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HOUSE BILL NO. 2095

Offered January 13, 2021

Prefiled January 12, 2021

A BILL to amend and reenact §§ 2.06, 5.04, as amended, 6.03, 8.04, as amended, 10.06, as amended, 10.07, and 15.03, as amended, of Chapter 542 of the Acts of Assembly of 1990, which provided a charter for the City of Bristol, relating to powers and organization.

Patron—O'Quinn

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.06, 5.04, as amended, 6.03, 8.04, as amended, 10.06, as amended, 10.07, and 15.03, as amended, of Chapter 542 of the Acts of Assembly of 1990 are amended and reenacted as follows:

§ 2.06. Power to make regulations for the preservation of safety, health, peace, good order, comfort, convenience, morals and welfare of the city and its inhabitants.

The city shall have the power to adopt ordinances not in conflict with the general laws of the Commonwealth for the preservation of safety, health, peace, good order, comfort, convenience, morals and welfare of its inhabitants including without limitation:

1. To provide for the prevention of vice, drunkenness, ~~immorality~~, riots, disturbances, disorderly assemblages, the suppression of houses of ill fame and ~~gambling places~~, the prevention of lewd and disorderly conduct or exhibitions; and the prevention of conduct and of speech dangerous to the public.

The city may join with the City of Bristol, Tennessee, in the doing of all of the above with respect to State Street, or any other street on the state line, and in the regulation and routing of traffic along and over the same; and in the establishing or regulating of motor vehicles and other public service passenger routes, and in fixing and regulating the charges for such passenger carrying services.

2. To enforce all regulations pertaining to the city's real property, water supply and other public improvements. Wherever such properties, supplies and improvements may be situate they shall be under the police jurisdiction of the city, and any member of the police force of the city shall have the power to make arrests for violation of any ordinance, rule or regulation adopted pursuant to this section.

3. To control its streets, alleys and other public properties and incident thereto:

(a) To grant or authorize the issuance of permits under such terms and conditions as the council may impose for the use of streets, alleys and other public places of the city.

(b) To prevent any obstruction of or any encroachment over, under or in any street, alley, sidewalk or other public place.

(c) To provide penalties for maintaining any such obstruction or encroachment.

(d) To remove the same and charge the cost thereof to the owner or owners, occupant or occupants of the property so obstructed or encroaching, and collect the sum charged in any manner provided by law for the collection of delinquent taxes.

(e) To require the owner or owners or the occupant or occupants of the property so obstructing or encroaching to remove the same and pending such removal, charge the owner or owners of the property so obstructing or encroaching compensation for the use of such portion of the street, alley, sidewalk or other public place obstructed or encroached upon the equivalent of what would be the tax upon the lands so occupied if it were owned by the owner or owners of the property so obstructing or encroaching.

(f) To impose penalty for each and every day that such obstruction or encroachment is allowed to continue.

(g) To authorize encroachments upon streets, alleys, sidewalks or other public places, subject to such terms and conditions as the council may prescribe.

(h) To recover possession of any street, alley, sidewalk or other public place or any other property of the city by any appropriate action at law or equity.

4. To regulate the operation of motor vehicles and exercise control over traffic in the streets of the city and provide penalties for the violation of such regulations payable into the city treasury.

5. To regulate use of property and incident thereto:

(a) To compel the abatement and removal of all public nuisances within the city or upon property owned by the city beyond its limit 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 and collect said expense by suit or other lawful action.

(b) To require all lands, lots, sidewalks, unimproved city right-of-ways and other premises within the

INTRODUCED

HB2095

59 city to be kept clean and sanitary and free from stagnant water, weeds, snow, filth, mud and unsightly
60 deposits by the owners and occupants thereof, or in the case of sidewalks and unimproved city
61 right-of-ways by the owner or operator of property contiguous thereto and to make them so at the
62 expense of the owner or occupants thereof (or contiguous owner or occupant), and to collect the expense
63 by suit or motion and to make said expense a lien upon the property collectable as other delinquent
64 taxes.

65 (c) To regulate or prevent slaughter houses or other noisome or offensive businesses within the city.

