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SENATE BILL NO. 96

Offered January 8, 2020

Prefiled December 3, 2019

A BILL to amend and reenact §§ 2, 11, and 114, as amended, of Chapter 34 of the Acts of Assembly of 1918, which provided a charter for the City of Norfolk, relating to employees of officers; vagrants.

Patrons—Spruill; Delegate: Kory

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 2, 11, and 114, as amended, of Chapter 34 of the Acts of Assembly of 1918 are amended and reenacted as follows:

§ 2. Power of the city.

In addition to the powers mentioned in the preceding section, the said city shall have power:

(1) To raise annually by taxes and assessments in said city such sums of money as the council hereinafter provided for shall deem necessary for the purposes of said city, and in such manner as said council shall deem expedient, in accordance with the Constitution and the laws of this State and of the United States; provided, however, that it shall impose no tax on the bonds of this city.

(2) To 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.

(3) Subject to the provisions of the Constitution of Virginia and of § 86, as amended, of this charter, to contract debts, borrow money and make and issue evidence of indebtedness.

(4) To expend the money of the city for all lawful purposes.

(5) To acquire by purchase, gift, devise, condemnation or otherwise, property, real or personal, or any estate or interest therein within or without the city or State and for any of the purposes of the city; and to hold, improve, sell, lease, mortgage, pledge or otherwise dispose of the same or any part thereof.

(6) To acquire, in any lawful manner, for the purpose of encouraging commerce and manufacture, lands within and without the city not exceeding at any one time 5,000 acres in the aggregate, and from time to time to sell or lease the same or any part thereof for industrial or commercial uses and purposes.

(7) To make and maintain public improvements of all kinds, including municipal and other public buildings, armories, markets and all buildings and structures necessary or appropriate for the use of the departments of fire and police; and to acquire by condemnation or otherwise all lands, riparian and other rights and easements necessary for such improvements, or any of them.

(8) To furnish all local public service; to purchase, hire, construct, own, maintain and operate, or lease local public utilities, to acquire by condemnation or otherwise, within or without the corporate limits, land and property necessary for any such purposes.

(9) To acquire, in any lawful manner, in any county of the State, or without the State, such water, lands and lands under water as the council of said city may deem necessary for the purpose of providing an adequate water supply for said city and of piping or conducting the same; to lay all necessary mains; to erect and maintain all necessary dams, pumping stations and other works in connection therewith; to make reasonable rules and regulations for promoting the purity of its said water supply and for protecting the same from pollution; and for this purpose to exercise full police powers and sanitary patrol over all lands comprised within the limits of the watershed tributary to any such water supply wherever such lands may be located in this State; to impose and enforce adequate penalties for the violation of any such rules and regulations; and to prevent by injunction any pollution or threatened pollution of such water supply and any and all acts likely to impair the purity thereof; and for the purpose of acquiring lands or material for any such use to exercise within the State all powers of eminent domain possessed by railroad corporations under the laws of this State; provided that the lands and lands under water which may be held in this State by said city for such purpose shall not exceed, in the aggregate, 30,000 acres at any one time. For any of the purposes aforesaid, said city may, if the council shall so determine, acquire by condemnation, purchase or otherwise, any estate or interest in such lands or any of them, or any right or easement therein, or may acquire such lands or any of them in fee, reserving to the owner or owners thereof such rights or easements therein as may be prescribed in the ordinance providing for such condemnation or purchase. The said city may sell or supply to persons, firms or industries residing or located outside of the city limits any surplus of water it may have over and above the amount required to supply its own inhabitants.

(10) To establish, impose and enforce water rates and rates and charges for public utilities, or other

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59 service, products, or conveniences, operated, rendered or furnished by the city.

60 (10 1/2) To establish, in the manner hereinafter provided, adjacent to or near the lines of existing
61 streets, on either or both sides thereof, building lines, and to provide that no new buildings shall
62 thereafter be erected upon the property (hereinafter called the interlying property) lying between said
63 building lines and the street lines. Said building lines may be established for the whole or any part of a
64 street (but not for less than one block or the distance between two cross streets), as the council may
65 determine. Before any such lines shall be established, the council shall cause to be published, for at least
66 10 days in some paper of general circulation in the city, a notice addressed generally, but without
67 naming them, to the owners of the property on which building lines are proposed to be established,
68 stating that it is proposed to establish building lines thereon and naming a day when a hearing will be
69 had in respect thereof. After said hearing the council may proceed to establish such lines, and the
70 ordinance establishing the same shall be recorded by the city clerk and indexed in the name of the street
71 near which said building lines are to be established; and thereafter all persons shall be deemed to be
72 affected with notice of the establishment of such lines, and no permits shall be granted for the
73 construction of any building on the interlying property.

