

041965436

**HOUSE BILL NO. 1088**

Offered January 14, 2004

Prefiled January 14, 2004

*A BILL to amend and reenact §§ 1.1, 1.2:1 and 2.9:1, 2.12, as amended, §§ 2.13, 2.23, 2.27, 2.29, 6.7:1, 6.9 and 6.14, § 11.1, as amended, and § 13.6 of Chapter 209 of the Acts of Assembly of 1968, which provided a charter for the City of Radford, relating to boundaries, appointments, ordinances, city clerk, city attorney, taxation and city officials.*

Patron—Nutter

Referred to Committee on Counties, Cities and Towns

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 1.1, 1.2:1 and 2.9:1, 2.12, as amended, §§ 2.13, 2.23, 2.27, 2.29, 6.7:1, 6.9 and 6.14, § 11.1, as amended, and § 13.6 of Chapter 209 of the Acts of Assembly of 1968 are amended and reenacted as follows:**

§ 1.1. Body politic and corporate; powers generally; boundaries.

The inhabitants of the territory comprised within the present limits of the City of Radford, as hereinafter prescribed, or as the same may be hereafter altered and established by law, shall continue to be a body politic and corporate, to be known and designated as the City of Radford and as such shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to cities of its class under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though said 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 Radford 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 by a proper ordinance.

The boundaries of said city shall remain as now established and as set forth in an act of the General Assembly of Virginia approved March 28, 1946, as amended (Acts of Assembly 1946, Chapter 375, page 654 et seq.), and as expounded by a ~~final order~~ *Decree of Annexation* in annexation proceedings under the style of Bondurant Insurance, Inc., et al. vs. City of Radford, et al., a copy of which is recorded in the clerk's office of the Circuit Court of the City of Radford, Virginia, in Deed Book 74 at page 297466; and by *Decree of Annexation in annexation proceedings under the style of Allen E. Cloyd, et al. v. County of Montgomery and City of Radford, a copy of which is recorded in the clerk's office of the Circuit Court of the City of Radford in Deed Book 93, Page 628; and by Decree of Annexation in annexation proceedings under the style of Bondurant Development Corporation, et al., vs. County of Montgomery and the City of Radford, a copy of which is recorded in the clerk's office of the Circuit Court of the City of Radford, Virginia, in Deed Book 104, Page 360; and by Voluntary Settlement Agreement by and between the City of Radford and the County of Montgomery, a copy of which is recorded in the clerk's office of the Circuit Court of the City of Radford, Virginia, in Deed Book 121, Page 503 and corrected by Deed Book 121, Page 771, and said boundaries as set forth in said act and decree are incorporated herein by reference.*

§ 1.2:1. Enumeration of powers.

In addition to powers specifically granted by other provisions of this charter, the city shall have the power:

(a) to establish, organize and administer public libraries and public schools, subject to the general laws of the Commonwealth.

(b) to acquire, by purchase, gift, devise, condemnation or otherwise, lands either within or without the city, to be used, kept and improved as a place for the interment of the dead, and to make and enforce all necessary rules and regulations for the protection and use of places for the interment of the dead, whether owned by the city or by others, and generally to regulate the burial and disposition of the dead.

(c) to enjoin and restrain the violation of any city ordinance or ordinances, even though a penalty is provided upon conviction of such violation.

(d) by vote of council, to utilize profits from the operation of its utilities, above the cost of maintenance and operation, and sufficient reserves for depreciation, replacement, repairs, debt retirement (if any), etc., as determined by accepted accounting practices, for industrial development within the city.

