

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 627

An Act to amend and reenact §§ 5 and 12, as amended, §§ 34, 34 1/2, and 55, as amended, and §§ 84, 92, and 93 of Chapter 395 of the Acts of Assembly of 1926, and to repeal §§ 37, 38, 39, and 82, as severally amended, and 83 of Chapter 395, which provided a charter for the Town of Stanley, relating to council elections, powers and borrowing.

[H 2176]

Approved March 23, 2005

Be it enacted by the General Assembly of Virginia:

1. That §§ 5 and 12, as amended, §§ 34, 34 1/2 and 55, as amended, and §§ 84, 92, and 93 of Chapter 395 of the Acts of Assembly of 1926 are amended and reenacted as follows:

§ 5. Election term of councilmen; council a continuous body.

At the regular municipal election to be held on the first Tuesday ~~in May, 1971,~~ *after the first Monday beginning November 2004,* the mayor and ~~five two~~ members of council shall be elected by the qualified voters. ~~The two councilmen, each of whom has received more votes in said election than the other three members, shall serve as members of the council for a term of four years each, and the remaining three members shall serve for a term of two years each. The councilmen thus elected shall serve as members of the council for terms of four years each commencing January 1, 2005.~~

At the regular municipal election to be held on the first Tuesday ~~in May, 1973,~~ *after the first Monday in November 2006,* three councilmen shall be elected for a term of four years each; ~~and on the first Tuesday in May every two years thereafter either two or three councilmen shall be elected,~~ depending upon the number of councilmen whose terms shall expire in that year, for terms of four years each. Terms of office shall begin on the first day of July next following their election and each shall serve for the term stated or until his successor has been elected and qualified with their terms commencing January 1, 2007.

On the first Tuesday following the first Monday of November every two years thereafter, either two or three councilmen shall be elected, depending upon the number of councilmen whose terms shall expire in that year, for terms of four years each. Terms of office shall begin on the first day of January next following their election and each shall serve for the terms stated or until his successor has been elected and qualified.

Any council member whose term of office would have expired but for the adoption of this provision by amendment of the charter shall have his term of office extended for six months until December 31 of the year in which his term otherwise would have expired on June 30.

The council shall be a continuous body. ~~and~~ No measure pending before such body shall abate or be discontinued by reason of the expiration of the term of office or removal of the members of said body or any of them.

§ 12. Election and term of office.

The mayor shall be elected at the regular municipal election by the qualified voters for a term of four years beginning on the first day of July ~~succeeding his election~~ *Tuesday following the first Monday in November in the year 2004* and every four years thereafter. *The term of any mayor in office at the time of the amendment of this charter provision whose term of office would have expired but for the adoption of this charter amendment shall have his term of office extended for six months.*

§ 34. Enumeration of specific powers.

~~And it~~ *The council* shall have the further power to control and manage the fiscal and municipal affairs of the town and all property, real, personal, belonging to the said town, and may make such ordinances, orders and resolutions relating to the same as it may deem proper and necessary.

~~And it~~ *The council* shall have the further power to:

(1) ~~To~~ Purchase, hold, sell, and convey all real and personal property within or without the corporate limits necessary for its uses and purposes.

(2) ~~To~~ Acquire by purchase, condemnation or otherwise, or to construct or lease and operate its own plant, factory and equipment for supplying its inhabitants, streets, grounds and buildings with water, light, power, fuel, and sewerage, and to that end it may acquire by purchase or lease any plant existing in or near the town and may acquire lands and franchise outside of the limits of the said town, and may by purchase, condemnation or otherwise acquire easements and rights of way.

(3) ~~To~~ Purchase, condemn, or otherwise acquire one or more locations for a site for fire engine houses, stables, town buildings, parks, play grounds, and for all municipal uses and purposes, within or without the town.

(4) ~~To~~ Close, extend, widen, or narrow, straighten, lay out, graduate, curb, and pave, and otherwise improve the streets, ~~side-walks~~ *sidewalks*, roads and public alleys in the town, and have them kept in

good order and properly lighted, and to require the payment, by the property owner, benefited by such works or improvements of such property, of the cost as shall not exceed five per centum of the assessed value of said property, and to make such item a lien upon their real estate, and collectable in the same manner as is herein provided, and also as provided by the general laws of the State for the collection of taxes generally, and over any street or alley in the town which has been or may be ceded to the said town, or conveyed to the town by proper deed, they shall have like power and authority as over other streets and alleys. They may build bridges over and culverts under the streets, and may prevent and remove any structure, obstruction or encroachment over or under or in any street, sidewalk, or alley in the said town, and may permit shade trees to be planted along said streets, also cut down and remove or may require to be taken down and removed any shade trees upon any of the streets and alleys of the said town; but no company, firm, corporation and individual shall occupy with its or his works or appurtenances thereof the streets, sidewalks and alleys of the town, without the consent of the council duly entered of record, and whenever in the construction of any sewer, conduit or public improvement, it is necessary that the same shall run through or under private property, the council shall have authority to contract and agree with the owner thereof for the use and purchase of the right of way or other easement, in, through, or under the same, or have the same condemned according to law.

