

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 782

An Act to amend and reenact §§ 2.04, 2.04:2, 3.06:1, 9.01, 9.12 and 10.01, as severally amended, of Chapter 536 of the Acts of Assembly of 1950, which provided a charter for the City of Alexandria, relating to general police powers, housing and community development, council administrative assistants, master plan amendments, zoning procedures and election of the mayor and council members.

[S 646]

Approved April 6, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.04, 2.04:2, 3.06:1, 9.01, 9.12 and 10.01, as severally amended, of Chapter 536 of the Acts of Assembly of 1950 are amended and reenacted as follows:

§ 2.04. Power to Make Regulations for the Preservation of the Safety, Health, Peace, Good Order, Comfort, Convenience, Morals and Welfare of the City and Its Inhabitants.

In addition to the powers granted by other sections of this charter the city shall have power to adopt ordinances, not in conflict with this charter or prohibited by the general laws of the Commonwealth, for the preservation of the safety, health, peace, good order, comfort, convenience, morals and welfare of its inhabitants. Among such powers, but not in limitation thereof, the city shall have power:

(a) To provide for the prevention of vice, immorality, vagrancy and drunkenness; prevention and quelling of riots, disturbances and disorderly assemblages; suppression of houses of ill-fame and gambling places and gambling devices of all kinds; restraint of mendicants; prevention of lewd and disorderly conduct or exhibitions; prevention of loitering; and prevention of conduct in the streets dangerous or annoying to the public.

(b) To regulate the construction, maintenance, repair and demolition of buildings and other structures and the plumbing, electrical, heating, elevator, escalator, boiler, unfired pressure vessel, and air conditioning installations therein, for the purpose of preventing fire and other dangers to life and health; to establish fire zones and to prohibit the construction of wooden buildings and wooden repairs and additions to buildings.

(c) To provide for the protection of the city's property, real and personal, the prevention of the pollution of the city's water supply, and the regulation of the use of parks, playgrounds, playfields, recreational facilities, landings, docks, wharves, canals, airports and other public property, whether located within or without the city. For the purpose of enforcing such regulations all city property wherever located shall be under the police jurisdiction of the city. Any member of the police force of the city or employee thereof appointed as a special policeman shall have power to make arrests for violation of any ordinance, rule or regulation adopted pursuant to this section and the appropriate district court shall have jurisdiction in all cases arising thereunder.

(d) 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 by railroads, street railways, buses, taxicabs, pedicabs and other vehicles for hire; prescribe the location in, under or over, and grant permits for the use of, streets, alleys, and other public places for the maintenance and operation of tracks, poles, wires, cables, pipes, conduits, bridges, subways, vaults, areas, parking places, bus stops, and cellars; require tracks, poles, wires, cables, pipes, conduits and bridges to be altered, removed or relocated either permanently or temporarily; charge and collect compensation for the privileges so granted; and prohibit such use of the streets, alleys and other public places of the city, and no such use shall be made of the streets, alleys or other public places of the city without the consent of the council.

(e) To prevent any obstruction of or encroachment over, under or in any street, alley, sidewalk or other public place; provide penalties for maintaining any such obstruction or encroachment; remove the same and charge the cost thereof to the owner or owners, occupant or occupants of the property so obstructing or encroaching, and collect the sum charged in any manner provided by law for the collection of taxes; require the owner or owners or the occupant or occupants of the property, so obstructing or encroaching to remove the same; 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 land so occupied if it were owned by the owner or owners of the property so obstructing or encroaching, and, if such removal shall not be made within the time ordered, impose penalties for each and every day that such obstruction or encroachment is allowed to continue thereafter; authorize encroachments upon streets, alleys, sidewalks or other public places, subject to such terms and conditions as the council may prescribe, but such authorization shall not relieve the owner or owners, occupant or occupants of the property encroaching, of any liability for negligence on account of such

encroachment; and recover possession of any street, alley, sidewalk or other public place or any other property of the city by suit or action in ejectment.