74 But the ordinance establishing said lines shall become null and void as against any owner of property
75 objecting thereto, unless:

76 (a) When the interlying property shall be unoccupied by buildings, the city shall, within 60 days after
77 the passage of the ordinance establishing said lines, purchase the same or institute condemnation
78 proceedings for the acquisition thereof; or

79 (b) When the interlying property is occupied, in whole or in part, by buildings, the city shall, within
80 60 days after receipt of notice in writing that the said buildings have been removed from said interlying
81 property (it being hereby made the duty of the said owner to give such notice), purchase said interlying
82 property or institute condemnation proceedings for the acquisition thereof, and thereafter complete its
83 acquisition of property in said proceedings.

84 The rights of the city shall not be prejudiced by any defect in the proceedings instituted under
85 paragraph (a) and (b) hereof, resulting in their dismissal, if within 30 days after said dismissal new
86 proceedings shall be instituted for the same purpose. Nothing herein contained shall be construed as
87 limiting or abridging in any degree the power of eminent domain now possessed by the city under
88 existing law.

89 (11) To establish, open, widen, extend, grade, improve, construct, maintain, light, sprinkle and clean,
90 public highways, streets, alleys, boulevards and parkways, and to alter or close the same; to establish
91 and maintain parks, playgrounds and other public grounds; to construct, maintain and operate bridges,
92 viaducts, subways, tunnels, sewers and drains and to regulate the use of all such highways, parks, public
93 grounds and works; to plant and maintain shade trees along the streets and upon such public grounds; to
94 prevent the obstructing of such streets and highways, abolish and prevent grade crossings over the same
95 by railroads; regulate the operation and speed of all cars and vehicles using the same, as well as the
96 operation and speed of all engines, cars and trains on railroads within the city; to regulate the services to
97 be rendered and rates to be charged by busses, motor cars, cabs and other vehicles for the carrying of
98 passengers and by vehicles for the transfer of baggage; require all telephone and telegraph wires and all
99 wires and cables carrying electricity to be placed in conduits under ground and prescribe rules and
100 regulations for the construction and use of such conduits; and to do all other things whatsoever adapted
101 to make said streets and highways safe, convenient and attractive.

102 (12) To construct and maintain, or aid in constructing and maintaining, public roads, boulevards,
103 parkways and bridges beyond the limits of the city, in order to facilitate public travel to and from said
104 city and its suburbs, and to and from said city and any property owned by said city and situated beyond
105 the corporate limits thereof, and to acquire land necessary for such purpose by condemnation or
106 otherwise.

107 (13) To establish, construct, maintain and operate public lands, public wharves and docks either
108 within or without the city; to acquire by condemnation or otherwise all lands, riparian and other rights
109 and easements necessary for the purposes aforesaid; to lay and collect reasonable duties or wharfage fees
110 on vessels coming to or using said landings, wharves or docks; to regulate the manner of using other
111 wharves and docks within the city and rates of wharfage to be paid by vessels using the same; to dredge
112 or deepen the harbor or river or any branch or portion thereof; to prescribe and enforce reasonable rules
113 and regulations for the protection and use of its said properties, whether within or without the city; and
114 to impose and enforce adequate penalties for the violation of such rules and regulations.

115 (14) Subject to the provisions of the Constitution of Virginia and of §§ 100, 104 and 105 of this
116 charter, both inclusive, to grant franchises for public utilities.

117 (15) To collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals and other
118 refuse, and to acquire and operate reduction or other plants for the utilization or destruction of such
119 materials, or any of them; or to contract for and regulate the collection and disposal thereof.

120 (16) To compel the abatement and removal of all nuisances within the city or upon 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; to require all lands, lots and other premises within said city to be kept clean, sanitary and free from weeds, or to make them so at the expense of the owners or occupants thereof; to regulate or prevent slaughter houses or other noisome or offensive business within said city, the keeping of animals, poultry or other fowl therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets of the city; to compel the abatement of smoke and dust, and prevent unnecessary noise therein; to regulate the location of stables and the manner in which they shall be kept and constructed, and generally to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city.

(17) To inspect, test, measure and weigh any commodity or article of consumption or use within the city and to establish, regulate, license and inspect weights, meters, measures and scales.

(18) To extinguish and prevent fires and to compel citizens to render assistance to the fire department in case of need, and to establish, regulate and control a fire department or division; to regulate the size, materials and construction of buildings, fences and other structures hereafter erected in such manner as the public safety and convenience may require; to remove, or require to be removed, 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 be erected contrary to law; to establish and designate from time to time fire limits, within which limits wooden buildings shall not be constructed, removed, added to or enlarged, and to direct that any or all future buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick, iron or other fireproof material; provided, however, that by a vote of four-fifths of all the members of the council permission may be granted for storage sheds constructed on pile piers or wharves on the waterfront, the sides and roofs of which shall be covered with corrugated iron or other fireproof material.

