

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 156

An Act to provide a new charter for the City of Williamsburg and to repeal Chapter 393 of the Acts of Assembly of 1932, as amended, which provided a charter for the City of Williamsburg.

[H 2251]

Approved March 11, 2009

Be it enacted by the General Assembly of Virginia:

1.

*CHARTER
FOR THE
CITY OF WILLIAMSBURG.
CHAPTER I.
IN GENERAL.*

§ 1. Body corporate and politic; general powers; enumeration of powers not exclusive.

The inhabitants of the City of Williamsburg, as its limits now are, or may be hereafter established, shall continue to be a body corporate and politic, and as such, shall have, and may exercise, all powers that are now, or may be hereafter, conferred upon or delegated to cities of its class, under the Constitution and laws of Virginia, as fully and completely as if herein enumerated in detail, and no enumeration of particular powers in this charter shall be held to be exclusive.

§ 2. Administration and government of city.

The administration and government of the said city shall be vested in the council of the City of Williamsburg, and in such other boards and officers as are hereinafter mentioned, or may be by law otherwise provided.

§ 3. Name; seal.

The council shall be a body political and corporate, by the name of the "City of Williamsburg," shall have perpetual succession and a seal, and by that name may sue and be sued, and plead and be impleaded.

§ 4. Effective date of ordinances, generally; emergency ordinances.

Unless another date is specified therein and except as otherwise provided in this charter, an ordinance shall take effect on the tenth day following its passage.

The council may by affirmative vote of three of its members pass emergency measures to take effect at the time indicated therein. An emergency measure is an ordinance or resolution for the immediate preservation of the public peace, property, health or safety, or providing for the usual daily operation of a municipal department, in which the reasons for the emergency are set forth and defined. Ordinances appropriating money for such emergency may be passed as emergency measures, but no measure for the sale or lease of city property, or making a grant, renewal or extension of a franchise or other special privilege or the regulation of the rate to be charged for its services by any public utility shall be so passed.

§ 5. Enumeration and election of officers.

The municipal officers of said city shall consist of a commissioner of the revenue elected by the qualified voters of said city; five council members, elected as provided in § 9 of this charter; a sheriff, a treasurer, an attorney for the Commonwealth and a clerk of the circuit court of the City of Williamsburg and of the County of James City, elected conjointly for the City of Williamsburg and the County of James City, by the voters of said city and county; and such additional officers as are herein provided for or may be provided for by the council. Each city council member shall be elected on the first Tuesday in May preceding the expiration of the term of office of the incumbent council member or council members whose term(s) is/are expiring. Council members shall serve for such terms as are prescribed by this charter. All other city officers required by the laws of the state to be elected by the qualified voters of the city shall be elected on the first Tuesday following the first Monday in November preceding the expiration of the terms of office of the respective incumbents, for such terms as are prescribed by law. All such elected officers shall be nominated and elected as provided in the general laws of the state. The officers so elected or appointed shall continue in office until their successors are elected and qualified.

§ 6. Residency requirements for members of city council, city manager, chief of police, etc.

A. Except as otherwise provided herein, every elected officer of this city, other than officers elected jointly by the voters of the city and the County of James City, and every appointed member of any board or commission other than not more than one director of the Economic Development Authority who may be a resident of the County of James City, shall, at the time of his or her election or appointment, be a qualified voter in the city and have resided in the City of Williamsburg for at least 30

days prior to appointment or election. Except for a nonresident director of the Economic Development Authority, if any such officer or appointee ceases to reside in the city, his or her office shall thereupon be deemed vacant. In the case of a nonresident member of the Economic Development Authority, if such director ceases to reside either in the County of James City or the City of Williamsburg, then such director's office shall become vacant.

B. The city manager shall reside within the City of Williamsburg.

C. Municipal officers who are elected conjointly for the City of Williamsburg and the County of James City shall reside within one of such jurisdictions at least 30 days prior to their election and must reside in either the City of Williamsburg or the County of James City at all times during their terms of office.

§ 7. Treasurer; duties; warrants; accounts.

The treasurer elected by the qualified voters of the County of James City and the City of Williamsburg shall perform only such duties of treasurer as prescribed by state law as may be directed in writing by the city manager. All other functions, duties and powers of treasurer as prescribed by state law shall be held and performed by the city's director of finance. No money shall be paid out by the treasurer except on a warrant of the director of finance, countersigned by the city manager; and the treasurer shall keep a separate account of each fund and appropriation, and the debits and credits belonging thereto.

§ 8. Commissioner of the revenue; duties and compensation.

The commissioner of the revenue elected by the qualified voters of the city shall perform all of the duties in relation to the assessment of property for the purpose of levying city taxes that may be directed by the city manager and such other duties as the council may prescribe or direct. The commissioner shall keep his or her office in some convenient place in the city, and shall keep such books, schedules and records, and in such manner as the city manager and city council may direct and prescribe, which books, records and other papers, unless otherwise provided by general law of the state, shall be subject to the inspection and examination of the members of the city council, or any committee thereof, the city manager and the collector of city taxes. The commissioner shall receive for his or her services the fees allowed by law and such other compensation, if any, as the city council may from time to time direct.

§ 9. Election and terms of council members.

The present members of council shall continue in office until their successors are elected and qualified. On the first Tuesday in May 2010, and on the first Tuesday in May of every fourth year thereafter, there shall be a general election at which time the qualified voters of the city shall elect two members of council for terms of four years each. On the first Tuesday in May in 2012, and on the first Tuesday of May on each fourth year thereafter, there shall be a general election at which the qualified voters of the city shall elect three members of council for terms of four years each. The term of a newly elected city council member shall commence on July 1 next following such member's election.

