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SENATE BILL NO. 690

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact §§ 2.1, 3.6, 3.7, 4.1, and 4.5, as amended, of Chapter 136 of the Acts of Assembly of 1988; to amend Chapter 136 of the Acts of Assembly of 1988 by adding sections numbered 2.3 through 2.9; and to repeal §§ 2.2, 4.2, and 4.4 of Chapter 136 of the Acts of Assembly of 1988, which provided a charter for the Town of Dayton in Rockingham County, relating to town council, town powers, and town officials.*

Patron—Obenshain

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1, 3.6, 3.7, 4.1, and 4.5, as amended, of Chapter 136 of the Acts of Assembly of 1988 are amended and reenacted and that Chapter 136 of the Acts of Assembly of 1988 is amended by adding sections numbered 2.3 through 2.9 as follows:

§ 2.1. General grant of powers.*(a) Powers authorized in the Code of Virginia.*

The town shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to towns under the Constitution and the laws of the Commonwealth of Virginia as fully and completely as if such powers were specifically enumerated in this charter. No enumeration of particular powers in this charter shall be held to exclude other, unmentioned powers. The town shall have, exercise, and enjoy all the rights, immunities, powers, and privileges and be subject to all the duties and obligations now appertaining to and incumbent upon the town as a municipal corporation.

(b) Powers exercised by governing body.

All powers vested in the town by this charter shall be exercised by its governing body unless expressly provided to the contrary. Such powers shall include those not expressly prohibited by the Constitution and general law of the Commonwealth, and which are necessary or desirable to secure and promote the general welfare of the town's inhabitants and the safety, health, peace, good order, comfort, convenience, morals, trade, commerce, and industry of the town and the town's inhabitants, and the enumeration of specific powers shall not be construed or held to be exclusive or as a limitation upon any general grant of power, but shall be construed and held to be in addition to any general grant of power. The exercise of the powers conferred under this section is specifically limited to the area within the corporate limits of the town, unless otherwise conferred in the applicable sections of the Constitution and general laws, as amended, of the Commonwealth.

(c) Repeal of prior inconsistent acts and charters.

All acts and parts of acts in conflict with this charter are hereby repealed, insofar as they affect the provisions of this charter; however, nothing contained in this act shall be construed to invalidate or to in any manner affect the present existing indebtedness and liabilities of the town, whether evidenced by bonded obligations or otherwise, or to relieve it of any part of its present obligation or liability on account of bond issues, liabilities, or debts of whatsoever nature or kind. On and after July 1, 2020, all references to the town superintendent in the town's resolutions, ordinances, code provisions, contracts, and all other official acts and governing documents then in effect shall be deemed as referring to the town manager.

§ 2.3. Financial powers.

(a) Generally. In accordance with the Constitution of Virginia and the United States Constitution, the town may raise through annual taxes and assessments on property, persons, and other subjects of taxation that are not prohibited by law such sums of money as in the judgment of the town are necessary to pay the debts, defray the expenses, accomplish the purposes, and perform the functions of the town, in such manner as the council deems necessary or expedient.

(b) Assessments for local improvements. The town may impose special or local assessments for local improvements and enforce payment thereof, subject, however, to such limitations prescribed by the Constitution of Virginia as may be in force at the time of the imposition of such special or local assessments.

(c) Water, light, and sewerage rates; rates and charges for public utilities or services, etc., operated, etc., by town. The town may establish, impose, and enforce water, light, and sewerage rates and rates and charges for public utilities, or other services, products, or conveniences operated, rendered, or furnished by the town and assess, or cause to be assessed, water, light, sewerage, and other public

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59 utility rates and charges directly against the owner or owners of the buildings, or against the proper
60 tenant or tenants, and in the event that such rates and charges shall be assessed against a tenant, then
61 the council may, by an ordinance, require of such tenant a deposit of such reasonable amount as may
62 be by such ordinance prescribed before furnishing such services to such tenant.

63 § 2.4. Contractual powers; gifts; grants.

64 (a) Acquisition of property generally; holding, selling, leasing, etc., town property. The town may
65 acquire, by purchase, gift, devise, condemnation, or otherwise, property, real and personal, or any
66 estate or interest therein, within or without the town or the Commonwealth of Virginia and for any of
67 the purposes of the town.

68 (b) Debts and evidence of indebtedness. The town may contract debts, borrow money, and make and
69 issue evidence of indebtedness.

70 (c) Gifts. The town may accept or refuse gifts, donations, bequests, or grants of any kind from any
71 source, absolutely or in trust, that are related to the town's powers, duties, and functions, or for
72 educational, charitable, or other public purposes, and do all the things and acts necessary to carry out
73 the purposes of such gifts, grants, bequests, and devises, with power to manage, maintain, operate, sell,
74 lease, or otherwise handle or dispose of the same, in accordance with terms and conditions of such
75 gifts, grants, bequests, and devises.

76 § 2.5. Operational powers.