(5) ~~To~~ Require the owners of real estate abutting upon paved or granolithic sidewalks to remove the snow therefrom, to prevent skating or riding of bicycles thereon, and of all other improper uses thereof, and to punish such violation by fine.

(6) ~~To~~ Prevent the cumbering of streets, sidewalks, alleys, roads, lanes, avenues, or bridges in the town in any manner whatsoever, and to have full and complete control thereof.

(7) ~~To~~ Determine, restrain and regulate the use and speed of bicycles, motorcycles, traction engines, locomotives, engines, cars, automobiles, and all other vehicles upon the said streets, roads and alleys of the said town; or regulate the speed of locomotives or trains, and require flagmen at dangerous railroad crossings within the town.

(8) ~~To~~ Require and compel the abatement of all nuisances, and the removal thereof within the town at the expense of the person or persons causing the same, or the owner or owners of the ground whereupon the same may be.

(9) ~~To~~ Require and compel the owners of the houses in the town, or if the owners be unknown or absent, the occupants of such houses, to connect their water closets and water drains with the sewers of the town, or otherwise comply with such regulations as to sewers and nuisances as the council may prescribe, and upon failure so to do the same may be done by the town, by entering upon the premises, if necessary, and the cost attending same shall be collected from the owner and occupant of such houses, as taxes are herein in this charter allowed to be collected by the town.

(10) ~~To~~ Direct the location of all buildings for storing gunpowder, fire crackers, or other works manufactured or prepared therefrom, kerosene oil, nitroglycerin, camphene, burning fluid, or other combustible material; to regulate and restrain the exhibition and use of fireworks, firecrackers, the discharge of firearms, the use of candles or lights in barns, stables, and other buildings; and to regulate and restrain the making of bonfires in the streets, alleys, roads and premises in the said town.

(11) ~~To~~ Prevent horses, cattle, hogs, dogs, cats, chickens and all other poultry and animals from running at large in the said town, and may subject the same to confiscation, regulation and taxes as may be deemed proper; and the town council may prohibit the raising and keeping of hogs in the town or in any part thereof, or if permitted, may regulate the same.

(12) ~~To~~ Prevent the riding and driving of horses or animals at an improper speed, throwing stones, or engaging in any employment or sports on the streets, sidewalks, roads or public alleys dangerous to or annoying to pedestrians; and to prohibit and punish cruel treatment of horses and other animals in the said town.

(13) ~~To~~ Protect the person and property of the inhabitants of the town, and others within the town, to restrain and punish drunkards, vagrants, idlers, and street beggars, to prevent vice and immorality, obscenity, profanity, abusive language, and gambling, to preserve peace and good order; to prevent and quell riots, disturbances and disorderly assemblies; to suppress houses of ill fame and gambling houses; to prevent lewd, indecent, and disorderly conduct, or exhibits on the said town, and to expel therefrom persons guilty of such conduct; to prevent the coming into town of persons having no ostensible means of support and persons who may be dangerous to the peace and safety of the town and compel such persons to leave the town if they have been in the town not more than six months before the order is given.

~~(14) To punish any husband who shall without just cause desert and wilfully neglect or refuse to provide for the support and maintenance of his wife, or any parent who shall desert or wilfully neglect or refuse to provide for the support and maintenance of his or her child or children, under the age of sixteen years; she and they being then and there in destitute or necessitous circumstances in the said town; or any child over the age of sixteen years and under the age of twenty-one years; physically fit, who fails or refuses to contribute towards the support of any parent, the said parent being then and there in destitute or necessitous circumstances.~~

(15) (14) ~~To~~ Make and enforce ordinances to secure the safe and expeditious use of streets, roads,

and alleys of the said town; to regulate all manner of traffic thereon, and for the protection of persons and property thereon or near thereto.

~~(16)~~ (15) To Establish and maintain parks, playgrounds, and boulevards, and cause the same to be laid out, equipped and beautified; to give names to or alter the names of streets, and fix building lines.

~~(17)~~ (16) To Lay off public grounds and provide, acquire, erect, and keep in order all buildings proper for the town.