66 (d) To regulate or prevent the keeping of hogs or other animals, poultry or other fowl in the city or
67 the exercise of any dangerous or unwholesome business, trade or employment.

68 (e) To regulate the transportation of all articles through the streets of the city.

69 (f) To compel the abatement of smoke and dust and prevent unnecessary noise.

70 (g) To regulate the locations of stables and the manner in which they will be kept and constructed.

71 (h) To regulate the location, construction, operation and maintenance of billboards.

72 (i) To define, prohibit, abate, suppress and prevent all things detrimental to the health, morals,
73 aesthetics, safety, convenience and welfare of the inhabitants of the city.

74 6. To regulate, to the extent not prohibited by the laws of the Commonwealth, public health, and
75 incident thereto:

76 (a) To regulate the production, preparation, distribution, sale and possession of milk, other beverages
77 and foods for human consumption and the places in which they are produced, prepared, distributed, sold,
78 served or stored.

79 (b) To regulate the construction, installation, maintenance and condition of all sewer pipes,
80 connections, toilets, water closets and plumbing fixtures of all kinds.

81 (c) To regulate the construction and use of septic tanks and dry closets, where sewers are not
82 available.

83 (d) To regulate the sanitation of swimming pools and lakes.

84 (e) To regulate by emergency regulation all things required to provide for the quarantine of any
85 person or persons afflicted with a contagious and infectious disease and for the removal of such person
86 to a hospital ward specially designated for contagious or infectious diseases.

87 (f) To inspect and prescribe reasonable rules and regulations with respect to private hospitals,
88 sanatoria, convalescent homes, clinics and other private institutions, homes and facilities for the care of
89 the sick, children, the aged and the destitute.

90 (g) To make and enforce all regulations necessary to preserve and promote public health and
91 sanitation and protect the inhabitants of the city from contagious, infectious or other diseases.

92 7. To provide for the care, support and maintenance of children and of sick, aged, insane or poor
93 persons and paupers.

94 8. To provide and maintain, either within or without the city, charitable, recreative, curative,
95 corrective, detentive or penal institutions.

96 9. To extinguish and prevent fires and to compel citizens to render assistance to the fire department
97 in case of need and incident thereto:

98 (a) To establish, regulate and control a fire department or division.

99 (b) To regulate the size, height, materials and construction of buildings, fences, walls, retaining walls
100 and other structures hereafter erected in such a manner as the public safety and convenience may
101 require.

102 (c) To remove or require to be removed or reconstructed any building, structure or addition thereto
103 which by reason of dilapidation, defect of structure or other causes may have become dangerous to life
104 or property, or which may be erected contrary to law.

105 (d) To establish and designate from time to time fire limits within which limits wooden buildings
106 shall not be constructed, removed, added to, enlarged or repaired and to direct that any or all future
107 buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick, iron or
108 other fireproof material.

109 (e) To enact stringent and efficient laws for securing the safety of persons from fires in halls and
110 buildings used for public assemblies, entertainments or amusements.

111 10. To regulate, and if necessary to acquire, maintain and operate, cemeteries, crematoriums,
112 columbariums and like means for the disposal of the dead and to regulate and make burials therein,
113 prescribe the records to be kept by the owners of such cemeteries, crematoriums, columbariums and
114 other facilities for the disposal of the dead, prohibit all burials except in public burying grounds and to
115 otherwise regulate the burial and disposition of the dead.

116 11. To acquire by any lawful means, including without limitation the exercise of eminent domain,
117 any property adjoining other property used by the city for any public purpose when such property to be
118 acquired is used and maintained in such manner as to impair the usefulness or efficiency of any such
119 public property; and to likewise acquire property adjacent to any street, the topography of which, from
120 its proximity thereto, impairs the convenient use of such street, or renders impractical, without

extraordinary expense, the improvement of the same, and the city may subsequently dispose of property so acquired, limiting the use thereof to protect the usefulness, efficiency or convenience of such public property.

12. To exercise full police powers and establish and maintain a department or division of police; to authorize the appointment and qualification of police officers of the City of Bristol, Tennessee, as police officers in the City of Bristol, Virginia, and to permit and authorize the appointment of law enforcement officers of the City of Bristol, Virginia, as law enforcement officers in the City of Bristol, Tennessee.