77 (a) Generally. The town may provide for the organization, conduct, and operation of all departments,
78 offices, boards, commissions, and agencies of the town, subject to such limitations as may be imposed
79 by this charter or otherwise by law, and may establish, consolidate, abolish, or change departments,
80 offices, boards, commissions, and agencies of the municipal corporation and prescribe the powers,
81 duties, and functions thereof, except where such departments, offices, boards, commissions, and agencies
82 or the powers, duties, and functions thereof are specifically established or prescribed by charter or
83 otherwise by law.

84 (b) Records and accounts. The town shall provide for the control and management of the town's
85 affairs and shall prescribe and require the adoption and keeping of such books, records, accounts, and
86 systems of accounting by the departments, boards, commissions, or other agencies of the local
87 government consistent with generally accepted accounting standards and necessary to give full and true
88 accounts of the affairs, resources, and revenues of the municipal corporation and the handling, use, and
89 disposal thereof.

90 (c) Expenditure of money. The town may expend money of the town for all lawful purposes.

91 (d) Construction, maintenance, etc., of improvements, buildings, etc., for use and operation of town
92 departments. The town may construct, maintain, regulate, and operate public improvements of all kinds,
93 including municipal and other buildings, comfort stations, markets, and all buildings and structures
94 necessary or appropriate for the use and proper operation of the various departments of the town, and
95 may acquire by condemnation or otherwise all land, riparian, and other rights and easements necessary
96 for such improvements, or any of them.

97 (e) Town events. The town may conduct festivals, music events, running races, athletic competitions,
98 community festivals, and all such other events and may charge fees for the participation therein.

99 § 2.6. Utilities; public improvements.

100 (a) Water works and water supply. The town may own, operate, and maintain water works and
101 acquire in any lawful manner in any county or city of the Commonwealth of Virginia such water, lands,
102 property rights, and riparian rights as the council may deem necessary for the purpose of providing the
103 town with an adequate water supply, and of piping or conducting the same; lay all necessary mains and
104 service lines, either within or without the corporate limits of the town, and charge and collect water
105 rents therefor; erect and maintain all necessary dams, pumping stations, and other works in connection
106 therewith; make reasonable rules and regulations for promoting the purity of the town water supply and
107 protecting it from pollution and for this purpose exercise full police powers and sanitary patrol over all
108 lands comprised within the limits of the watershed tributary to any such water supply wherever such
109 lands may be located in the Commonwealth of Virginia; impose and enforce adequate penalties for the
110 violation of any such rules and regulations and prevent by injunction any pollution or threatened
111 pollution of such water supply and any and all acts likely to impair the purity thereof; and for the
112 purpose of acquiring lands, interest in lands, property rights, and riparian rights or materials for any
113 such use, exercise all powers of eminent domain provided by the laws of the Commonwealth of Virginia.
114 For any of the purposes aforesaid, said town may, if the council shall so determine, acquire by
115 condemnation, purchase, or otherwise any estate or interest in such lands or any of them in fee.

116 (b) Streets; parks, playgrounds, etc.; infrastructure; vehicles. The town may establish, maintain,
117 improve, alter, vacate, regulate, and otherwise manage its streets, alleys, parks, playgrounds, and all of
118 its public infrastructure and public works in such manner as best serves the public interest, safety, and
119 convenience; regulate, limit, restrict, and control the services and routes of and rates charged by
120 vehicles for the carrying of passengers and property in accordance with general law; permit or prohibit

poles and wires for electric, telephone, telegraph, television, and other purposes to be erected and gas pipes to be laid in the streets and alleys and prescribe and collect an annual charge for such privileges; and, subject to the provisions of franchise agreements, require the owner or lessees of any such poles or wires now in use or hereafter used to place such wires, cables, and accoutrements in conduits underground in accordance with the town's prescribed requirements.

(c) Public utilities. Subject to the provisions of the Constitution of Virginia, this charter, and general law, the town may grant franchises for public utilities, reserving rights of transfer, renewal, extension, and amendment thereof.

(d) Collection and disposition of sewage, garbage, ashes, refuse, etc.; reduction and disposal plant. The town may collect and dispose of sewage, ashes, garbage, carcasses of dead animals, and other refuse; make reasonable charges therefor; acquire and operate reduction or any other plants for the utilization or destruction of such materials, or any of them; contract for and regulate the collection and disposal thereof, and require and regulate the collection and disposal thereof.

§ 2.7. Nuisances; sanitary conditions, etc.

The town may compel the abatement and removal of all nuisances within the town; require all lands, lots, and other premises within the town to be kept clean; regulate the keeping of animals, poultry, and other fowl therein; regulate the exercise of any dangerous or unwholesome business, trade, or employment therein; regulate the transportation of all articles through the streets of the town; compel the abatement of smoke, dust, and unnecessary noise; compel the removal of grass and weeds from private and public property and snow from sidewalks; require the covering or removal of offensive, unwholesome, unsanitary, or unhealthy substances allowed to accumulate in or on any place or premises; require the filling in to the street level of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; require the raising or draining of the grounds subject to be covered by stagnant water and the razing or repair of all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures; and remedy, repair, and secure any blighted or derelict building or structure within the town in accordance with applicable law.

