinations and other official
1179 actions, all of which shall be immediately filed in the office of the board, and shall be a public record.

1180 (d) Appeals to the board of zoning appeals may be taken by any person aggrieved or by any officer,
1181 department, board or bureau of the city affected by any decision of the administrative officer. Such
1182 appeal shall be taken in the manner provided by state law by filing with the officer from whom the
1183 appeal is taken and with the board of zoning appeals a notice of appeal specifying the grounds thereof.
1184 The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting
1185 the record upon which the action appealed from was taken.

1186 (e) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer
1187 from whom the appeal is taken certifies to the board of zoning appeals after the notice of appeal shall
1188 have been filed that by reason of facts stated in the certificate a stay would, in his opinion, cause
1189 imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a
1190 restraining order, which may be granted by the board of zoning appeals or by a court of record on
1191 application therefor, following notice to the officer from whom the appeal is taken and on due cause
1192 shown.

1193 (f) The board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public
1194 notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable
1195 time. Upon the hearing any party may appear in person or by agent or by attorney.

1196 (g) The board of zoning appeals shall have the following powers:

1197 (1) To hear and decide appeals from any order, requirement, decision, or determination made by an
1198 administrative official in the administrative enforcement of this charter or of any ordinance adopted
1199 pursuant thereto.

1200 (2) To hear and decide special exceptions to the terms of the ordinance upon which such board is
1201 required to pass under such ordinance.

1202 (3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will
1203 not be contrary to the public interest where, owing to special conditions, a literal enforcement of the
1204 provisions of the ordinance will result in unnecessary hardship, provided that the spirit of the ordinance
1205 shall be observed and substantial justice done.

1206 (h) In exercising the above-mentioned powers such board may, in conformity with the provisions of
1207 this act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or
1208 determination appealed from and may make such order, requirement, decision or determination as ought
1209 to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

1210 (i) The concurring vote of four members of the board shall be necessary to reverse any order,
1211 requirement, decision or determination of any such administrative official, or to decide in favor of the
1212 applicant on any matter upon which it is required to pass under any such ordinance or to effect any
1213 variation in such ordinance.

1214 (j) Any person or persons, jointly or severally, aggrieved by any decision of the board of zoning
1215 appeals, or any officer, department, board or bureau of the municipality, may present to a court of
1216 record of the city a petition, duly verified, setting forth that such decision is illegal, in whole or in part,
1217 specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days
1218 after the filing of the decision in the office of the board.

1219 (k) Upon the presentation of such petition, the court may allow a writ of certiorari directed to the
1220 board of zoning appeals to review such decision of the board of zoning appeals and shall prescribe
1221 therein the time within which a return thereto must be made and served upon the relator's attorney,
1222 which shall not be less than ten days and may be extended by the court. The allowance of the writ shall
1223 not stay proceedings upon the decision appealed from, but the court may, on application, on notice to
1224 the board and on due cause shown, grant a restraining order.

1225 (l) The board of zoning appeals shall not be required to return the original papers acted upon by it,
1226 but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may
1227 be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and
1228 material to show the grounds of the decision appealed from and shall be verified.

(m) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceeding upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(n) Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

(o) All issues in any proceeding under this section shall have preference over all other civil actions and proceedings, except where otherwise provided by general law.

§ 62.02. Architectural Review Board.

The council shall appoint an Architectural Review Board. Such board may be authorized to delegate to an agent its authority to issue any certificate of appropriateness. The agent, pursuant to such delegation, shall act only upon an application completed pursuant to the applicable city ordinance, and shall apply the same guidelines and review standards applicable to the board. Any person aggrieved by any decision of the agent made pursuant to this delegation may appeal to the board within a reasonable time as provided by city ordinance by filing with the board a notice of appeal specifying the grounds thereof. A decision of the board may be appealed to the city council and thereafter to the circuit court pursuant to the provisions of the Code of Virginia.

§ 62.1. Authority of city council to impose civil penalties for wrongful demolition of historic buildings.

1-(a) Notwithstanding the provisions of any state law which authorizes civil penalties for the violation of a local zoning ordinance, the city council of the City of Roanoke may adopt an ordinance which establishes a civil penalty for the demolition, razing or moving of a building or structure without obtaining any required demolition permit and certificate of appropriateness when such building or structure is located within any historic zoning district of the city. The penalty established by the ordinance shall be imposed on the party deemed by the court to be responsible for the violation and shall not exceed twice the fair market value of the building or structure, as determined by the city real estate tax assessment at the time of the demolition.