(f) To prescribe the route and grade of any railroad laid in the city, regulate the operation of locomotives and cars, and exclude such locomotives and cars from the city provided no contract between the city and the corporation operating such locomotives or cars is violated by such action.

(g) To regulate the operation of motor and other vehicles and exercise control over traffic in the streets of the city and provide penalties for the violation of such regulations, provided that ordinances or administrative regulations adopted by virtue of this subsection shall not be inconsistent with the provisions of the Motor Vehicle Code of Virginia. All fines imposed for the violation of such ordinances and regulations shall be paid into the city treasury.

(h) To regulate, in the interest of public health, the production, preparation, distribution, sale and possession of milk, other beverages and foods for human consumption, and the places in which they are produced, prepared, distributed, sold, served or stored; regulate the construction, installation, maintenance and condition of all water and sewer pipes, connections, toilets, water closets and plumbing fixtures of all kinds; regulate the construction and use of septic tanks and dry closets, where sewers are not available, and the sanitation of swimming pools and lakes; provide for the removal of night soil, and charge and collect compensation for the removal thereof; compel the use of sewers, the connection of abutting premises therewith, and the installation in such premises of suitable sanitary facilities; regulate or prohibit connections to and use of sewers; provide for the quarantine of any person afflicted with a contagious or infectious disease, and for the removal of such person to a hospital or ward specially designated for contagious or infectious diseases; inspect and prescribe reasonable rules and regulations in the interest of public health, with respect to private hospitals, sanatoria, convalescent homes, clinics and other private institutions, homes and facilities for the care of the sick, of children, the aged and the destitute; provide and maintain hospitals and compel the removal of patients to the same; require the registration of births in the city; regulate in the interest of public health the construction, maintenance and operation of laundries; and make and enforce all regulations necessary to preserve and promote public health and sanitation and protect the inhabitants of the city from contagious, infectious or other diseases.

(i) To regulate cemeteries and burials therein, prescribe the records to be kept by the owners of such cemeteries, prohibit all burials except in a public burying ground, and to prohibit burial of the dead within the city limits.

(j) To regulate or prohibit the exercise of any dangerous, offensive or unhealthful business, trade or employment, and the transportation of any offensive or dangerous substance.

(k) To regulate the light, ventilation, sanitation and use and occupancy of buildings heretofore or hereafter constructed, altered, remodeled or improved, and the sanitation of the premises surrounding the same.

(l) To regulate the emission of smoke, the construction, installation and maintenance of fuel burning equipment, and the methods of firing and stoking furnaces and boilers.

(m) To compel the removal of weeds from private and public property and snow from sidewalks; to compel the covering or removal of offensive, unwholesome, unsanitary or unhealthful substances allowed to accumulate in or on any place or premises; to 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; to compel the raising or draining of grounds subject to be covered by stagnant water; to require 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; to require the repair of any damaged, defective or deteriorated condition of dwellings or dwelling units when such condition adversely affects the health or safety of the occupants or the general public; to compel the abatement of smoke and dust and the elimination of unnecessary noise; to regulate or prevent slaughterhouses or other offensive business within the city; to regulate the transportation of articles through the streets; to provide means for and to regulate the cleaning of all dry closets and to assess against the owner or occupant of the premises where same is located a reasonable charge therefor, which shall be collected as other city taxes; and to compel the abatement or removal of any and all other nuisances whatsoever within the city or upon property owned by the city beyond its limits. If after such reasonable notice as the council may prescribe by ordinance the owner or owners, occupant or occupants of the property or premises affected by the provisions of this subsection shall fail to abate or obviate the condition or nuisance, the city may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of taxes. There shall be a lien for said cost upon the real estate from which the nuisance or condition was abated or removed by the city, the lien to continue until actual payment of such cost shall have been made to the city.

(n) To regulate or prohibit the making of fires in the streets, alleys and other public places in the city and to regulate the making of fires on private property.

(o) To regulate or prohibit the manufacture, storage, transportation, possession and use of explosive or inflammable substances and the use and exhibition of fireworks and discharge of firearms.

