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HOUSE BILL NO. 1438

Offered January 11, 1995

Prefiled December 21, 1994

A BILL to amend and reenact §§ 2.04 and 13.09 of Chapter 323 of the Acts of Assembly of 1950, which provided a charter for the City of Falls Church, relating to general powers and rates of public utilities.

Patrons—Hull (By Request); Senator: Holland, E.M.

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.04 and 13.09 of Chapter 323 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, and 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; prevention of lewd and disorderly conduct or exhibitions; and prevention of conduct in the streets dangerous to the public.

(b) To regulate the construction, maintenance and repair 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.

(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, 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 civil and police 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 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 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

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60 property of the city by suit or action in ejectment.

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

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

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

84 (i) To regulate cemeteries and burials therein, prescribe the records to be kept by the owners of such
85 cemeteries; and prohibit all burials except in a public burying ground.

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

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

91 (l) To regulate the emission of smoke, dust and other atmospheric pollution, the construction,
92 installation and maintenance of fuel-burning equipment, and the methods of firing and stoking furnaces
93 and boilers.

94 (m) To compel the removal of weeds from private property, the covering or removal of offensive,
95 unwholesome, unsanitary or unhealthy substances allowed to accumulate in or on any place or premises;
96 the filling in to the street level of the portion of any lot adjacent to a street where the difference in level
97 between the lot and the street constitutes a danger to life and limb; the raising or draining of grounds
98 subject to be covered by stagnant water; the razing or repair of all unsafe, dangerous or unsanitary
99 public or private buildings, walls or structures which constitute a menace to the health and safety of the
100 occupants thereof or the public, to prevent controllable noises, and to compel the abatement or removal
101 of any and all other nuisances whatsoever. If after such reasonable notice as the council may prescribe
102 by ordinance the owner or owners, occupant or occupants of the property or premises affected by the
103 provisions of this subsection shall fail to abate or obviate the condition or nuisance, the city may do so
104 and charge and collect the cost thereof from the owner or owners, occupant or occupants of the property
105 affected in any manner provided by law for the collection of taxes.

106 (n) To regulate or prohibit the manufacture, storage, transportation, possession and use of explosive
107 or inflammable substances and the use and exhibition of fireworks and discharge of firearms, and other
108 weapons.

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

111 (p) To regulate or prohibit the running at large and the keeping of animals and fowl and provide for
112 the impounding and confiscation of any such animal or fowl found at large or kept in violation of such
113 regulations.

114 (q) To prevent cruelty to and the abuse of animals.

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

(s) Before or between tenancies, to inspect and certify that residential rental units and common areas comply with applicable provisions of the building code, and other applicable health or safety regulations, and to impose a fee on lessors for the costs of such inspections and certifications.

§ 13.09. Changes in Rates.

The rates to be charged for the respective services of the water and sanitary sewage utilities shall be fixed from time to time by the council on the recommendation of the director of public utilities and the city manager. If for any three consecutive fiscal years the average annual receipts of any utility, as shown in item (4) of subsection (d) of § 13.06, shall be less than its average annual expense as shown in item (11) of subsection (d) of § 13.06, it shall be the duty of the director of public utilities and the city manager to recommend and the council to adopt for that utility a schedule of rates which in its judgment will produce receipts equal to expense.

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