

LD5562492

HOUSE BILL NO. 1496

Offered January 11, 1995

A BILL to amend and reenact § 2, as amended, of Chapter 216 of the Acts of Assembly of 1952, which provided a charter for the City of Roanoke, relating to powers of the city.

Patron—Woodrum

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 2, as amended, of Chapter 216 of the Acts of Assembly of 1952 is amended and reenacted as follows:

§ 2. Powers 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 the city such sums of money as the council hereinafter provided for shall deem necessary for the purposes of the city and in such manner as the council shall deem expedient, in accordance with the Constitution and laws of this Commonwealth and of the United States; provided, however, that it shall impose no tax on the bonds of said 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 §§ 47, 48 and 49 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, lease, lease purchase, gift, bequest, devise, condemnation or otherwise, property, real or personal, or any estate or interest therein, within or without the city or Commonwealth 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 other 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 five thousand 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, comfort stations or rest rooms and all buildings and structures necessary or appropriate for the use of the departments of fire and police; and to establish a market or markets in and for said city, and to appoint proper officers therefor; to prescribe the time and place for holding the same; to provide suitable buildings and grounds therefor and to make and enforce such rules and regulations as shall be necessary to restrain and prevent huckstering, forestalling and regrading, and for the purpose of regulating and controlling the sale of fresh meats, fresh fish, farm and domestic products in said city the council shall have authority to continue the sale of such articles or products to the public markets and public squares provided by the city for that purpose, and shall have full power and authority to use such streets, avenues or alleys in the city around the public market and public squares as may be necessary to provide for vehicles from which farm and domestic products are offered for sale, and may by resolution or ordinance designate the streets or other public places on or in which all licensed peddlers may sell or offer for sale their goods, wares or merchandise and shall have authority to levy and collect a license tax for the sale of fresh meats and fresh fish, and may impose a curbage tax for each vehicle containing farm and domestic products brought into said city and sold or offered for sale on the market, and to acquire by condemnation or otherwise all lands, riparian and other rights and easements necessary for such improvements, or any of them.

(7.1) To own, manage and operate a city auditorium, civic center, coliseum, convention hall, stadium, theater, exhibition hall, or combination thereof, or other place of public assembly, and to permit the use of the same by others upon such terms and for such charges as the council may prescribe; and in order to further the best interests of the public and lead to greater use of any such facilities, to do all things necessary and proper to encourage the use thereof by arranging or engaging shows, plays, exhibitions, performances and all other entertainments of whatsoever nature. Such encouragement may, without limitations as to other permissible activities, include the expenditure of city funds to promote such activities and to bring notice to the public of entertainments at such public facilities, engaging persons to bring entertainments thereto from which the city may derive income, and the payment of funds to such persons in advance or out of proceeds derived therefrom in connection therewith; and may include

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HB1496

60 entering into agreements with such other persons guaranteeing minimum sums to be payable to such
61 persons for future performances, provided that at no time shall the aggregate amount of all outstanding
62 guarantees be more than such sum as may be fixed by the council. Notwithstanding any other provisions
63 of this charter, the council may appropriate funds to a special or revolving account in order to engage,
64 advertise and promote any such entertainment and to operate any of the foregoing facilities, and when
65 such fund is created such person or persons as may be designated by ordinance of the council, after
66 providing fidelity bond with corporate surety payable to the city in a penalty not less than the authorized
67 amount of such special or revolving fund, may sign checks against said fund and expend cash therefrom
68 for any of the foregoing purposes.

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

72 (9) To acquire in any lawful manner in any county of the state, or without the state such water lands,
73 and lands under water as the council of said city may deem necessary for the purpose of providing an
74 adequate water supply for said city and of piping or conducting the same; to lay all necessary mains; to
75 erect and maintain all necessary dams, pumping stations and other works in connection therewith; to
76 process, filter, or purify such water supply and to add thereto mineral or other substances to make the
77 water more potable or more healthful, or to promote the public welfare; to make reasonable rules and
78 regulations for promoting the purity of its said water supply and for protecting the same from pollution;
79 and for this purpose to exercise full police powers and sanitary patrol over all lands comprised within
80 the limits of the watershed tributary to any such water supply wherever such lands may be located in
81 this state; to impose and enforce adequate penalties for the violation of any such rules and regulations;
82 and to prevent by injunction any pollution or threatened pollution of such water supply and any and all
83 acts likely to impair the purity thereof; and to acquire lands or material for any such use. For any of the
84 purposes aforesaid said city may, if the council shall so determine, acquire by condemnation, purchase
85 or otherwise, any estate or interest in such lands or any of them, or any right or easement therein, or
86 may acquire such lands or any of them in fee, reserving to the owner or owners thereof such rights or
87 easements therein as may be prescribed in the ordinance providing for such condemnation or purchase.
88 The said city may sell or supply to persons, firms or industries residing or located outside of the city
89 limits any surplus of water it may have over and above the amount required to supply its own
90 inhabitants.

