

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 733

An Act to amend and reenact § 1-4, as amended, § 1-5, §§ 2-2.1 and 2-5, as amended, §§ 2-8.1, 3-1, 3-2, 3-5, and 3-13, § 4-1, as amended, and §§ 4-7, 6-2, 7-2, and 7-6 of Chapter 259 of the Acts of Assembly of 1962; to amend and reenact Chapter 259 of the Acts of Assembly of 1962 by adding sections numbered 2-3.2 and 6-1.1; and to repeal § 3-4, § 3-10, as amended, § 3-12, § 3-19, as amended, and §§ 4-4, 4-5, 5-1, 6-1, 7-3, and 7-5 of Chapter 259 of the Acts of Assembly of 1962, which provided a charter for the City of Petersburg, relating to council, city officers, and powers.

[H 2464]

Approved March 24, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 1-4, as amended, § 1-5, §§ 2-2.1 and 2-5, as amended, §§ 2-8.1, 3-1, 3-2, 3-5, and 3-13, § 4-1, as amended, and §§ 4-7, 6-2, 7-2, and 7-6 of Chapter 259 of the Acts of Assembly of 1962 are amended and reenacted and that Chapter 259 of the Acts of Assembly of 1962 is amended by adding sections numbered 2-3.2 and 6-1.1 as follows:

§ 1-4. Penalties for violation of ordinances.

Where, by the provisions of this charter or any amendment thereof, the city council has authority to pass ordinances or regulations on any subject, they may prescribe a penalty not exceeding twelve months imprisonment or fine not exceeding \$1,000 \$2,500 (except where penalty is otherwise provided for in this charter or any amendment) for a violation thereof; provided, however, that should there be a statute of the Commonwealth upon the same subject, then the city council may provide the same penalty for violation of state statute. The city council may also provide that any police officer may detect and arrest any person violating any of such ordinances or regulations and bring him to trial at the next sitting of the general district court or as soon thereafter as may be.

§ 1-5. Publication of ordinances; ordinances as evidence.

All ordinances hereafter passed by the city council for violation of which any penalty is imposed, shall be published once, at least, in a newspaper published in the city to be designated by the city council; provided, however, the council may, in its judgment, direct that only the title of an ordinance, describing clearly and fully its subject in general terms and setting forth the penalty for its violation, be published and such publication shall be sufficient compliance with this section. When the latter method of publication is used, the publication shall state that complete copies of the ordinance or code so adopted may be obtained by any interested person at the office of the clerk of the city council. A record or entry made by the clerk of the city council, or a copy of such record or entry, duly certified to by him, shall be prima facie evidence of the publications of any such ordinance, or any amendment thereof; and all laws, regulations and ordinances of the city council may be read in evidence in all courts of justice and in all proceedings before any officer, body or board in which it shall be necessary to refer thereto, either from a copy thereof, certified by the clerk of the city council, or from the volume of ordinances printed by the authority of the council. But the provisions of this section as to publication of ordinances shall not apply to ordinances embodied in any general compilation, codification or revision of ordinances, printed by authority of the council and adopted by the council as a code and all resolutions appropriating funds in excess of \$100,000 shall be adopted by the council on two readings. No such ordinance or resolution shall be adopted on second reading on the same day as its introduction unless five members elected to council have voted to suspend the rules and to place the matter on second reading. The clerk of council shall post all ordinances and applicable resolutions on the public bulletin board of the city, on the first page of the city's website, and on all social media sites used by the city for the public and shall email such notices to all persons who submit an email address for such purpose.

§ 2-2.1. Creation and composition; election of councilmen generally; application of general laws of the state; council as continuing body.

There shall be a council of the city which shall be composed of seven members, one from each ward, who shall have been a resident of the ward he seeks to represent thirty days prior to filing his notice of candidacy. The candidates shall be qualified voters of the city. They shall be elected by the qualified voters of such wards and each shall remain a resident of the ward from which elected during his term of office. The candidate receiving the greatest number of votes in his ward shall be declared elected and shall serve for a term of four years or until his successor has been elected and qualified except as hereafter provided.

On the first Tuesday in May, 1974, there shall be an election in each ward. Candidates in wards one, three, five, and seven, receiving the greatest number of votes each shall serve a four-year term commencing July 1, 1974, and until their successors have been elected and qualified. Thereafter,

beginning in May, 1978, elections shall be held in such wards every fourth year on the first Tuesday in May. Candidates in wards two, four and six, receiving the greatest number of votes each shall serve a two-year term, commencing July 1, 1974, and until their successors have been elected and qualified. Thereafter, beginning in May, 1976, elections shall be held in such wards every fourth year on the first Tuesday in May.

Beginning in the year 2008, the election of council members in wards two, four, and six shall be held at the same time as the November general election. Candidates receiving the greatest number of votes from each ward at that time shall each serve a four-year term commencing January 1, 2009, and until their successors have been elected and qualified. Thereafter, elections shall be held in such wards every fourth year on the November general election date. On the November general election date in 2010, there shall be an election in wards one, three, five, and seven. Candidates receiving the greatest number of votes from each ward at that time shall each serve a four-year term commencing January 1, 2011, and until their successors have been elected and qualified. Thereafter, elections shall be held in such wards every fourth year on the November general election date.