The council shall be a continuing body and no measure pending before it shall abate or be discontinued by reason of the expiration of the term of office or the removal of the members of the body or any of them.

§ 10. Filling council vacancies.

A vacancy in the office of member of council, from whatever cause arising, shall be filled within 60 days of the occurrence of the vacancy. Such vacancy shall be filled by the remainder of the council. The person so appointed to fill the vacancy shall hold office until the qualified voters shall fill the same for the remainder of the unexpired term by election at the next general councilmanic election and the person(s) so elected shall have qualified. The election to fill such vacancy shall be held as required and provided herein and by the general laws of the Commonwealth of Virginia; provided that nominations for any such vacancy shall be by petition in the manner prescribed by law for nonparty candidates and not by caucus, primary, convention or other party-affiliated proceeding.

§ 11. Clerk of council.

The clerk of the council shall attend the meetings of the council, shall keep a record of its proceedings, and shall have the custody of the seal of the said city. The clerk shall keep all papers that by the provisions of this charter, or the direction of the council, are required to be filed with or kept by the clerk. Immediately after the close of each session of the city council, the clerk shall make and present to the city manager a transcript of every ordinance, resolution or order concerning any public improvement, or for the payment of money, and every ordinance, resolution, order and act of legislative character passed by the city council at such session. The clerk shall, in like manner, transmit to the finance director a transcript of all ordinances, resolutions or orders appropriating money or authorizing the payment of money, or the issue of bonds or notes, and in like manner give notice to all persons presenting communications or petitions to the city council of the final action of the council on such communications or petitions. The clerk shall publish such reports and ordinances as the city council is required by this charter to publish, and such other reports and ordinances as it may direct, and shall in general perform such other acts and duties as the council may from time to time require of him or her.

§ 12. School board.

The supervision of the public schools in the city shall be vested in a school board composed of not less than two when serving on a joint board with the County of James City, otherwise not less than three nor more than five trustees as determined by city council. Such trustees shall be appointed by the council. Vacancies on the said board shall be filled by the council. When serving on a joint board with the County of James City, the two city members shall receive the same annual compensation as paid to each of the County of James City members serving thereon. The compensation of trustees appointed and serving hereunder solely on the city school board shall be entitled to receipt of annual compensation as determined by city council not to exceed the highest maximum compensation then allowed for any appointed school board under subsection C of § 22.1-32 of the Code of Virginia or any other then applicable provision of the Code of Virginia.

§ 13. Oaths and bonds of officers.

All municipal officers of the city, before entering upon the duties of their respective offices, shall be sworn in accordance with the laws of the state by anyone authorized to administer oaths under this charter or the laws of the state. Notwithstanding anything in § 49-3 of the Code of Virginia to the contrary, the clerk of the city council may administer the oath to persons appointed by city council or by the judge of the circuit court of the City of Williamsburg and the County of James City to serve on any city board, commission or other collegial body. If any person elected or appointed to any office in said city shall neglect to take such oath and give such bond, if any, as may be required, on or before the day on which such person's term begins, his or her office shall be deemed vacant. However, members of city council may qualify up to and including the day of the initial meeting of the new city council.

**CHAPTER II.
MAYOR AND VICE-MAYOR.**

§ 14. Selection of mayor; powers and duties; salary.

At its first meeting following each regular councilmanic election, the council shall choose one of its members as presiding officer who shall have the title of mayor. The mayor shall preside at the meetings of the council and perform such other duties as may be prescribed by this charter or as may be imposed by the council, consistent with the office. The mayor shall have no power of veto but 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. In time of public danger or emergency, the mayor may take command of the police, maintain order and enforce the law. Such course of action shall be subject to revision by the council.

The council may by ordinance provide for a salary, if any, to be paid the mayor in addition to the mayor's salary as council member.

§ 15. Selection and duties of vice-mayor; death, removal or resignation of mayor.

The council shall also at its first meeting following each regular councilmanic election choose one of its members as vice-mayor. The vice-mayor shall perform the duties of the mayor during the mayor's absence or disability. In the event of the death, removal or resignation of the mayor, the council shall choose one of its members as mayor for the unexpired term. No additional compensation shall attach to the office of vice-mayor.

**CHAPTER III.
THE COUNCIL.**

§ 16. Qualification of candidates for city council; composition.

Candidates for city council shall be qualified voters of the city who meet the residency requirements prescribed by § 6 and shall file their notice of candidacy and be nominated only by petition in the manner prescribed by law for nonparty candidates and not by caucus, primary, convention or other party-affiliated proceeding.

§ 17. Party designations on ballots in councilmanic elections; conduct of general municipal election under state law.

The ballots used in the election of council members shall be without any distinguishing party name, mark or symbol. The general laws of the state relating to the conduct of elections, so far as pertinent, shall apply to the conduct of the general municipal election.

§ 18. Compensation of city council and mayor.

The compensation of council members and the mayor shall be established by ordinance within the salary ranges permitted by state statute. The compensation of council members as being paid on the effective date of the act of assembly granting this amended charter shall remain in effect until the appropriate ordinance setting salaries is adopted by council; however, no such ordinance shall take effect until after the next council election following enactment of such ordinance. No member of the council, during the term for which such person was elected, and one year thereafter, shall be appointed to any office of profit under the government of the city.

§ 19. Council meetings.

The council shall, by ordinance, fix the time for their stated meetings. Special meetings shall be called by the clerk of the council upon the written request of the mayor, the city manager or any two members of the council; no business shall be transacted at a special meeting, but that for which it shall

be called, unless the council is unanimous. The meetings of the council shall be open to the public except as permitted by state law.

§ 20. Absence from meetings; forfeiture of office.