~~(18)~~ (17) To Prohibit and punish for mischievous, wanton or malicious damage to school and public property as well as private property.

~~(19)~~ (18) To Prohibit and punish minors from frequenting, playing in or loitering in any public poolroom, billiard parlor or tenpin alley and to punish any proprietor or agent thereof for permitting same.

~~(20)~~ (19) To Restrict the dumping of garbage to such places as the council may designate and to punish all who fail to comply with such rules and regulations as to garbage disposal.

~~(21)~~ To provide a prison house and work house and employ managers, physicians, nurses and servants for the same, and prescribe regulations for the government and discipline of persons therein.

~~(22)~~ (20) To Authorize and regulate the erection of party walls and fences and prescribe how the cost thereof shall be borne by coterminous owners; and to prohibit and punish trespassing upon private property within the town.

~~(23)~~ (21) To Regulate and control auction sales, livery stables, garages, barber shops, slaughter houses, soap factories, theatrical performances or other public shows or exhibitions; the hiring or use for pay of carriages, carts, wagons and drays, and the business of hawkers, peddlers, persons selling goods by sample, persons keeping billiard tables, tenpin alleys, and pistol galleries for profit, and all other similar business, occupations and employments, and as to such trades, occupations, and employments and of any other like nature, or not, may grant or refuse license as it may deem proper.

~~(24)~~ To compel persons sentenced to confinement in jail for petty larceny, or other misdemeanor, or other violation of town ordinances, to work on the public streets of the said town.

~~(25)~~ (22) To Provide for the regular and safe construction of houses in the town for the future, to require the standard of dwelling houses be maintained in residential sections in keeping with the majority of residences therein.

~~(26)~~ (23) To Designate and prescribe from time to time, the part of the town within which no buildings of wood shall be erected, and to regulate the construction of buildings in the town, so as to protect it against danger of fire; to remove or require to be removed any building, structure or addition thereto, which by reason of dilapidation, defect of structure, fire, or other cause may become dangerous to life or property, and also refuse a permit to repair any such building or structure.

~~(27)~~ (24) To Prevent injury or annoyance of anything dangerous offensive or unhealthy.

~~(28)~~ (25) To Provide by regular ordinances what are nuisances; to cause the abatement of any nuisance so declared to be by the general laws of this State, or the regular ordinance of the town.

~~(29)~~ To provide for the weighing of hay, fodder, oats, grains, shucks, and other forage, ice, coal, and livestock, and the measurement of wood and lumber.

~~(30)~~ (26) To Provide in or near the town lands to be used as burial places for the dead; to improve and care for the same and the approaches thereto, and to charge for and regulate the use of ground therein; and to provide for the perpetual upkeep and care of any plat or burial lot therein, the town is authorized to take and receive sums of money by gift, bequest, or otherwise, to be kept invested, and the income thereof used in and about the perpetual upkeep and care of the said lot, or plot, for which the said donation, gift, or bequest shall have been made.

~~(31)~~ (27) To Offer and pay rewards for the apprehension of criminals.

~~(32)~~ (28) To Control, regulate, limit, and restrict the operation of motor vehicles carrying passengers for hire, upon the streets and alleys of the town, to require a bond with satisfactory surety thereon of the owner of every motor vehicle so used, conditioned to satisfy all damages caused to any person, or property, in the negligent operation of such motor vehicle, or adequate insurance, to require the annual registration of each and every motor vehicle so used and a license tax to be paid thereon, to require all drivers of such motor vehicles, whether owners or not, to obtain permits from the mayor and council before operating any such motor vehicle carrying passengers for hire upon the said streets and alleys, to refuse permits to so operate any motor vehicle to any person who is not of good character, reputation, physically fit, capable, competent, of sufficient age and discretion, or who is addicted to the use of intoxicating liquors or narcotics, to revoke any permit issued to any person for good cause and after a hearing thereon; or, a franchise may be granted for the transportation of passengers by motor vehicles for hire upon the said streets and alleys, to be advertised and sold as provided for by the Constitution and the laws of this State, subject nevertheless to such rules, regulations, restrictions, and limitations and upon such conditions, not in conflict with the Constitution, as the council may determine. But nothing in this section shall be construed to be in conflict with the general State law on motor vehicle carriers.

~~(33)~~ (29) To Pass all resolutions and ordinances not repugnant to the Constitution and the laws of the State, or in conflict with this act, which may deem necessary for the good order and government of the said town, the management of its property, the conduct of its affairs, the peace, comfort, convenience,

order, morals, health and protection of its citizens or of their property, and do such other things and pass such other laws as may be necessary or proper to carry into full effect any power, authority, capacity, or jurisdiction, which is or shall be granted to or vested in the said town or in the council, or the officers thereof, or which may be necessarily incident to a municipal corporation.