(p) 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 provide for the appointment of dog wardens and deputy dog wardens who, in the enforcement of the dog laws of the city, shall have the powers of a state game warden, within the city only.

(q) To prevent cruelty to and abuse of animals and the driving of horses and other animals at improper speeds.

(r) To regulate the sale of goods, wares or merchandise at auction; regulate the conduct of and prescribe the number of pawn shops and dealers in secondhand goods, wares and merchandise; regulate or prohibit the peddling or hawking of any article for sale on the streets of the city; regulate the soliciting of goods, wares, merchandise or services; prevent fraud or deceit in the sale of goods, wares and merchandise; regulate junk dealers; require the weighing, measuring, gauging and inspection of goods, wares and merchandise offered for sale; require weights and measures to be sealed and subject to inspection; and provide for the appointment of a sealer and one or more weighmasters who shall perform such duties and functions as may be prescribed by ordinance.

(s) To establish markets in the city and regulate the same and to make and enforce regulations regarding the keeping and sale of fresh meat, eggs, vegetables and other perishable groceries.

(t) To regulate livery stables, garages, gasoline filling stations, theatrical performances or other public shows or exhibitions, the hiring or use for pay of carriages, automobiles and other vehicles, billiard parlors, bowling alleys, pistol galleries, establishments that sell or display animals, and to grant or refuse licenses to these and similar occupations and employments as may be deemed proper.

(u) To require a permit for the removal of household goods and chattels from a residence in the City of Alexandria to a place outside said city.

(v) To provide a complete building code for the city, and to provide setback lines on the streets beyond which no building may be constructed, and to provide for a city planning commission and define its powers, subject to the limitations imposed in Chapter 9 of this charter.

(w) To adopt plans and adopt and modify the official map of the city; divide the city into land use zones in accordance with the provisions of Chapter 9 of this charter; regulate and restrict the height and number of stories of buildings and other structures, the size of yards and courts, the density of populations, and the location and use of buildings for trade, industry, business, residence or other purposes; provide for safe and sanitary housing accommodation for families of low income; create a housing authority; adopt, modify, and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas; adopt, modify and carry out plans proposed by the planning commission for replanning, improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.

(x) To adopt by reference an electrical code promulgated by a national association or organization.

(y) To provide for a curfew if, in the opinion of council, an emergency exists and the ordinance adopting a curfew contains a specific statement of the emergency claimed.

(z) To regulate health, athletic, massage and bath clubs or establishments.

(aa) To regulate security guards and private detectives.

(bb) To provide a burglary prevention code for the city.

(cc) Notwithstanding any other provision of law, to require that owners and operators of multi-family rental dwellings constructed in the city prior to September 1, 1974, provide and install dead bolt locks and peepholes on exterior solid doors to each dwelling unit and locks on all exterior glass doors at all levels and windows at a ground level which are capable of being opened.

(dd) To control or attempt eradication of *Lymantria Dispar* (gypsy moths) on private and public property.

Notwithstanding any limitation as to place that may be imposed by § 2.04 or any other section of this charter, the powers granted by this charter may be applied to any place, public or private.

(ee) Notwithstanding any contrary provision of law, general or special, to prohibit or regulate the possession of an opened alcoholic beverage container (a) in or on a street, alley, sidewalk or other pedestrian walkway, park, playground, or parking lot so long as "the public has, or is permitted to have, access" to such areas, as that phrase is used in the definition of "public place" set out in § 4.1-100 of the Code of Virginia (1950), as amended, and (b) in a motor vehicle on any such street, alley or parking lot, whether or not such vehicle is moving. Violation of this subdivision shall be a Class 4 misdemeanor. The prohibitions or regulations shall not apply to the licensed establishments identified in subsection B of § 4.1-308 of the Code of Virginia or in the case of events identified in subsection C of § 4.1-308.

§ 2.04:2. Powers Relating to Housing and Community Development.