The office of a council member shall become vacant upon such member's death, resignation, removal from office in any manner authorized by law or this charter or forfeiture of his or her office. A council member's office shall be forfeited if such member (i) lacks at any time during his or her term of office any qualification for the office prescribed by this charter or by law, (ii) violates any express prohibition of this charter, (iii) is convicted of fraud or a crime involving moral turpitude, or (iv) fails to attend three consecutive regular meetings of the council without being excused by the council.

§ 21. Appointment of clerk; adoption of rules; officers and committees; compelling attendance; minute book.

The council shall appoint a clerk to serve at the will of the council, and shall have authority to adopt rules and appoint such officers and committees as it may deem proper for the regulation of its proceedings and for the convenient transaction of business, to compel the attendance of absent members and to enforce orderly conduct at meetings.

The council shall keep a minute book, in which the clerk shall note the proceedings of the council, and shall record said proceedings at large on the record book, and keep the same properly indexed.

§ 22. Quorum; necessary vote for appropriation and levies; reconsideration at special meeting of vote or question.

A majority of the members of the council shall constitute a quorum for the transaction of business; but no ordinance shall be passed or resolution adopted having for its object the appropriation of money, or the levy of taxes and licenses, except by the concurrence of at least three members. No vote or question decided at a stated meeting shall be reconsidered at a special meeting unless all members are present and four of them concur.

**CHAPTER IV.
CITY MANAGER.**

§ 23. Appointment; chief executive officer; qualifications; council members disqualified; term; suspension or removal; absence or disability.

The council shall appoint a city manager, who shall be the chief executive officer of the city. The manager shall be chosen by the council solely on the basis of his or her executive and administrative qualifications and need not, when appointed, be a resident of the city or the state. No member of the council shall, during the time for which elected, be chosen as city manager. The manager shall be appointed for an indefinite term, but shall be removed at the pleasure of the council. Before the manager may be removed the manager shall, if he or she so demands, be given a written statement of the reasons alleged for removal and the right to be heard publicly thereon at a meeting of the council prior to the final vote on the question of removal, but pending and during such hearing the council may suspend the manager from office. The action of the council in suspending or removing the manager shall be final, it being the intention of this charter to vest all authority and fix all responsibility for such suspension or removal in the council. In case of the absence or disability of the manager the council may designate some qualified person to perform the duties of the office during such absence or disability.

§ 24. Responsible to council; appointment and removal of officers and employees.

The city manager shall be responsible to the council for the proper administration of all affairs of the city placed in the manager's charge, and to that end, except as otherwise provided herein, he or she shall have the power to appoint and remove all officers and employees in the administrative service of the city, other than elective officials and the city attorney, but the manager may authorize the head of a department or office responsible to the manager to appoint and remove subordinates in such department or office. Appointments made by, or under the authority of, the city manager shall be on the basis of executive and administrative ability and of the training and experience of such appointees in the work that they are to perform. All such appointments shall be without definite term unless for temporary service as defined in the city personnel manual. Neither the council, nor any of its members, shall dictate 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 or her from exercising his or her own judgment in the appointment of officers or employees in the administrative service. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager either publicly or privately. Any such dictation, prevention, orders or other interferences on the part of a member of the council with the administration of the city shall be deemed a misdemeanor, and upon conviction thereof the member so convicted shall be fined not more than \$100 and may, in the discretion of the court, be removed from office.

§ 25. Term of appointive officers and employees; finality and review of decision to remove.

Officers and employees appointed by the city manager, or under his or her authorization, may be removed by the city manager, or by the officer by whom appointed, at any time. The decision of the manager, or other officer, in any such case, shall be final, subject to review by the council.

§ 26. Powers and duties of city manager.

It shall be the duty of the city manager to act as chief conservator of the peace within the city; to supervise the administration of the affairs of the city; to see that the ordinances of the city and the laws of the state are enforced; to make such recommendations to the council concerning the affairs of the city as the city manager may deem desirable; to keep the council advised of the financial conditions and future needs of the city; to prepare and submit to the council the annual budget estimate; to prepare and submit to the council such reports as may be required by that body; and to perform such other duties as may be prescribed by this charter or required of him or her by the council.

§ 27. Manager and other officers to have seats in council without vote; right to take part in discussions.

The city manager, and such other officers of the city as may be designated by vote of the council, shall be entitled to sit with the council, but shall have no vote therein. The manager shall have the right to take part in the discussion of all matters coming before the council.

CHAPTER V.

POWERS OF COUNCIL.

§ 28. Power and authority of council members generally.

All powers of the city as a body politic and corporate shall be vested in the council except as otherwise provided in this charter. The council shall be the policy-determining body of the city and shall be vested with all the rights and powers conferred on councils of cities, not inconsistent with this charter. In addition to the foregoing, the council shall have the following powers:

1. To inquire into the official conduct of any office or officer under its control, and investigate the accounts, receipts, disbursements and expenses of any city employee that are required to be maintained in the normal course of the city's business; for these purposes the council may subpoena witnesses, administer oaths and require the production of books, papers and other evidence maintained in the normal course of business; subpoenas issued by the council shall be enforced by the circuit court of the city in the manner provided by general law.

2. To provide for the performance of all governmental functions of the city; and to that end, provide for and set up all departments and agencies of government that shall be necessary. Whenever it is not designated by law or by ordinance what officer or employee of the city shall exercise any power or perform any duty conferred upon or required of the city, or any officer thereof, then any such power shall be exercised or duty performed by that officer or employee of the city so designated by the city manager. Any activity that is not assigned by the provisions of this charter to specific departments or agencies of the city government shall be assigned by the council to the appropriate department or agency. The council may further create, abolish, reassign, transfer or combine any city functions, activities or departments.