13. To license and regulate the holding and location of shows, circuses, public exhibitions, carnivals and similar shows or fairs, or prohibit the holding of the same or any of them within the city.

14. To make and enforce such regulations as shall be necessary to prevent peddling, obstructing public ways or buying and selling at a higher price any food item at the same market or fair or one within four miles of the same market or fair.

15. To regulate or prohibit the manufacture, storage, transportation, possession or use of explosive or inflammable substances and the use or exhibition of fireworks and discharge of firearms and to regulate or prohibit the making of fires in the streets, alleys and other public places in the city; to regulate the making of fires on private property.

16. To compel the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public. The city shall also have the power to compel the razing or repair of all public or private buildings, walls or structures which impair the beauty, value, usefulness of those properties contiguous to or in the vicinity of said public or private property which would ordinarily be encompassed within the meaning of the word "neighborhood."

17. To regulate or prohibit the running at large and the keeping of animals and fowl and provide for the impounding and confiscation of any such animal or fowl found at large or kept in violation of such regulations, and to prevent cruelty to and abuse of animals.

18. To do all other things whatsoever necessary or expedient to promote or maintain the general welfare, comfort, education, morals, peace, government, health, trade, commerce or industries of the city or its inhabitants; and to join with the City of Bristol, Tennessee, or any other political subdivision within or without Virginia, in any plan, arrangement, contract or joint venture to promote or maintain the general welfare, comfort, education, morals, peace, government, health, trade, commerce or industries of said political subdivisions, or their inhabitants, or to secure additional water for them or their inhabitants, but this grant of power or exercise thereof shall in no event defeat, limit or abridge the right of the City of Bristol, Virginia, to exercise the power of eminent domain as provided by the general law of the Commonwealth of Virginia and this charter.

§ 5.04. Powers and duties with respect to the budget.

A. The city manager shall direct the department directors to prepare departmental estimates and other data necessary or useful to the city manager in the preparation of the budget. The city manager shall examine from time to time the departments, divisions, boards, commissions, offices and agencies of the city, in relation to their organization, personnel and other requirements; ascertain the manner in which their respective budgets are carried out and their functions performed; call the attention of the directors thereof to any improvements or economies which might be made in their administrative practices; and cooperate with the directors thereof in the preparation of their budget estimates for each ensuing year.

B. Not later than the second Tuesday in ~~May~~ April, the city manager shall have prepared and submit to the council an annual budget estimate for the ensuing fiscal year, based upon detailed estimates furnished by the several departments and other divisions of the city government.

§ 6.03. City attorney.

~~The head of the department of law~~ *general counsel of the city* shall be the city attorney. He shall be an attorney-at-law, licensed to practice under the laws of the Commonwealth. ~~City council~~ *The city attorney* may also appoint assistant city attorneys, who shall be attorneys at law, licensed to practice under the laws of the Commonwealth.

The city attorney shall, with the mayor and city manager, have charge, management and entire control of all the law business of the city. Pursuant to such, the city attorney shall:

1. Be the legal adviser to the council, the city manager and of all departments, boards, commissions and agencies of the city, excluding the school board and the Bristol Virginia Utility Board, in all matters affecting the interests of the city and shall upon request furnish a written opinion on any question of law involving the city's operation or position;

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

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

4. Have the management and control of all the law business of the city and the departments, boards and commissions and agencies thereof or in which the city has an interest, and represent the city as counsel in any civil case in which it is interested, in criminal cases in which the constitutionality or validity of any ordinance is brought in issue, and upon request of the mayor or city manager shall prosecute the violation of any ordinance of the city, the violation of which is a misdemeanor;

5. Institute and prosecute all legal proceedings as shall be necessary or proper to protect the interest of the city;

6. Attend in person or assign one of his assistants to attend all regular meeting of the council and all special called meetings of the council that he is requested to attend; and

7. Perform such other duties and powers as may be assigned to him by council.

§ 8.04. City planning commission.