2-(b) An action seeking the imposition of such a penalty shall be instituted by petition filed by the city in circuit court, which shall be tried in the same manner as any action at law. It shall be the burden of the city to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose. The filing of any action pursuant to this section shall preclude a criminal prosecution for the same offense, except where the demolition, razing or moving has resulted in personal injury.

3-(c) The defendant, within twenty-one days after the filing of the petition, may file an answer and, without admitting liability, agree to restore the building or structure as it existed prior to demolition. If the restoration is completed within the time agreed upon by the parties, or as established by the court, the petition shall be dismissed from the court's docket.

4-(d) Nothing in this section shall preclude any other action by the zoning administrator under § 15.1-491 (d) of the Code of Virginia or by the city, under § 15.1-499 of the Code of Virginia, as authorized by law, either by separate action or as a part of the petition seeking a civil penalty.

§ 63. Power to appoint boards or commissions of citizens.

The council may provide for the appointment of boards or commissions, to be composed of such number of citizens as the council may deem expedient to act in an advisory capacity in conjunction with any one or more of the officers of the city. The members of all such commissions shall serve without compensation, unless otherwise provided by law.

§ 65. Pensions, relief and retirement funds.

The council shall maintain and preserve the systems for the pension, relief and/or retirement of employees of the city existent on the effective date of this charter and none of the privileges and benefits provided for or available to the members of such systems shall be curtailed or lessened; provided, however, that the council shall, from time to time, by ordinance, make such reasonable changes in said such systems as will keep them actuarially sound and may, likewise, increase the privileges and benefits provided for or available thereunder to the members thereof; and provided, further, that the council may, at any time, limit the operation of such systems to those employees who are members thereof on the effective date of such limitation.

The council of said the city shall continue to have authority to establish and maintain a fund or funds for the pension, relief and/or retirement of persons in the service of the city; to receive gifts, devises and bequests of money or property for the benefit of such fund or funds; to make contributions of public moneys thereto on such terms and conditions as it may see fit; and to make rules and regulations for the management, investment and administration of such fund or funds not inconsistent with this charter.

1290 In addition, the council shall have authority, by ordinance, to provide for the participation of the city
1291 and its employees, the employees of the school board and the employees of any board or commission
1292 established by the council, in any welfare, relief, retirement, or security program established by the
1293 Congress of the United States or by the General Assembly of Virginia.

1294 The council may, in its discretion, provide for participation in any pension or retirement fund by any
1295 deputies or employees of the commissioner of the revenue, treasurer, Commonwealth's attorney, the
1296 clerk of courts or city sergeant, whose salaries are paid in whole or in part by the city, and allow them
1297 to participate in any such welfare, relief, retirement or security program.

1298 § 66. General laws to apply.

1299 All general laws of the State applicable to municipal corporations now in existence or hereafter
1300 enacted and which are not in conflict with the provisions of this charter or with ordinances or
1301 resolutions hereafter enacted by the council pursuant to authority conferred by this charter shall be
1302 applicable to the ~~said~~ city; provided, however, that nothing contained in this charter shall be construed
1303 as limiting the power of the council to enact any ordinance or resolution not in conflict with the
1304 Constitution of the State or with the express provisions of this charter.

1305 § 67. Attorney for Commonwealth to prosecute violations of ordinances.

1306 The ~~said~~ attorney for the Commonwealth shall prosecute the violations of all city ordinances, both in
1307 the general district court and upon appeal, and shall notify the city attorney in all such prosecutions in
1308 which the validity of a city ordinance is attacked.

1309 § 72. Partial invalidity.

1310 If any clause, sentence, paragraph, or part of this ~~Act~~ *charter* shall for any reason be adjudged by
1311 any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the
1312 remainder of ~~said Act~~ *the charter*, but shall be confined in its operations to the clause, sentence,
1313 paragraph, or part thereof directly involved in the controversy in which such judgment shall have been
1314 rendered.

1315 **2. That § 27.1, § 29, as amended, § 48, § 49, as amended, and § 55 of Chapter 216 of the Acts of**
1316 **Assembly of 1952 are repealed.**