3. To order an independent audit of the accounts, books, records and financial transactions of the city by the Auditor of Public Accounts of the Commonwealth of Virginia, or by a firm of independent certified public accountants to be selected by council after the close of each fiscal year. The report of the audit shall be filed within such time as the council shall specify and one copy of the report shall be always available for public inspection in the office of the city manager during regular business hours. Either the council or the city manager may at any time order an examination or audit of the accounts of any officer or department of the city government. Upon the death, resignation, removal or expiration of the term of any officer of the city, the director of finance shall cause an audit and investigation of the accounts of such officer to be made and shall report the results to the city manager and the council. If, as a result of any such audit, an officer is found to be indebted to the city, the council shall proceed immediately to collect such indebtedness.

4. To fix a schedule of compensation for all city officers and employees that shall provide uniform compensation for like service. The council may define certain classes of city officers and employees whose salaries shall be set by the city manager, except that this provision shall not apply to the constitutional officers, the heads of city departments and judges.

5. To prescribe the amount and condition of surety bonds required of such officers and employees of the city as the council may prescribe.

6. To appoint a duly elected member of the city council to serve as one of the commissioners of any redevelopment and housing authority for the city created pursuant to Title 36 of the Code of Virginia. The term of the appointee shall be for two years, but shall not extend beyond the expiration of the appointee's current term on council. While serving on city council, such appointee shall not receive compensation for serving as an authority commissioner. The above notwithstanding, however, city council may by ordinance enacted in accordance with § 35 of this charter remove all currently serving commissioners of the authority and appoint the members of the council as the commissioners of the authority.

7. Designate one or more areas within the city as underground utility districts if, in the opinion of city council, after holding a duly advertised public hearing pursuant to the petition of at least three-fourths of the landowners within the proposed district, the undergrounding of existing lines for the distribution of one or more of electricity, telephone or cable television within the proposed district is in

the best interests of the city and of the residents of the district. After defining the boundaries thereof, and notwithstanding any provision to the contrary in § 15.2-2404 of the Code of Virginia, to impose, without unanimous consent of the property owners in the district, taxes and assessments upon all parcels of real property within the bounds of such district in an amount not exceeding three-fourths of the total cost of the undergrounding of overhead utility lines located in such district for the provision of one or more of electricity, telephone and cable television services within the district. Except as here modified, all other provisions of Article 2 (§ 15.2-2404 et seq.) of Chapter 24 of Title 15.2 of the Code of Virginia shall apply.

8. Make and enforce all ordinances, rules and regulations necessary or expedient for the purpose of carrying into effect the powers conferred by this charter or by any general law, and to provide and impose suitable penalties for the violation of such ordinances, rules and regulations.

9. Do all things whatsoever necessary or expedient for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce or industries of the city and its inhabitants. Among such powers, and not in limitation thereof, shall be the power to compel the abatement and removal of all nuisances within the city or upon property owned by or lying adjacent to property owned by the city beyond its limits at the expense of the person or persons causing the same, or of the owner or occupant of the ground or premises whereon the same may be.

§ 29. Confirmation of uniform charter provisions.

In addition the powers specifically provided in this charter, the powers set forth in Article 1 (§ 15.2-1100 et seq.) of Chapter 11 of Title 15.2 of the Code of Virginia are vested in the City of Williamsburg.

§ 30. City cemeteries exempt from taxation.

Any cemetery established and maintained by the city shall be exempt from all state, county and municipal taxation.

§ 31. Police force.

The police force shall be under the control of the city manager for the purpose of enforcing peace and order, and executing the laws of the state and ordinances of the city. The city manager shall appoint a chief of police and such police officers as the city manager shall deem necessary to carry out the above duties effectively. The police force shall also perform such other duties as the city manager may prescribe. The police chief shall be in charge of and have supervision of the police force. For the purposes of enabling the police force to execute its duties and powers, each police officer is hereby made a conservator of the peace, and endowed with all the powers of a constable in criminal cases, and all other powers that, under the laws of the state, may be necessary to enable the police officer to discharge the duties of his or her office. The pay, uniform, rules and regulations for said police shall be prescribed by the city manager, subject to approval by the council.

§ 32. Fire department.

The fire department shall be under the control of the city manager, who shall appoint a fire chief and such assistants as he or she shall deem necessary to carry out fire prevention, fire fighting, emergency medical and any and all powers and duties that have been or may be vested by law in such officers. The fire chief shall be in charge of and have supervision of the fire department. The pay, uniform, rules and regulations for the fire department shall be prescribed by the city manager, subject to approval by the council.

§ 33. Power of council to prescribe penalties.

Where, by the provisions of this charter, the council has authority to pass ordinances of any subject, it may prescribe any penalty not exceeding twelve months in jail or a fine not exceeding \$2,500, or both, for a violation thereof, and may provide that the offender, on failing to pay the penalty recovered and costs, shall be imprisoned in the Peninsula Regional Jail or other appropriate penal facility for a term not exceeding 90 days, which penalties may be prosecuted and recovered with costs in the name of the City of Williamsburg.

§ 34. Interference with city officers and employees.

Any person who knowingly and willfully interferes with any officer, employee or agent of the city in the course of enforcing or otherwise performing specifically prescribed functions under any city ordinance or law of the state shall be guilty of a Class 1 misdemeanor.

§ 35. Redevelopment and housing authority.

Notwithstanding any provision of law to the contrary, there shall be five commissioners of the Williamsburg Redevelopment and Housing Authority. Commissioners shall hold their offices at the pleasure of the council for a term not to exceed four years; provided, however, the council may at any time, and from time to time, adopt an ordinance terminating the term of all the commissioners and designating the council members as the commissioners of the authority. In that event, notwithstanding the provisions of § 36-11 of the Code of Virginia to the contrary, a council member shall receive no compensation for serving as a commissioner nor shall the council member continue to serve as a commissioner upon ceasing to be a member of council. The council may at any time repeal such ordinance designating the council members as the commissioners and appoint residents of the city to serve as the commissioners. The establishment and organization of the Williamsburg Redevelopment and

Housing Authority heretofore established under the provisions of this charter, together with all proceedings, acts and things heretofore undertaken are hereby validated, ratified and confirmed.