(e) and in general to have, exercise and possess all of the rights, powers and privileges heretofore or hereafter conferred upon or delegated to cities by the Constitution and laws of the Commonwealth of Virginia, specifically those powers set forth in ~~§§ 15.1-837 through 15.1-907~~ *Title 15.2* of the Code of

INTRODUCED

HB1088

59 Virginia and all other powers pertinent to the conduct of its affairs not expressly prohibited by the  
60 Constitution and general laws of the Commonwealth, and which are necessary or desirable to secure and  
61 promote the general welfare of the inhabitants of the city and the safety, health, peace, good order,  
62 comfort, convenience, morals, trade, commerce and industry of the city and the inhabitants thereof, and  
63 the enumeration of powers, in this charter, or in Title 15.1 15.2 of the Code of Virginia, or in the  
64 general laws of the Commonwealth shall not be construed or held to be exclusive or as a limitation  
65 upon any general grant of power, but shall be construed and held to be in addition to any general grant  
66 of power.

67 § 2.9:1. Appointment of boards and commissions, city attorney, city clerk, city physician.

68 Council shall appoint the members of such boards and commissions as are provided by this charter,  
69 by the general laws of the Commonwealth, or as are established by council. The council may further  
70 appoint a city attorney, city physician and city clerk, and fix their salaries, compensation and term of  
71 office. Such term may be established for a time certain, or at the will of council.

72 ~~Removal from the city of any of the foregoing officers or members of boards or commissioners~~  
73 ~~appointed by council shall vacate the office.~~

74 § 2.12. Meetings of council.

75 On the first business day in July (or as soon thereafter as may be practicable) next following the  
76 regular municipal election, the council shall meet at the usual place for holding meetings of the  
77 legislative body of the city for the purpose of organizing for the ensuing term. Thereafter the council  
78 shall meet at such times as may be prescribed by ordinance, resolution or motion of its members. The  
79 mayor, any member of council, or the city manager may call special meetings of the council at any time  
80 upon reasonable notice to each member, or such meeting may be held at any time without notice,  
81 provided, all members of the council attend. All meetings of the council shall be public, except where  
82 the public interest may require executive sessions, and any citizen may have access to the minutes and  
83 records of all public meetings at all reasonable times. The requirements of the Virginia Freedom of  
84 Information Act (§ 2.2-3700 *et seq.*) of the Code of Virginia shall be observed in calling any meeting of  
85 council.

86 § 2.13. Legislative procedure.

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

92 The enacting clause of all ordinances passed by the council shall be "Be it ordained by the council  
93 of the City of Radford." No ordinance, unless it be an emergency measure, shall be passed until it has  
94 been read at two regular or special meetings not less than three days apart, or the requirement of such  
95 reading has been dispensed with by the affirmative vote of four of the members of the council. Any  
96 ordinance may be amended at any reading without the necessity of again reverting to a first reading  
97 thereof, and council may then proceed to consider the ordinance as amended on the subsequent readings.  
98 No ordinance or section thereof shall be revised or amended by its title or section number only, but the  
99 new ordinance shall contain the entire ordinance, or section as revised or amended. The ayes and nays  
100 shall be taken upon the passage of all ordinances or resolutions and entered upon the journal of the  
101 proceedings of the council and ~~every ordinance or resolution shall require, on final passage, the~~  
102 ~~affirmative vote of at least three of the members.~~ *All readings of ordinances shall require an affirmative*  
103 *vote of the majority of the members present and voting to pass. In the event that an ordinance or*  
104 *resolution fails to gain an affirmative vote of the majority of the members present and voting on either*  
105 *the first or second reading, said ordinance or resolution shall fail.* No member shall be excused from  
106 voting except on matters involving the consideration of his official conduct, or where his financial or  
107 personal interests are involved.

108 In authorizing the making of any public improvement or the acquisition of real estate or any interest  
109 therein, or authorizing the contracting of indebtedness, (except temporary loans in anticipation of taxes  
110 or revenues or of the sale of bonds), or authorizing the sale of any property or rights in property in the  
111 City of Radford, or granting any public utility franchise, privilege, lease or right of any kind to use  
112 public property or easement of any description or any renewal, amendment or extension thereof, the  
113 council shall act only by ordinances; provided, however, that after such ordinances shall have taken  
114 effect, all subsequent proceedings incident thereto, providing for the carrying out of the purposes of such  
115 ordinance may, except as otherwise provided in this charter, be taken by resolution of the council.

