

1995 SESSION

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HOUSE BILL NO. 1438

House Amendments in [] — February 6, 1995

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 property of the city by suit or action in ejectment.

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

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

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

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

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

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

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

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

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

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

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

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

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

121 (s) [*Before or between tenancies, to inspect and certify that residential rental units and common*

122 areas comply with applicable provisions of the building code, and other applicable health or safety
123 regulations, and to impose a fee on lessors for the costs of such inspections and certifications. Upon an
124 affirmative finding of the need to protect the public health, welfare, and safety of its citizens, the City of
125 Falls Church may provide by ordinance for the issuance of certificates of compliance with current
126 building code regulations for existing residential rental buildings located in areas of the City subject to
127 neighborhood blight as defined below, designated by the City Council, after inspections of such
128 buildings upon a termination of the tenancies or when such rental property is sold. "Neighborhood
129 blight" means a legislative finding by the City Council of unhealthful, dangerous, or harmful conditions
130 in a residential site or residential area of the City caused by neglect or lack of maintenance, residential
131 overcrowding of land, or illegal activity, of owners or occupants of the residential structures.]

132 § 13.09. Changes in Rates.

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

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

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