§ 36. Dedication of streets.

Whenever any street, alley or lane in said city shall have been used as such by the public with the knowledge and consent of the owner for the period of five years, the same may at the election of the council by resolution entered in its minutes thereby become a public street, alley or lane, and the council shall have the same authority and jurisdiction over and right and interest therein as it has by law over the streets, alleys and lanes laid out by it. Actual dedication may be made by plat or deed. Any street or alley reserved in the division or subdivision into lots of any portion of the territory within the corporate limits of said city, by a plan or plot of record, shall be deemed and held to be dedicated to public use, unless it appears by said record that the street or alley so reserved is designed for private use. The council shall have the right to elect, by resolution entered on its minutes, whether it will, or will not accept the dedication of any street or alley.

§ 37. Delivery of property, books and papers to successor in office; books, records and documents deemed property of city.

If any person, having been an officer of such city, shall not within ten days after having vacated or been removed from office, and upon notification or request of the clerk of the council, or within such time thereafter as the city council shall allow, deliver over to his or her successor in office all property, books and papers belonging to the city, or appertaining to such office in the possession or under control of such officer, he or she shall forfeit and pay to the city the sum of \$1,000, to be sued for and recovered with costs; and all books, records and documents used in any such office by virtue of any provision of this charter, or of any ordinance or order of the city council, or any superior officer of the said city, shall be deemed the property of the said city and appertaining to said office, and the chief officer thereof shall be responsible therefor.

**CHAPTER VI.
CITY DEPARTMENTS.**

§ 38. Enumeration of standing departments; additional departments and officers.

The city shall have the following standing departments: (i) the Department of Finance, (ii) the Department of Human Services, and (iii) the Law Department. In addition to such departments, the council may create or authorize the city manager to create such other departments and may further appoint or permit the city manager to appoint, in addition to those herein provided for, such officers and clerks as they may deem necessary, and define their powers, prescribe their duties and fix their compensation. The council may take from any officer, whether elected or appointed by the council, a bond, with surety, to be approved by the council, in such penalty as the council may deem proper, payable to the city, with condition for the faithful discharge by the said officer of the duties of his or her office. The city council may combine offices where not expressly prohibited, excepting that the assessing and collecting officers shall not be the same person.

§ 39. Department of finance; divisions; transfer of powers and duties of treasurer.

A. There shall be a department of finance that shall be under the supervision of a director of finance, appointed by the city manager. The department of finance shall include a division of accounting and control, a purchasing division, a collection division, a real estate assessment division, and such other divisions and units as may be provided by ordinance. Except as otherwise agreed by written memorandum signed by the city manager and the city treasurer, all powers and duties of the city treasurer with respect to the collection, receipt and disbursement of city taxes, moneys and funds shall be vested in the department of finance and director thereof together with all records thereto appertaining.

B. The head of the department of finance shall be a person skilled in municipal accounting and financial control and shall be known as the director of finance. The director of finance 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 or her official duties in relation to the revenue of the city and of such other official duties as may be imposed upon the director of finance by this charter and the ordinances of the city.

C. The director of finance shall have general management and control of the several divisions and other units of the department, shall appoint and remove all officers and employees of the department and shall have power to make rules and regulations consistent with this charter and the ordinances of the city for the conduct of its business. The director of finance shall have charge, subject to the direction and control of the city manager, of the administration of the financial affairs of the city and to that end shall have authority and be required to do the following (unless otherwise indicated, references to the "school board" shall apply only at such time as the city operates a separate school system):

- 1. Cooperate with the city manager in compiling estimates for the budgets.*
- 2. Supervise and control all encumbrances, expenditures and disbursements to ensure that budget appropriations are not exceeded.*
- 3. Prescribe the form of receipts, vouchers, bills or claims to be used and of accounts to be kept by all departments, boards, commissions, offices and agencies of the city, including the school board except*

for such accounts as are kept by employees of the school board.

4. Require daily, or at such other intervals as he or she may deem expedient, a report of receipts from each of such departments, boards, commissions, offices and agencies, including the school board, and prescribe the times at and the manner in which moneys received by them shall be paid to the office of the director of finance or deposited in a city bank account under the director's control.

5. Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that funds have been appropriated and will be available when the obligation shall become due and payable; provided that the director of finance may give advance authorization for the expenditure from any appropriation for the purchase of supplies, materials or equipment of such sum, within the current allotment of such appropriation, as he or she may deem necessary.

6. Have custody of all funds belonging to the city and the school board and deposit funds coming into his or her hands to the account of the city or the school board (whether at the time the city is participating in a joint school system or operating a separate school system), as the case may be, in such banks as may be designated for the purpose by the council and the school board, respectively, subject to the laws of the state applicable to the city and school board relative to the deposit of public funds.

7. Audit before payment, for legality and correctness, all accounts, claims and demands against the city, and no money shall be drawn from any bank account of the city or school board except by warrant or check, signed by the director of finance, based upon a voucher duly approved by him as above provided.

8. Have custody of all investments and invested funds of the city or in its possession in a fiduciary capacity, unless otherwise provided by this charter or by law, ordinance or the terms of any trust, and the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration and exchange.