(19) To provide for the care, support and maintenance of children and of sick, aged, insane or poor persons and paupers.

(20) To organize and administer public schools and libraries subject to the general laws establishing a standard of education for the State.

(21) To provide and maintain, either within or without the city, charitable, recreative, curative, corrective, detentive or penal institutions.

~~(22) To prevent persons having no visible means of support, paupers and persons who may be dangerous to the peace or safety of the city from coming to said city from without the same; and for this purpose to require any railroad company, the master of any ship or vessel or the owners of any conveyance bringing such person to the city, to take such person back to the place whence he was brought, or enter into bond with satisfactory security that such person shall not become a charge upon said city within one year from the date of his arrival; and also to expel therefrom any such person who has been in said city less than 90 days.~~

(23) To provide for the preservation of the general health of the inhabitants of said city, make regulations to secure the same, inspect all foods and foodstuffs and prevent the introduction and sale in said city of any article or thing intended for human consumption which is adulterated, impure or otherwise dangerous to health, and to condemn, seize and destroy or otherwise dispose of any such article or thing without liability to the owner thereof; prevent the introduction or spread of contagious or infectious diseases, and prevent and suppress diseases generally; to provide and regulate hospitals within or without the city limits and to enforce the removal of persons afflicted with contagious or infectious diseases to hospitals provided for them; to provide for the organization of a department or bureau of health, to supplement the salary paid by the Commonwealth to the Director of Public Health, to have the powers of a board of health, for said city, with the authority necessary for the prompt and efficient performance of its duties, with power to invest any or all the officials or employees of such department of health with such powers as the police officers of the city have; to establish a quarantine ground within or without the city limits, and such quarantine regulations against infectious and contagious diseases as the said council may see fit, subject to the laws of the State and of the United States; to provide and keep records of vital statistics and compel the return of all births, deaths and other information necessary thereto.

~~(24)~~ (23) To acquire, by purchase, gift, devise, condemnation or otherwise, lands, either within or without the city, to be used, kept and improved as a place for the interment of the dead, and to make and enforce all necessary rules and regulations for the protection and use thereof, and generally regulate the burial and disposition of the dead.

~~(25)~~ (24) To exercise full police powers, and establish and maintain a department or division of police.

~~(26)~~ (25) To 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

182 the city or its inhabitants.

183 ~~(27)~~ (26) To make and enforce all ordinances, rules and regulations necessary or expedient for the
184 purpose of carrying into effect the powers conferred by this charter or by any general law, and to
185 provide and impose suitable penalties for the violation of such ordinances, rules and regulations, or any
186 of them in a manner consistent with § 2(e), as amended, of this charter. The city may maintain a suit to
187 restrain by injunction the violation of any ordinance, notwithstanding such ordinance may provide
188 punishment for its violation.

189 The council may, by ordinance, establish certain voluntary design guidelines for new construction or
190 rehabilitation of residential real property in certain designated districts. The guidelines shall be voluntary
191 and may only be applied at the request of the property owner. A fee may be charged for review, which
192 shall not exceed the actual cost of such review process or \$200, whichever is less.

193 The enumeration of particular powers in this charter shall not be deemed or held to be exclusive, but
194 in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, the
195 said city shall have and may exercise all other powers which are now or may hereafter be possessed or
196 enjoyed by cities under the Constitution and general laws of this State.

197 § 11. ~~Elections~~ *Appointments* by council; ~~when held, terms, etc.~~

198 The council shall appoint a city manager, a city assessor, a city clerk, a city attorney, a city auditor
199 and a high constable, each of whom shall be appointed for an indefinite period and serve at the will of
200 the council. *The employees serving these officers, regardless of whether their representatives are*
201 *confirmed by the council, shall serve at the will of their respective officers.*

202 § 114. Officers exempted from classified service.

203 Officers who are elected by the people or who are ~~elected~~ *appointed* or confirmed by the council,
204 pursuant to this charter, members of the school board, the teachers in the public schools and all other
205 persons employed by said school board, heads of the administrative departments of the city, the deputy
206 chief of police, assistant city managers, employees who report directly to and whose positions require
207 the personal trust and confidence of the city manager, employees, regardless of their positions, hired and
208 permanently assigned to work for and under the supervision of the constitutional officers of the city or
209 of the circuit court judges of the city, assistant heads of administrative departments, and heads or chiefs
210 of bureaus and divisions within said departments, but not including such positions within the
211 departments of fire and police other than that of the deputy chief of police, members of the law
212 department, *all those who serve in the offices of the officers appointed by the council pursuant to § 11,*
213 *as amended, of this charter* and civil service examiners; shall not be included in such classified service;
214 provided, however, that the council may by ordinance provide that the health officer of said city and
215 such of his trained medical assistants as may be required to give full time to the duties of their positions
216 shall be included in the classified service.