In addition to the powers granted by other sections of this charter ~~or~~ and any other provision of law, the city shall have the power:

(a) To acquire, by purchase, exchange, gift, lease, condemnation or otherwise, land or buildings in the city for the purpose of providing housing for low or moderate income persons or for elderly or

handicapped persons; , to rehabilitate and dispose of any such land and buildings by lease or sale to low or moderate income persons or elderly or handicapped persons; or to dispose of such land and buildings by lease or sale to a nonprofit or limited profit organization which has as a principal purpose the *provision or* development of housing for low or moderate income persons or elderly or handicapped persons; to construct residential buildings in the city for lease or sale to low or moderate income persons or elderly or handicapped persons, or for lease or sale to a nonprofit or limited profit organization which has as its principal purpose the *provision or* development of housing for low or moderate income persons or elderly or handicapped persons; *and* to make grants ~~or~~ *and* loans of funds to low or moderate income persons to aid in the purchase of any land or building in the city *including, but not limited to, land and buildings* which ~~has~~ *have* been rehabilitated by the city or by a nonprofit or limited profit organization which has as its principal purpose the development of housing for low or moderate income persons.

(b) To acquire, by purchase, exchange, gift, lease, condemnation or otherwise, real property in the city which is blighted, deteriorated, deteriorating, a blighting influence on the neighborhood, or in nonconformance with the city's zoning code or master land use plan; to clear, demolish or rehabilitate any such real property; and to dispose of any such real property by lease or sale to any person.

(c) To make grants of funds to owners of dwellings or dwelling units in the city ~~leased to low or moderate income persons~~ for the purpose of subsidizing, in part, the rental payments due and owing to any such owner by a low or moderate income person; ~~and~~ to acquire, by purchase, exchange, gift, lease, condemnation or otherwise, any such dwellings or dwelling units ~~from any such owners in the city for the purpose of providing housing to low or moderate income persons~~, and to dispose of such ~~property dwellings or dwelling units~~, by sale or lease, to low or moderate income persons *or to a nonprofit organization which has as its principal purpose the provision or development of housing for low or moderate income persons; and to make grants and loans of funds to low and moderate income persons to aid in the purchase of dwellings or dwelling units in the city.*

(d) To issue tax-exempt bonds for the acquisition, rehabilitation and provision of housing for low or moderate income persons; provided, that prior to any action authorizing the issuance of such bonds, *the city council finds affirmatively that such action is necessary to provide an adequate supply of such housing in the city.*

For the purposes of this section, the phrase "low or moderate income persons" ~~shall have~~ *has* the same ~~definition meaning~~ *as the phrase "persons and families of low and moderate income," as set forth in § 36-55.26 (e) of the Code of Virginia, and shall be applied in the city using the income guidelines issued by the Virginia Housing Development Authority for use in its single family mortgage loan program authorized by § 36-55.33:1.*

In addition to being able to exercise the above-mentioned powers with city funds, the city is authorized to participate in any state or federal program related thereto and use state, federal or private funds in the exercise of such powers.

The exercise of any of the powers granted in this section is hereby declared to be a public purpose and public use.

§ 3.06:1. Administrative Assistants.

Notwithstanding any other provision of this charter, the city clerk may, upon the direction of the city council, appoint one administrative assistant for each ~~councilman~~ *member of council*, including the mayor; ~~to perform such secretarial and administrative tasks as may be required by said councilman and mayor; except that no such administrative assistant shall aid any member of city council in any election campaign in the Commonwealth of Virginia.~~ No member of the immediate family of a member of the council shall be eligible for appointment as an administrative assistant. For the purpose of this section, the spouse, parent, child, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law of ~~the~~ *a council member* shall be considered a member of the *member's* immediate family.

§ 9.01. Power to Adopt Master Plan.

In addition to the powers granted elsewhere in this charter, the *city* council shall have the power to adopt by ordinance a master plan for the physical development of the city to promote health, safety, morals, comfort, prosperity and general welfare. The master plan may include but shall not be limited to the following:

(a) The general location, character and extent of all streets, highways, super-highways, freeways, avenues, boulevards, roads, lanes, alleys, walks, walkways, parks, parkways, squares, playfields, playgrounds, recreational facilities, stadia, arenas, swimming pools, waterways, harbors, water fronts, landings, wharves, docks, terminals, canals, airports and other public places or ways and the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension thereof.