9. Submit to the city manager for presentation to the council and to the superintendent of schools for presentation to the school board, not later than the tenth day of each month, a statement concerning the financial transactions of the city and each utility and of the school board, respectively, prepared in accordance with accepted principles of municipal accounting and budgetary procedure, and showing:

a. The amount of each appropriation with transfers to and from the same, the allotments thereof to the end of the preceding month, the encumbrances and expenditures charged against such appropriation and the allotments thereof during the preceding month, the total of such charges for the fiscal year to the end of the preceding month, and the encumbered balance remaining in such appropriation and the allotments thereof;

b. The revenue estimated to be received from each source, the actual receipts from each source for the preceding month, the total receipts from each source for the fiscal year to the end of the preceding month, and the balance remaining to be collected.

10. Furnish to the head of each department, board, commission, office and agency of the city a copy of that portion of the statement relating to such department, board, commission, office or agency.

11. Prepare and submit to the city manager at the end of each fiscal year, for the preceding year, a complete financial statement and report of the financial transactions of the city, and to the school board a complete financial statement and report of the financial transactions of the school board.

12. Designate, with the approval of the city manager, an employee of the department of finance as deputy director of finance, who during the temporary absence or incapacity of the director of finance shall have and perform all the powers and duties conferred or imposed upon the director of finance.

13. Authorize the deputy director of finance and such other employees as the director of finance may deem necessary, and under such rules and regulations as he or she may establish, to affix the director of finance's signature to checks and other documents.

14. Protect the interests of the city by withholding the payment of any claim or demand by any person, firm or corporation against the city until any indebtedness or other liability due from such person, firm or corporation shall first have been settled and adjusted.

§ 40. Division of accounting and control.

There shall be a division of accounting and control of which the director of finance shall act as the head unless and until the council shall authorize by ordinance the director of finance to appoint another head. It shall be the duty of this division to maintain a general accounting system for the city government and each of its departments, boards, commissions, offices and agencies, including the school board, in conformity with the best recognized practices in governmental accounting; and to encumber each item of appropriation and the allotments thereof with the amount of each purchase order, payroll or contract approved by the director of finance immediately upon such approval, including each advance authorization as provided in subsection C of § 39.

§ 41. Purchasing division.

There shall be a purchasing department headed by the purchasing agent. The purchasing agent shall be appointed by the city manager and under the supervision of the director of finance.

The purchasing agent shall oversee the purchase all goods and services for the city, and the sale of

all personal property of the city that may have been condemned as useless by the director of a department of the city, except the purchase of such goods and services and the sale of such personal property for which the council may make other provisions. The purchasing agent may require from the director of each department, at such times as contracts for goods and services are to be let, a requisition for the quantity and kind of goods and services to be paid for from the appropriations of the department. Upon certification that funds are available in the proper appropriations, such goods and services shall be purchased and shall be paid for from funds in the proper department for that purpose. The purchasing agent shall not approve the purchase of any goods and services for any department unless there is to the credit of such department an available appropriation balance sufficient to pay for such goods and services. However, this procedure shall not prevent the purchasing agent from purchasing goods and services for cash on account of storehouse stock for future use by the various departments under such regulations as the director of finance may prescribe.

Before making any purchase or sale, the purchasing agent shall give opportunity for competition under such rules and regulations as may be established by the director of finance. The purchasing agent shall perform such other duties in connection with the purchase of goods and services and the sale of personal property of the city as may be from time to time prescribed by the council.

§ 42. Collection division; city tax collector; tax liens; distraint and sale of goods and chattels.

There may be a collection division, the head of which shall be the city tax collector, who shall work under the supervision of the director of finance. The city tax collector 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 or her official duties in relation to the revenue of the city, and of such other official duties as may be imposed upon the collection division by this charter and the ordinances of the city. It shall be the duty of the city tax collector to collect and receive all moneys due the city for taxes whether current or delinquent, assessments or fees or charges of every kind and except as otherwise provided by this charter or the general laws of the state as the same may relate to the city. In so doing the city tax collector shall have power to employ any procedure that is now or may hereafter be prescribed by law for the collection of state taxes or local taxes. There shall be a lien, which shall have precedence over any other lien or encumbrance thereon, on all real estate and on each and every interest therein, for the city taxes assessed thereon, from the commencement of the year for which they are assessed, including penalties and interest on such taxes, which may be enforced by the city tax collector on behalf of the city in any manner provided by law. All goods and chattels wheresoever found may be distrained and sold for taxes, interest and penalties assessed and due thereon and for taxes, interest and penalties assessed against the owner thereof, and no deed of trust or mortgage upon goods or chattels shall prevent the same from being distrained and sold for taxes or levies assessed against the grantor in such deed while such goods and chattels remain in the grantor's possession; nor shall any such deed prevent the goods and chattels conveyed from being distrained and sold for taxes or levies assessed thereon, no matter in whose possession they may be found.

§ 43. Real estate assessment division; assessor of real estate; board of review of real estate assessments; real estate assessment and reassessment generally.

There shall be an annual assessment and reassessment and equalization of assessments of real estate for local taxation. Such assessments and reassessments shall be performed by the real estate assessment division. The city manager shall appoint the city assessor, who shall be the head of such division and who shall be under the supervision of the director of finance. The real estate assessor shall assess all real estate for taxation and equalize the assessments. The budget for the city real estate assessment division shall be as provided by the city council.

All duties imposed on and all powers conferred by law on the commissioner of the revenue with respect to the assessment of real estate, including but not limited to the preparation of the land book, shall be performed by the real estate assessment division.

All real estate shall be assessed at its fair market value as of July 1 of each year, and taxes for each year on such real estate shall be extended on the basis of the last assessment made prior to such year, subject to changes as may have been lawfully made.

Nothing contained herein shall be construed as authorizing the assessment of property required to be assessed by the State Corporation Commission by the Constitution of Virginia. The members of the present board shall continue to serve their appointed terms.