§ 2.8. Police powers.

(a) The town may exercise full police powers as provided by general law, and establish and maintain a department or division of police.

(b) The town may also 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 town or its inhabitants; prescribe any penalty for the violation of any town ordinance, rule, or regulation or of any provisions of this charter, not exceeding the fine or sentence imposed by the laws of the Commonwealth of Virginia; pass and enforce all bylaws, rules, regulations, and ordinances that it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, and the peace, comfort, convenience, order, morals, health, and protection of its citizens or 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 that is or shall be granted to or vested in said town, or in the council, court, or offices thereof, or which may be necessarily incident to a municipal corporation.

§ 2.9. Miscellaneous powers.

(a) Removal or reconstruction of unsafe buildings, etc.; protection of public gatherings. The town may regulate the size, height, materials, and construction of buildings, fences, walls, retaining walls, and other structures hereafter erected in such manner as the public safety and conveniences may require; remove or require to be removed or reconstructed any building, structure, or addition thereto, which by reason of dilapidation, defect of structure, or other causes may have become dangerous to life or property, or which may have been erected contrary to law; and enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblies, entertainments, or amusements.

(b) Fees for permits, etc. The town may charge and collect fees for permits to use public facilities and for public services and privileges.

(c) Cemeteries. The town may provide in or near the town lands to be used as burial places for the dead; improve and care for the same and the approaches thereto; charge for and regulate the use of ground therein; and provide for the perpetual upkeep and care of any plot 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 is to be used for the perpetual upkeep and care of the said lot or plat for which the said donation, gift, or bequest shall have been made.

(d) Injunctive relief. The town may maintain a suit to restrain by injunction the violation of any ordinance, notwithstanding any punishment that may be provided for the violation of such ordinance.

§ 3.6. Vacancies.

Vacancies on the council shall be filled for the unexpired term from among the qualified voters of the town by a majority vote of the remaining members of the council. A vacancy in the office of mayor shall be filled for the unexpired term from among the qualified voters of the town by a majority vote of the council in accordance with general law.

§ 3.7. Meetings of the council.

(a) *Organizational meeting.* The town council's organizational meeting for the purposes set forth in § 15.2-1416 of the Code of Virginia shall be its first meeting held after January 1 of each year.

(b) *Regular meetings.* The council shall fix the date and time of its regular meetings, which shall be at least once each month.

Except as provided in this charter or the laws of the Commonwealth, the council shall follow Robert's Rules of Order, latest edition, for rules of procedure necessary for the orderly conduction of its business. Its meetings shall be open to the public unless an executive session is called according to law. Special meetings may be called at any time by the mayor provided that all council members are given reasonable notice. Any four members of the council may also call special meetings, provided that other members of the council and the mayor are given reasonable notice. No business shall be transacted at the special meeting except that for which it is called. (c) *Special meetings.* A special meeting of the council shall be held when called by the mayor, or when requested by two or more of the members of council. The call or request shall be made to the clerk and shall specify the matters to be considered at the meeting. Upon receipt of such call or request, the clerk of council, after consultation with the mayor, shall immediately notify each member of council and the town attorney in writing delivered in person, or to his place of residence or business or, if so requested by the member of the governing body, by electronic mail or facsimile, to attend such meeting at the time and place stated in the notice. Such notice shall specify the matters to be considered at the meeting. No matter not specified in the notice shall be considered at such meeting.

(d) *Rules of procedure.* From time to time, the council may adopt rules or procedure governing its meetings, such rules not being inconsistent with state law.

§ 4.1. Town ~~superintendent~~ manager.

The council may appoint a town ~~superintendent~~ ~~who~~ manager who shall be the town's chief administrative officer and the administrative head. The town manager shall be responsible to the council for the proper administration of all affairs management of the town; for the control and supervision of all town departments, employees, and property, and for any other duties prescribed by the council. In addition to any other duties prescribed by council or required by law, the town manager shall:

(a) See that all ordinances, resolutions, directives, and orders of council and all laws of the Commonwealth are faithfully executed;

(b) Appoint, supervise, and dismiss all officers and employees of the town, including but not limited to the police chief and treasurer, if any. The town manager may authorize the head of an office or department to appoint, supervise, and discipline subordinates in such office or department subject to review and approval by the town manager;

(c) Report to council from time to time on the affairs of the town;

(d) Receive reports from, and give directions to, all heads of offices and departments of the town;

(e) Submit to the council a proposed annual budget, in accordance with general law, with recommendations, and execute the budget as finally adopted by council; and

(f) Advise the council on the town's financial condition and future financial needs.

§ 4.5. ~~Recorder~~ Clerk.

The council may appoint a ~~recorder~~ ~~whose duties~~ clerk who shall be responsible for maintaining the official legislative record of council meetings and actions and perform such other duties as may be prescribed by the council or required by law.

2. That §§ 2.2, 4.2, and 4.4 of Chapter 136 of the Acts of Assembly of 1988 are repealed.