There shall be a city planning commission consisting of seven members, one of whom shall be a member of city council selected by the council for a term coincident with his term on the council and the remaining members shall be citizens appointed by city council for four-year terms, to be staggered beginning July 1, 2019. All citizens of the City of Bristol, Virginia, ~~owning real property~~ shall be eligible for appointment to the planning commission, and all appointees shall take the oath of office before entering into their duties. Each appointee, other than the councilmanic and employee appointees, shall be eligible for only two consecutive terms.

The planning commission's duties shall be to:

1. Exercise general supervision of and make regulations for the administration of its affairs;

2. Prescribe rules pertaining to its investigations and hearings;

3. Supervise its physical affairs and responsibilities, under rules and regulations as prescribed by the governing body;

4. Keep a complete record of its proceedings and be responsible for the custody and preservation of its papers and documents;

5. Make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction;

6. Prepare, publish and distribute reports, ordinances and other material relating to its activities;

7. Prepare and submit an annual budget estimate in the manner prescribed by the city council;

8. Review, amend and recommend a comprehensive city plan to city council as provided for by state law and this charter and amendments thereto as needed;

9. Exercise such authority and perform such duties relative to zoning, subdivisions and other matters related to development within the City of Bristol, Virginia, as are provided for in the respective ordinances provided for the same by city council; and

10. Perform such other duties as council may from time to time assign to the planning commission.

The planning commission shall be staffed by the director of the department of planning and employees of that department until and unless the council shall by ordinance provide for a separate staff for the planning commission. The planning commission may, with the approval of the city manager, call upon the heads of other departments for staff functions as the need may arise.

§ 10.06. Additional appropriations.

Subject to the limitations contained hereinafter, appropriations in addition to those contained in the appropriation ordinance may be made by the council by a four-fifths vote during the fiscal year if the chief financial officer certifies in writing that there is available in the general fund a sum unencumbered and unappropriated sufficient to meet such appropriation. At any time during the fiscal year when reimbursements or payments from the Commonwealth of Virginia and the United States of America for specified purposes exceed budget estimates of anticipated revenue for such purposes, such excess reimbursement or payments may be included in the general fund unencumbered and unappropriated balances and may be appropriated for such specified purposes, whether such grants be termed categorical or general. *Appropriations in addition to those contained in the appropriation ordinance may be made by the council pursuant to § 15.2-2507 of the Code of Virginia.*

§ 10.07. Disposition of unencumbered balances; incurring liabilities.

At the close of each fiscal year, or upon the completion or abandonment at any time within the year of any work, improvement or other object for which a specific appropriation has been made, the unexpended balance of such any appropriation shall revert to the general fund from which it was appropriated and shall be, subject to further appropriations, except that funds obligated to any ongoing project, capitol or operating, which has not been completed or if completed has not been billed to the city and paid, shall remain appropriated to the purpose for which it was appropriated until expended. This does not prohibit the council from authorizing transfers between department budgets as may be necessary to adjust expenditures *re-appropriation by city council in the next fiscal year*. No city liability shall be incurred by an officer or employee of the city except in accordance with the provisions of the appropriations made by council or under continuing contracts and loans authorized under provisions of this charter.

§ 15.03. Investigation into city affairs.

The City council, the city manager, and any officer, board or commission authorized by them or either of them, the city attorney shall have power to make ~~investigation~~ investigations as to city affairs. For that purpose, the city council, the city manager, or any such officer, board or commission the city attorney shall have the power to subpoena witnesses, administer oaths, and compel the production of evidence relating to any person, officer, board, commission, authority or other entity that conducts business with the City of Bristol, Virginia. Any person refusing or failing to attend or to testify or to produce such books and papers may be summonsed by such board council, city manager, or officer city attorney before the judge of the General District Court for the City of Bristol, Virginia, by council, the board city manager, or official the city attorney making such investigation, and upon failure to give satisfactory explanation of such failure or refusal, may be found guilty by the judge of the general district court general district court of a Class 2 misdemeanor and fined or jailed accordingly. Such persons shall have the right to appeal to the circuit court of the city any conviction pursuant hereto. Any person who shall give false testimony under oath at any such investigation shall be liable to prosecution for perjury.