§ 44. Department of human services.

There shall be a department of human services, which shall consist of a director of human services appointed by the city manager and such other officers and employees as may be assigned to this department in accordance with the provisions of this charter. The director of human services shall have charge of the social service functions of the city and such other functions and activities as may be assigned to him or her in accordance with the provisions of this charter. The director of human services shall, subject to the provisions of this charter, act as the local board of human services in accordance with the provisions of general law relating to the administration of social services and/or public welfare in cities. However, the council may by ordinance establish a local board of human services to consist of not less than three nor more than five citizens of the city that shall, except as otherwise provided in this

charter, have the same powers and functions as local human service and/or public welfare boards in cities, or which may be created to serve in a purely advisory capacity to the director of human services.

§ 45. Law department.

A. There shall be a law department, which shall consist of the city attorney and such deputy or assistant city attorneys and other employees as may be authorized by the city manager. The head of the law department shall be the city attorney, who shall be an attorney-at-law licensed to practice law in Virginia. The city attorney shall be appointed by the council, shall serve at the pleasure of the council and shall not engage in the private practice of law. The city attorney shall have the management and control of all the law business of the city and the departments, boards, commissions and agencies thereof or in which the city has an interest and shall have such other powers and duties as may be assigned to him or her by ordinance.

B. The city attorney shall:

1. Be the legal advisor of the council, the city manager and of all departments, boards, commissions and agencies of the city in all matters affecting the interests of the city and shall upon request furnish a written opinion on any question of law involving their respective official powers and duties; provided, however, that neither the city attorney nor other law department attorneys shall act as legal advisor to the board of zoning appeals as to any variance request or appeal of any administrative decision brought before the board and shall not represent the board of zoning appeals on any writ of certiorari unless jointly authorized by city council and the board;

2. Upon concurrence of council and the affected body, and subject to applicable rules of legal ethics, provide general legal representation to the redevelopment and housing authority and the economic development authority;

3. At the request of the city manager or any member of the council, prepare ordinances for introduction to city council and upon the request of the council or any member thereof, examine any ordinance after introduction and render an opinion as to the form and legality thereof;

4. Draw or approve all bonds, deeds, leases, contracts or other instruments to which the city is a party or in which it has an interest;

5. Institute and prosecute all legal proceedings he or she shall deem necessary or proper to protect the interests of the city;

6. Represent the city as counsel in any civil case in which it is interested and in criminal cases in which the constitutionality or validity of any ordinance is brought in issue;

7. Attend all meetings of the council; and

8. With concurrence of the city manager, appoint and remove such deputy and assistant city attorneys and other employees as shall be provided by the council, and authorize the deputy or assistant city attorney or any of them or special counsel to perform any of the duties imposed upon the city attorney in this charter.

§ 46. Application of general state laws to city and officers.

The City of Williamsburg and the officers thereof, elected or appointed in accordance with the provisions of this charter, shall be clothed with all the powers and be subject to all the provisions of the general laws of this state, except insofar as the same are in express conflict with the provisions of this charter.

**CHAPTER VII.
FINANCES.**

§ 47. Fiscal year.

The fiscal year of the city government shall begin on July 1 and shall end on June 30 of each calendar year. The fiscal year shall also constitute the budget and accounting year.

§ 48. Taxation.

In addition to the powers granted by other sections of this charter, the city shall have the power to raise annually by taxes and assessments in the city such sums of money as the council shall deem necessary to pay the debts and defray the expenses of the city, in such manner as the council shall deem expedient; provided, such taxes and assessments are not prohibited by the laws of the state. In addition to, but not as a limitation upon, this general grant of power, insofar as not prohibited by general law, the city shall have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools; to levy and collect taxes for admission to or other charge for any public amusement, entertainment, performance, exhibition, sport or athletic event in the city, which taxes may be added to and collected with the price of such admission or other charge; to levy on and collect taxes upon the purchase of meals, which taxes may be added to and collected with the price of such meals; to levy on and collect taxes upon the purchase of transient lodging (lodging for not more than 90 consecutive days), which taxes may be added to and collected with the price of such lodging; to levy on and collect taxes from purchasers of any public utility service, which taxes may be added to and collected with the bills rendered purchasers of such service; to establish, classify, impose and enforce sewerage rates, garbage collection rates and water rates, or other services, products or conveniences, operated, rendered or furnished by the city; to require licenses for the conduct of any business or profession and to require licenses of owners of vehicles of all kinds for the privilege of using the streets,

alleys and other public places in the city; to require taxes to be paid on such licenses and prohibit the use of streets, alleys and other public places in the city without such license and to require licenses of operators of trailer camps or sites in the city.

§ 49. Budget and appropriations.

The city manager, on or before April 15 of each year, shall prepare and submit to the council a budget. The budget shall serve as a financial plan for the city, and the city manager in the budget message shall describe the important features of the budget, indicate any major changes from the current financial and expenditure policies and include such other material as the city manager deems desirable or as the council may from time to time require. The budget shall show all estimated income, indicating the property tax levy, and all proposed expenditures, including debt service and capital program, and shall be in a form the manager deems desirable or the council may require. The total of proposed general fund expenditures shall not exceed the total of estimated general fund income.

§ 50. Approval and adoption of budget.

Following the public hearing required by general law, and before the annual tax levy is made, the council shall approve its final budget for the next ensuing fiscal year by means of an annual appropriation ordinance. The budget shall be adopted by the votes of at least a majority of all members of the council. The budget shall be formally adopted not later than June 1 of each year. Should the council take no final action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the council.

§ 51. General appropriations.