116 § 2.23. General qualification.

117 The provisions of ~~Title 15.1, Chapter 2, Article 4,~~ (§ 2.2-3100 *et seq.*) of the Code of Virginia relative  
118 to the disqualification of certain officers, agents, officials and employees from dealing with and claiming  
119 against the cities are hereby expressly adopted herein by reference, as now in effect and as said Article,  
120 Chapter and Title may be amended subsequent to the adoption of this charter, and the prohibitions,

forfeitures and penalties are hereby adopted, as are the exceptions and exclusions.

§ 2.27. City clerk.

The city clerk shall be ~~elected~~ *appointed* at the time, in the manner and for the term provided by the provisions of this charter. He may, by and with the consent of the council, appoint one deputy and such number of assistants as may be provided for by ordinance or resolution. He shall be the clerk of the council, shall keep a record of its proceedings, and either he or his deputy shall attend all meetings thereof. He shall keep all books and papers which by the provisions of this charter or by discretion of the council, or by general law, are required to be kept by or filed with him. He shall be the custodian of the city seal, and shall affix and attest the same when so directed by the council. He shall transmit copies of all ordinances or resolutions to such officers and persons as are particularly affected thereby. He shall give information to persons presenting communications or petitions to the council of the final action of the council thereon. He shall, except as otherwise expressly provided in this charter, publish or cause to be published, all reports, ordinances and other documents required by law to be published, and also such other reports as the council of the city may by ordinance or resolution direct. He shall perform such other duties as are required by this charter, and in general shall perform such acts and duties as the council shall by ordinance or resolution require of him. Any of the duties of said city clerk may be performed by his deputy. The city clerk and his deputy shall receive such compensation as the council may by ordinances or resolution provide and give such bond as the council may by ordinance require.

§ 2.29. City attorney.

The city attorney may be appointed, elected, or employed at the time, in the manner, and for the term provided by the provisions of this charter or by ordinance. He shall at the time of his appointment be a ~~qualified voter in said city and shall be a~~ practicing attorney qualified in the Commonwealth of Virginia for the practice of law. He shall be the legal adviser of and the attorney and counsel for 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 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 certify to the council his 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 written opinion of the city attorney upon any question of law involving their respective powers and duties.

The city attorney upon request of the council 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 and/or misuse of the funds or property of the city, or the evasion 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, upon request of the council, shall apply to a court of competent jurisdiction for a writ of mandamus to compel the performance of such duty. Wherever the city or the 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 examine and certify the title thereto before the purchase price thereof shall be paid. The city attorney shall perform such other duties as may be required by him by ordinance or resolution of the council, and shall be paid such salary or compensation as the council may from time to time prescribe, including earned fees above the retainer fee or salary established by council.

§ 6.7:1. Issuance of bonds, notes and evidence of debt.

For the execution of its powers and duties the city council may, in the name and for the use of the city, contract loans and cause to be issued certificates of debts or bonds, provided no such certificate of debt or bonds shall be issued except by ordinance adopted in accordance with Section 7 of Article VII of the Constitution of Virginia, and otherwise in accordance with the requirements of the Virginia "Public Finance Act," Chapter 5 of Title 15.26 (~~§ 15.2-2600 et seq.~~) of Title 15.2 of the Code of Virginia, but such bonds, certificates or loans shall not be irredeemable for a period greater than forty years; provided, however, that the council shall not issue any such bonds, certificates of indebtedness or other interest bearing obligations which, including existing indebtedness, shall at any time exceed ten per centum of the assessed valuation of the real estate in the City of Radford subject to taxation as shown by the last preceding assessment for taxes. In determining the debt limitation herein provided, there shall not be included the following classes of indebtedness:

182 (1) Certificates of indebtedness, revenue bonds, or other obligations issued in anticipation of the  
183 collection of the revenues by the city for the then current year; provided that such certificates, bonds, or  
184 other obligations mature within one year from the date of their issues, be not past due, and do not  
185 exceed the revenue for such year.