(b) The general location, character and extent of all public buildings, schools and other public property and of utilities whether publicly or privately owned, off-street parking facilities, and the removal, relocation, vacating, abandonment, change of use, alteration or extension thereof.

(c) The general location, character and extent of slum clearance, housing and neighborhood rehabilitation projects, including the demolition, repair or vacation of substandard, unsafe or unsanitary

buildings.

(d) A general plan for the control and routing of railways, street car lines, bus lines and all other vehicular traffic.

(e) The general character, location and extent of all roads, streets, highways, super-highways, freeways, boulevards, parks, parkways and public buildings and public facilities and of such other general features as may affect the health, welfare, safety and prosperity of the city.

~~Whenever Before the council adopts or approves considers an ordinance proposing the adoption of a new Generalized Land Use Plan element of the master plan or amends or approves an amendment to the existing Generalized Land Use Plan element of the an amendment of an existing master plan, it shall first cause at least fifteen days' notice of the time, place and general nature of the subject proposed for adoption, approval or amendment to be given by publication thereof in a newspaper of general circulation in the city. In addition, no such adoption, approval or amendment shall be made at the meeting described in the above mentioned notice and at least three days shall intervene between said meeting and a subsequent meeting at which adoption, approval or amendment may take place. Furthermore, it shall be the duty of the city clerk to cause to be published in a newspaper of general circulation in the city, not later than the fifth day following the first meeting above mentioned, a notice containing the time, place and general nature of the subject proposed for adoption, approval or amendment at the subsequent meeting conduct a public hearing proceeded by notice as provided in subsection G of § 9.12.~~

§ 9.12. Adoption and Amendment of Regulations and Restrictions and Determination of Zone Boundaries; notice of public hearings.

A. Subject to the other provisions of this chapter, the council shall have power by ordinance to adopt the regulations and restrictions herein before described and determine the boundaries of the zones in which they shall apply, provide for their enforcement, and from time to time amend, supplement or repeal the same. The council shall also have authority to provide for the collection of fees to cover costs involved in the consideration of any application for amendment of any such determination of boundaries, to be paid to the Director of Finance by the applicant upon filing such request. No ordinance to adopt the regulations and restrictions herein before described or to determine the boundaries of zones or to provide for their enforcement, and no ordinance to amend, supplement or repeal the same shall be enacted until the application or motion for such change has been considered by the city planning commission and until after a public hearing in relation thereto has been held by the commission. The commission may recommend approval or disapproval of the matter by the city council, or the commission may request that the council refer the matter back to the commission for further study. The commission shall vote on the application or motion at the public hearing; provided, that the commission may defer a vote for a period not to exceed ninety days upon a recorded vote of a majority of the members of the commission that good cause exists for such deferral.

B. A public hearing on the application or motion shall be held by the council, at which time the parties in interest shall have an opportunity to be heard. Council may, by ordinance, provide for the consideration of applications or motions or both by the commission or council only at specified intervals of time, not exceeding ninety days. The council may approve or disapprove recommendations of the planning commission on the matter, subject to the provisions of § 9.06 of this charter. It may also refer back the matter to the commission for further study.

C. The commission shall act on any matter referred back from the council for further study within twenty-five calendar days of the date of the council referral and shall resubmit its reviewed recommendations to council. Such commission action shall follow a public hearing on the matter which shall be preceded by at least ten days' notice thereof published in a newspaper of general circulation in the city. If two-thirds of the entire membership of the commission votes to recommend disapproval of any matter referred back to the commission by the council for further study, such recommendation may be overruled only by a recorded affirmative vote of three-fourths of all the members of the council. If the commission fails to act on such a referral back within twenty-five days of the date of the council referral or fails to recommend disapproval of the matter referred back or by a two-thirds vote of its entire membership, the council may adopt said application or motion for change by a simple majority. An additional public hearing shall be held by the council, preceded by at least ten days' notice thereof published in a newspaper of general circulation in the city, on any matter referred by council to the planning commission for further study forty-five days from the date on which the matter was referred back to the planning commission by the council; provided, that the council may extend such forty-five-day period for an additional period not to exceed forty-five days upon a recorded vote of the majority of all the members of council that good cause exists for such extension.