In implementation of the fiscal year budget the council shall appropriate moneys for the support and operation of the city government and any other purposes authorized by this charter and not prohibited by the laws of the state. All operating fund appropriations will lapse at fiscal year-end; however, any encumbered appropriations that remain unspent at year-end shall be included in the proposed budget for reappropriation by the council in the subsequent fiscal year. Further, at the discretion of the city manager, unspent appropriations for multiyear capital improvement projects shall also be included in the proposed budget for the next fiscal year.

§ 52. Supplemental appropriations.

If available from surplus from the previous year's operations or from planned fund balance in the current budget as adopted, the council by resolution may make supplemental appropriations for the year not to exceed the amount of such balance. Supplemental appropriations may also be made by council by resolution not to exceed the unanticipated revenue from the state or federal sources where council has previously or currently approved the city's participation in such programs.

§ 53. Emergency appropriations.

To meet a public emergency affecting the life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by the emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid no later than June 30 next succeeding that in which the emergency appropriation was made. The appropriations shall not exceed limits established by the Constitution of Virginia.

§ 54. Reduction of appropriations.

If at any time during the fiscal year it appears possible to the city manager that the revenues available will be insufficient to the amount appropriated, the manager shall report to the council without delay, indicating the estimated amount of deficit and any remedial action taken by him or her, and shall make recommendations as to any other steps to be taken. The council shall then by resolution take such further action as it deems necessary to prevent any deficit.

§ 55. Transfer of appropriations.

At any time during the fiscal year, the city manager may transfer part or all of any unencumbered appropriation balance within a department, office or agency, and such transfers shall be reported to the council at least quarterly. Upon recommendation by the city manager, the council may by resolution transfer part or all of any unencumbered appropriation from one department, office or agency to another.

CHAPTER VIII. BORROWING.

§ 56. Borrowing.

The council may, in the name and for the use of the city, incur indebtedness by issuing its negotiable bonds or notes for the purposes, in the manner, and to the extent provided for in the following sections of this chapter.

§ 57. Purpose for which bonds or notes may be issued; manner of issuing bonds and notes; limitation of indebtedness.

Bonds, and notes in anticipation of bonds when the issuance of bonds has been authorized as hereinafter provided, may be issued for any purpose for which cities are authorized to issue bonds by the constitution or general laws of the state. All bonds shall be in serial form payable, as consecutively

numbered, in annual installments, the first of which shall be payable not more than one year from the date of issue of such bonds.

§ 58. Notes in anticipation of revenue.

Notes in anticipation of collection of revenue may be issued, when authorized by the council, at any time during the fiscal year, provided the notes shall mature not later than 12 months after date of issue, and in an amount not in excess of the revenues anticipated.

§ 59. Manner of issuance.

Bonds and notes of the city shall be issued in the manner provided by general law. In the issuance of bonds and notes, the city shall be subject to the limitations as to amounts that are contained in Article VII, Section 10 of the Constitution of Virginia.

CHAPTER IX.

ZONING.

§ 60. Enumeration of powers.

For the purposes stated in Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2 of the Code of Virginia, the city council is hereby empowered to pass zoning ordinances in conformity with provisions of Article 7 of said chapter, as amended from time to time, except as herein otherwise provided in this chapter.

§ 61. Rezoning protests.

If a protest or protests be filed with the council, signed by the owners of 20 percent or more of the area of the land, exclusive of public rights of way and other publicly owned property, included in a rezoning; or by the owners of 20 percent or more of the area of the land immediately adjacent to the land included in a proposed rezoning or by the owners of 20 percent or more of the land exclusive of public rights of way and other publicly owned property within 100 feet from the land in a proposed rezoning; or by the owners of 20 percent or more of the area of the land exclusive of public rights of way and other publicly owned property, directly opposite across any street or streets from the land included in a proposed rezoning, within a distance of 100 feet from the street lines directly opposite the land to be rezoned, then no such rezoning shall be made except by the favorable vote of four-fifths of all the members of the council; or in the event that one or more members of the council do not vote, then by the unanimous vote of all members voting but in no event less than three. The current City of Williamsburg real estate tax maps shall be the determining authority for ascertaining the boundaries and areas of properties in the application of this provision.

§ 62. Board of zoning appeals.

The council shall appoint a board of zoning appeals, consisting of five members, none of whom shall hold any other position with the city, except that one may be a member of the local planning commission. All members shall be residents of the city. Their terms of office shall be for five years each, except that, if necessary, appointments made after this charter amendment shall be for such terms that the term of one member shall expire each year. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his or her successor is appointed and qualifies. Such board shall have the powers and duties imposed upon boards of zoning appeals by Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia.

§ 63. Removal for cause.

The council may remove any member of the board for cause, after a public hearing. If a vacancy occurs otherwise than by the expiration of the term of the different members, it shall be filled by the council for the unexpired term.

§ 64. Chairperson, other officers, etc.

Unless the council designates some member of the board as chairperson, the board shall select a chairperson from among its own members and may create and fill such other offices as it may choose. The board may employ such persons as the council may approve, and expend such sums as are appropriated by the council for its work.

CHAPTER X.

TRANSITIONAL PROVISIONS.

§ 65. Change of plan of government.

The plan of government provided by this charter may be changed to any other plans provided for government of cities at any time by the submission of such proposed change to a special election in the manner provided by general law for the submission of the same.

§ 66. Land of College of William and Mary not to be taken.

Nothing in this charter shall permit the council of the City of Williamsburg to take any part of the land belonging to the College of William and Mary for any purpose herein named.

§ 67. Repeal of conflicting acts.

All acts and parts of acts in conflict with any of the provisions of this charter are hereby repealed.

2. That an emergency exists and this act is in force from its passage.

3. That Chapter 393 of the Acts of Assembly of 1932, as amended, is repealed.