The general laws of the Commonwealth relating to the conduct of elections, as far as pertinent, shall apply to the conduct of the general city elections. The council shall be a continuing body and no measures 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.

§ 2-3.2. Mayor generally.

At the organizational meeting thereof, the city council shall proceed to choose, by majority vote of all the members thereof, one of their number to be mayor and one to be vice-mayor for the ensuing two years. The mayor shall preside over the meetings of the council and shall have the same right to vote and speak therein as other members and shall have no veto power. He shall be recognized as the head of the city government for all ceremonial purposes and for the purposes of military law and the service of civil process. The vice-mayor shall in the absence or disability of the mayor perform the duties of mayor, and if a vacancy shall occur in the office of mayor shall become mayor for the unexpired portion of the term. In the absence or disability of both the mayor and vice-mayor, the council shall by majority vote of those present choose one of their number to perform the duties of mayor.

§ 2-5. Power to adopt rules and appoint officers and clerks; discipline of members; journal; open and secret meeting; power to compel attendance of witnesses.

The city council shall have authority to adopt such rules and to appoint such officers and clerks 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, to expel a member for malfeasance, misfeasance or nonfeasance in office. The city council shall keep a journal of its proceedings, and its meeting shall be open, except when by a recorded vote of a majority of those members present, it shall declare a closed session in accordance with the Virginia Freedom of Information Act. The city council or any of its committees, when authorized by the city council may each, in any investigation before them, respectively, within their respective powers and duties, order the attendance of any person as a witness and the production by any person of all proper books and papers. Any person refusing or failing to attend or to testify, or to produce such books and papers, may be summoned by such investigating body before the municipal judge and upon failure to give a satisfactory excuse, may be fined by him not exceeding twenty dollars, or imprisoned not exceeding thirty days, such person to have the right of appeal, as in case of misdemeanor, to the circuit court of the city. Such witness may be sworn by the officer presiding at such investigation, and shall be liable to prosecution for perjury for any false testimony given at such investigation.

No member of the council shall be eligible, during the term for which he was elected, or for one year thereafter, for any office, position or employment to be filled by the city council or the city manager or by any other city official or employee, *except this restriction shall not apply to the appointment of mayor or vice-mayor.*

§ 2-8.1. Vacancies in office of councilmen.

Vacancies in the office of councilmen ~~from whatever cause arising~~ shall be filled in accordance with the provisions of § 2-2.1 aforesaid by majority vote of the remaining members of council, ~~or, if the council shall fail to fill a vacancy in its membership within thirty days of the occurrence of the vacancy, by appointment by the judge of the circuit court of the city or by the senior judge thereof, in the event there be more than one within 45 days of the seat becoming vacant. The appointee must be a qualified voter in the ward in which the vacancy occurred. If the council cannot agree, the vacancy shall be filled by appointment by the judges of the circuit court of the city. If a majority of the seats on council are vacant, the remaining members shall not make interim appointments and the vacancies shall be filled as provided in § 24.2-227 of the Code of Virginia.~~

The council shall, within 15 days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy, pursuant to § 24.2-226 of the Code of Virginia.

~~When any such vacancy shall occur, the court shall issue a writ of election to fill such vacancy. Such election shall be held at the next ensuing general election. The officer Any council member so elected shall hold the office for the unexpired term of his regularly elected predecessor in office. The person so~~

appointed to fill the vacancy shall hold office until the qualified voters shall fill the same by election and the person so elected shall have qualified. In the event the vacancy occurs within 120 prior to the next ensuing general election, the writ of election shall issue for an election to fill the vacancy at the second ensuing general election.

§ 3-1. Oath of city officers generally.

Every officer of the city required by law or by ordinance of the city council, shall, before he enters upon the duties of his office, take and subscribe the oath prescribed by § 49-1 of the Code of Virginia and such other oaths as may be required by the city council. Such oaths, unless otherwise provided, shall be taken before the clerk of the city council. The clerk of the city council shall qualify and take the oath provided by this section before the mayor. A certificate of the oaths provided for in this section, together with the oaths subscribed, shall be filed with the clerk of the city council, who shall preserve the same. *This section shall not apply to officers subject to § 2-4.*

§ 3-2. Filling vacancies; how elections to be held.

In the event of the death, resignation or removal of any officer, whose election or appointment is provided for by this charter, the vacancy in such office shall be filled under and by virtue of the terms of this charter. ~~All elections in the city for the officers of the city and members of the council thereof, shall be held only under and by virtue of the Constitution and laws of this Commonwealth, and the terms of charter.~~

§ 3-5. City manager.

The city council shall employ a person, who may or may not be a resident or qualified voter of the city or of the Commonwealth, to be known as the city manager. The city manager, under the control of the city council, shall have general charge and management of the administrative affairs and work of the city and shall perform such duties as may be required of him by the city council. He shall receive such salary *or compensation* as shall be allowed him by the city council and shall serve at the pleasure of the city council.