D. Should the council approve the application or motion, seventy-five days may be taken to follow the proper procedure for the passage of an ordinance implementing the approval.

E. The time constraints and limitations listed and described above in this section shall not apply to any motion, or to any ordinance, to adopt, amend, supplement or repeal the regulations and restrictions herein before described, or to provide for their enforcement. In addition, notwithstanding any of the procedural requirements set forth in this chapter or by other law, ordinances adopting or amending

zoning regulations and restrictions or determining zone boundaries may be enacted under the emergency ordinance provisions of this charter without compliance with such requirements.

F. The council, in determining the boundaries of zones, may approve an application or motion for, and may adopt an ordinance for, a zone change to a more restrictive zone than that originally applied for or moved; provided, in cases where the zone change procedure is initiated by other than the planning commission or the council on its own motion: (1) that the planning commission recommends in favor of such more restrictive zone change at a public hearing held to consider the application for a zone change amendment; (2) that the applicant agrees to the more restrictive zone change at or before the said planning commission hearing; and (3) that at least ten days' notice of the more restrictive zone change and of the time and place of the public hearing before council required by this section shall be given by publication thereof in a newspaper of general circulation in the city. A protest under § 9.13 of this charter against a less restrictive zone change shall not be effective against a more restrictive change. This shall not, however, preclude the filing of an effective new protest against a more restrictive zone change under § 9.13, nor shall it preclude the effectiveness of a protest filed against both a less restrictive and a more restrictive zone change.

G. Whenever a public hearing is required or provided under the provisions of this chapter or any related provision of general law, or under any local ordinance adopted pursuant to this chapter or such general law, at least ten days' notice of the time and place of such hearing, together with a general description of the matter being heard, shall be published in a newspaper of general circulation in the city. The council may, by ordinance, prescribe additional newspaper notice requirements for particular hearings or classes of hearings. This subsection shall preempt all other newspaper notice requirements of general or special law.

H. Any ordinance adopted, or other action taken, under the authority of this chapter or any related provision of general law prior to April 1, 1995, shall not be declared to be invalid by reason of a failure to advertise or give notice as required by general law, so long as advertisement and notice of such adoption or action was given in compliance with the then applicable local law; however, this subsection shall not affect any litigation concluded before, or pending on, April 1, 1995.

§ 10.01. Election of Mayor and Council Members.

On the second Tuesday in June, 1958, and on the second Tuesday in June every third year thereafter until 1973 there shall be held a general election at which shall be elected by the qualified voters of the city at large, a mayor and six members at large of the council for terms of three years from the first day of July following their election. On the first Tuesday in May, 1973, and on the first Tuesday in May every third year thereafter, there shall be held a general city election at which shall be elected by the qualified voters of the city at large a mayor and six members at large of the council for terms of three years from the first day of July following their election. A candidate for mayor shall file his petition therefor specifically; and a candidate for city ~~councilman~~ council shall file his petition therefor specifically, provided, however, that a candidate who files his petition for mayor shall not have his name printed on the ballot for city ~~councilman~~ council. The names of all candidates for city council *and* mayor shall be listed together, alphabetically, placed on the ballot ~~the; names of all candidates for mayor shall be listed together on the ballot, alphabetically in accordance with general law.~~ Immediately above the list of names of candidates for city council shall appear the words "For City Council, vote for no more than six (6)," or some similar designation. Immediately above the list of names of candidates for mayor shall appear the words "For Mayor, vote for one," or some similar designation.

In the event no candidate shall file a petition for the office of mayor, the ballot shall show no candidates for that office and the member of council who receives the largest popular vote shall be the mayor of the city and persons receiving the next six highest votes shall be the city ~~councilmen~~ council members.

The said election shall be held in accordance with the general laws of the Commonwealth relating to primary and general elections wherever applicable.

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