§ 34 1/2. Council to prescribe duties and fix compensation.

The town council shall have the power and authority to prescribe for the police chief such general and other duties as it may see fit, and shall fix his compensation; and in all civil and criminal cases arising under the State laws, the police chief shall receive the same fees as are provided by law for constables; and in all cases arising under the town ordinances where not otherwise provided, he shall receive the same fees as constables receive in similar cases arising under the State laws.

§ 55. Powers and duties.

The town treasurer or his deputy duly appointed by the council and qualified, or by order of the council of the said town, the police chief, or any other person appointed by the town council shall collect all the taxes, revenues and assessments, which may be levied by the said town council, and for this purpose the said treasurer or other person appointed by the town council as aforesaid, shall be vested with power and be subject to liabilities and penalties now prescribed by law in regard to the county treasurers of the Commonwealth of Virginia in the levying and collection of taxes and said officers or persons appointed as aforesaid to collect said taxes, revenues, and assessments, shall have full power to levy on property and sell the same for the payment of such tax, as the said county treasurers of the Commonwealth of Virginia are now empowered by law to do, and such sales shall be made upon the notice and in such manner as now prescribed by law in sales of personal property for State taxes; and any person so appointed shall give bond and receive such compensation as said council shall direct.

§ 84. Power of town council to borrow and issue bonds.

And the council shall have the further power and authority to borrow money in the name of the town and for its uses and purposes whenever in the opinion of a majority of its members, ascertained by a recorded affirmative vote of all of the members elected to the council, it is to the best interest of the municipality to do so; such borrowed money to be evidenced by the bonds, notes, or certificates of indebtedness of the said town duly executed by the mayor thereof and attested by the clerk of the council; but the amount of the indebtedness of the town at any one time including the existing indebtedness shall not exceed eighteen per centum of the assessed valuation of the real estate therein, subject to taxation as shown by the last preceding assessment. The classes of debts mentioned under section one hundred and twenty-seven of the Constitution in paragraphs "a" and "b" thereof shall not be included in determining the indebtedness of the town.— None of the obligations issued under this provision shall be sold at less than their par value, nor bear interest at a rate exceeding six per centum per annum, and shall become due and payable not exceeding thirty-four years from the date of their issuance; provided, however, no bonds, notes, or certificates of indebtedness shall be issued under this provision unless and until the question shall have first been submitted to the qualified voters of the town whether or not such bonds, notes, or certificates of indebtedness shall be issued, and the majority of the qualified voters participating in any election held for such purpose shall have voted for such issuance. The council shall call such election and fix the date thereof by ordinance, copies of which shall be published in the local newspaper at least once a week for three consecutive weeks before the date of such election, and the regular election officials of the town shall conduct the election provided for hereunder. The council shall make provisions for the payment of interest on the bonds, notes, or certificates of indebtedness so issued and shall provide a sinking fund for the retirement thereof at or before maturity. The coupons shall be received for town taxes.

In addition to the powers elsewhere enumerated in this charter and the powers conferred by general law and the Constitution, the town shall have the following powers:

a. Contracting debts and issuing obligations. The town may, in the name of and for the use of the town, contract debts and make and issue, or cause to be issued, as evidence thereof, bonds, notes, or other obligations, within the limitations prescribed by the Constitution and in accordance with the provisions of law concerning bond issues by towns, upon the credit of the town, or solely upon the credit of income derived from property used in connection with any public utility owned and operated by the town.

b. Temporary borrowing. Pending the issuance of any bonds, notes, or other obligations by this act authorized or in anticipation of the receipt of taxes and revenues of the current fiscal year, it shall be lawful for the town to borrow money temporarily and to issue notes or other evidence of indebtedness therefore, and from time to time to renew such temporary loans or to use current funds to be ultimately repaid from the proceeds of said bond, notes, or other obligations or from the town taxes and revenues, as the case may be.

§ 92. Continuation of ordinances.

All town ordinances now in force as the ordinances of the town of Stanley, in effect as of the approval of this amendment of the charter of the town and not inconsistent with this act, shall be and remain in force until altered, amended, or repealed by the town council.

§ 93. Continuation of town officers.

The present officers of the town shall be and remain in office ~~until the expiration of their several terms~~ *as of the effective date of this charter amendment.*

2. That §§ 37, 38, 39, and 82, as severally amended, and 83 of Chapter 395 of the Acts of Assembly of 1926 are repealed.