§ 3-13. Powers and duties of treasurer.

The city treasurer shall be the custodian of all moneys belonging to the city, shall deposit the same in such bank or banks as the council shall prescribe, shall keep his office in some place designated by the city council, shall keep his books and accounts in such manner as the city council may require, which books and accounts shall always be open to the inspection of the mayor, and any member or committee of the city council, *city manager, and finance director or equivalent officer.* ~~He shall pay no money except upon the order of the city council, or upon an order of a committee of the city council, lawfully drawn in pursuance of the ordinances of the city.~~ He shall report to the city council at the end of each fiscal year, and ~~often more often~~, if required, a full and detailed account of all receipts and expenditures during that year and the state of the treasury. He shall keep as a separate fund any special assessment, and the same shall only be used for the purpose for which it was raised. He shall keep all city moneys separate and distinct from his own moneys, and he is prohibited from using either directly or indirectly the corporation money in his custody and keeping, for his own use and benefit or that of any other person or persons whomsoever and any violation of this provision shall subject him to immediate removal from office.

§ 4-1. Adoption of state law provisions.

The powers set forth in ~~§§ 15.1-837 to 15.1-915, both inclusive,~~ *Article 1 (§ 15.2-1100 et seq.) of Chapter 11 of Title 15.2* of the Code of Virginia, as amended, are hereby conferred upon the city.

§ 4-7. Power of city to acquire land or interests therein for exchange with public utility company.

Whenever any public utility company owns any land or any easement, right of way or other interest in land which the city deems necessary and intends to acquire for any public purpose, which land, easement, right of way or other interest in land owned by the public utility company is devoted to a public use, the city may acquire by gift, purchase or by the exercise of the power of eminent domain additional or a like easement, right of way or interest in land adjacent to or approximately adjacent to such land needed and proposed to be acquired by the city and may then convey the same to the public utility company for use by it in lieu of the land, easement, right of way or other interest in land theretofore owned by it but needed by the city. The condemnation of such land, easement, rights of way or other interest in land to be conveyed to any public utility company shall be governed by the same procedure prescribed by this charter and may be carried out at the same time if against the same property owner and if against the same landowner or in the same proceedings in which land is condemned for the city. The city may, with respect to highways, streets and the extension and construction of sewer and water systems, under the same procedure and conditions prescribed by this chapter, with prospective property needed by the city, enter upon and take possession of such property to be conveyed to any public utility company prior to the acquisition of title thereto in condemnation proceedings and proceed with the relocation of the installations of the public utility company in order that the purposes of the city necessitating such action may be carried out without delay. Nothing in this section shall be construed to authorize the city to exercise the power of eminent domain, except subject to the provisions of ~~§ 25-233~~ *25.1-102* of the Code of Virginia, when the interest sought is held by another corporation having the power of eminent domain.

§ 6-1.1. Taxation.

In order to execute its powers and duties and to meet the wants and purposes of the city, the council is hereby vested with power and authority to levy taxes upon persons, property, real and personal, privileges, businesses, trades, professions, and callings and upon such other subjects of taxation and in such amounts as the council shall deem necessary and proper to provide such sums of money as they shall deem expedient without limitation as to subject, except such as may be expressly provided by general laws or constitutional provision and without limitation as to rate except such as may be provided by the Constitution of Virginia.

§ 6-2. Consumer tax for use of public utilities; additional annual taxes.

In addition to other powers conferred by law, the city council shall have the power to levy, impose and collect, in such manner as it may deem expedient, a consumer or subscriber tax upon the amount paid for the use within the city of water, electricity, gas, telephone, *cable television*, and any other public utility service, or upon the amount paid for any one or more of such public utility services used within the city, and the council may provide that such tax shall be added to, and collected with, bills rendered consumers for such services.

Any such tax heretofore levied, imposed or collected by any ordinance of the city and which became effective on or after December 1, 1947, and all acts done in pursuance of such ordinance or any amendment thereof, be, and they are hereby, ratified and confirmed.

In addition to the other powers conferred by law, the council is hereby empowered to raise annually by taxes and assessments sums of money as the council shall deem necessary for the purposes of the city, in such manner, on such subjects and transactions, and from such sources as council deems expedient, in accordance with the Constitution and laws of the Commonwealth and the United States.

§ 7-2. Continuation of present offices, etc.

All officers and employees heretofore elected or appointed shall remain in office and continue in their employment and be vested with the powers and duties heretofore imposed upon them by the council or by operation of law or hereafter imposed upon them under the provisions of this act until their successors are duly elected or appointed as provided by law ~~or until action is taken by the city as set forth in § 15-77.9, Code of Virginia, as in force on January 1, 1962.~~

§ 7-6. Effective date.

This ~~aet~~ *charter* shall be in force and effect from and after March 1, 1962.

2. That § 3-4, § 3-10, as amended, § 3-12, § 3-19, as amended, and §§ 4-4, 4-5, 5-1, 6-1, 7-3, and 7-5 of Chapter 259 of the Acts of Assembly of 1962 are repealed.