186 (2) Bonds pledging the full faith and credit of the city authorized by an ordinance enacted in  
187 accordance with Section 7 of Article VII of the Constitution of Virginia, and approved by the  
188 affirmative vote of the qualified voters of the city voting upon the question of their issuance, for a  
189 supply of water or other specific undertaking from which the city may derive a revenue; but from and  
190 after a period to be determined by the city council not exceeding five years from the date of such  
191 election, whenever and for so long as such undertaking fails to produce sufficient revenue to pay for  
192 cost of operation and administration, including interest on bonds issued therefor, the cost of insurance  
193 against loss by injury to persons or property, and an annual amount to be placed into a sinking fund  
194 sufficient to pay the bonds at or before maturity, all outstanding bonds issued on account of such  
195 undertaking shall be included in determining such limitation.

196 (3) Bonds of the city the principal and interest on which are payable exclusively from the revenues  
197 and receipts of a water system or other specific undertaking or undertakings from which the city may  
198 derive a revenue, or secured, solely or together with such revenues, by contributions of other units of  
199 government.

200 § 6.9. Power and duty to assess taxes; purposes.

201 For the execution of its powers and duties, the city council may raise taxes annually by assessment  
202 in said city on all subjects taxable by the Commonwealth, the taxation of which by cities and towns is  
203 not forbidden by general law, such sums of money as they shall deem necessary to defray the expenses  
204 of the same, and in such manner as they shall deem expedient (in accordance with the laws of the  
205 Commonwealth and the United States) ~~provided that no tax upon real and personal property in said city,~~  
206 ~~except taxes for the purpose of paying the principal or interest of bonds of the city or for the purpose of~~  
207 ~~providing a sinking fund for the payment of the bonds of the city, shall exceed three dollars and fifty~~  
208 ~~cents upon the \$100 assessed value thereof.~~ It shall be the duty of the said city council to levy annually  
209 on taxable property in said city a tax sufficient to pay the interest on all bonds of the said city, as such  
210 interest falls due, and also sufficient to pay the principal of said bonds, as such principal falls due, or to  
211 provide a sufficient sinking fund for the payment of said principal at maturity.

212 § 6.14. Public finance.

213 By this charter, the Public Finance Act of 1991, and all acts amendatory thereof, as now in effect or  
214 as the same may be amended in the future, are incorporated in this charter by reference as permissive to  
215 the city and not be construed as limiting the financial and borrowing powers of the city in any way, all  
216 as the same is set forth in ~~chapter 5 of title 15.1~~ *Chapter 26 (§ 15.2-2600 et seq.) of Title 15.2* of the  
217 Code of Virginia.

## 218 ARTICLE XI. 219 CLERK OF COURT

220 § 11.1. Clerk of Court; generally.

221 There shall be elected by the qualified voters of the City of Radford on the Tuesday after the first  
222 Monday in November, 1979, and every eight years thereafter, a clerk for the Circuit Court of the City of  
223 Radford, whose term shall begin on the first day of January following his election, and continuing for  
224 eight years thereafter. ~~Should the term of the clerk of the Circuit Court of the City of Radford expire~~  
225 ~~prior to the first day of January, 1980, he shall continue in office until the first day of January, 1980 in~~  
226 ~~accordance with § 24.2-217 of the Code of Virginia.~~

227 § 13.6. Incorporation of General Law.

228 Any and all powers and rights set forth in Title ~~15.1~~ 15.2 of the Code of Virginia as now in effect  
229 and as hereafter amended, are hereby conferred on and vested in the City of Radford unless the same be  
230 inconsistent with the provisions of the charter of the City of Radford or any amendment thereto.