91 (10) To establish and enforce water rates and rates and charges for public utilities, or other service
92 products, or conveniences, operated, rendered or furnished by the city; to employ necessary competent
93 inspectors to inspect the reservoirs, watersheds, filtering plants, pumps and pumping machinery and all
94 other equipment of and all sources of water supply of every water company furnishing such water for
95 domestic purposes, or use in the homes, of the inhabitants of the city, to compel any such water
96 company, which owns or operates such reservoirs, watersheds, filtering plants, pumps and pumping
97 machinery or other equipment or source or sources of said water supply to pay the reasonable cost of
98 such inspectors; to give reasonable notice to any such water company of any condition disclosed by any
99 such inspection which, in the opinion of said inspector and of a majority of the city council renders, or
100 unless remedied probably will render the said water or water supply of the city or its inhabitants or any
101 part thereof dangerous or unfit to be used for drinking purposes or general domestic purposes and to
102 require any such water company to remedy any such condition within a reasonable time to be stated in
103 said notice; to specify in said notice the particular acts or things which are required to be done by any
104 such water company to remedy or prevent any such condition of said water or water supply; and if said
105 condition be not remedied by said water company and the acts and things specified in said notice to said
106 water company to be done by it, be not done within the time specified in said notice, and if a majority
107 of said city council shall by resolution, at a meeting of the said council, at which said water company
108 has had reasonable notice and opportunity to produce evidence and be heard, declared that an emergency
109 exists requiring the doing of said acts or things, so specified in said notice or any part of them, to
110 remedy or prevent such unfit or improper water or water supply being provided for or furnished to the
111 inhabitants of the city or any of them, then the city council is hereby empowered and it shall be its duty
112 immediately to do the acts or things so specified in said notice to said water company, and in said
113 emergency resolution, and said city council shall have the power and it shall be its duty, either by
114 withholding the water rentals which may thereafter become due from the city to said water company, to
115 reimburse the city for any amount expended in the doing of said acts or things, or to recover said
116 amount from said water company by any appropriate action at law or suit in equity; provided, however,
117 that the maximum amount which the said city may so expend in any calendar half-year period, between
118 January first and June thirtieth, or between July first and December thirty-first, shall not exceed the sum
119 of seven thousand five hundred dollars; and provided, further, that any such water company shall have
120 the right by proper legal proceedings to have determined whether or not any such expenditure which
121 may have been so made by said city was made through abuse of discretion or without probable cause to

believe said expenditure a necessary one for the protection of the city's water supply; and if in any such proceeding it shall be finally determined that said expenditure was one not necessary for said purpose, said water company shall recover from the city any water rentals which may have been retained as a reimbursement for said expenditure; and provided, further, that if said expenditure be found not a necessary one the city shall be entitled to receive from said water company by reason of said expenditure only such amount as under a quantum meruit it may be determined the said water company has received actual benefit of and in justice ought to pay value received for. Permitting the growth of algae in an amount which materially affects the purity, taste or smell of such water, so as to render the same unfit for drinking purposes or general domestic use, in the reservoirs or sources of water supply is hereby declared a condition which it is the duty of the city council to prevent or remedy under the powers granted in this subsection. Nothing herein contained shall be construed as in anywise limiting, altering, affecting or impairing the existing duties, jurisdiction or powers of the State Corporation Commission or of the State Board of Health or any other agency of the Commonwealth over water companies in the City of Roanoke or elsewhere, but any existing powers, duties or jurisdiction of the State Corporation Commission, State Board of Health or other agency of the Commonwealth which are hereby conferred or imposed upon the city council, shall be deemed to be concurrent.

(11) To acquire in the manner provided by the general laws any existing water, gas or electric plant, works or system, or any part thereof.

(12) To establish, open, widen, extend, grade, improve, construct, maintain, light, sprinkle and clean, public highways, streets, alleys, boulevards and parkways, and to alter, or close the same; to establish and maintain parks, playgrounds and other public grounds; to construct, maintain and operate bridges, viaducts, subways, tunnels, sewers and drains, and to regulate the use of all such highways, parks, public grounds and works; to plant and maintain shade trees along the streets and upon such public grounds; to prevent the obstruction of such streets and highways, and abolish and prevent grade crossings over the same by railroads in the manner provided by law; regulate the operation and speed of all cars and vehicles using the same, as well as the operation and speed of all engines, cars and trains on railroads within the city; to provide by ordinance for the removal from such streets, highways, alleys, boulevards, parkways and other public places of vehicles and other objects abandoned thereon or left or placed thereon in violation of law or of an ordinance of the city, and to take charge of, impound and thereafter dispose of by sale or otherwise, such vehicles or other objects, any such sale to be held only after the owner or person lawfully entitled to the possession thereof shall have refused to pay the costs of such removal and keeping or after such vehicle or other object shall have remained unclaimed in the custody of the city for not less than sixty days, and, in either case, after notice of such sale, describing the vehicle or object to be sold, shall have been published for not less than five days in a local daily newspaper of general circulation, and to recover the costs of such removal, keeping and sale; to provide for the condemnation and scrapping or other disposition of abandoned or unclaimed motor vehicles which, by reason of damage or dilapidation, are unsafe and impracticable of repair; to regulate the service to be rendered and rates to be charged by busses, motorcars, cabs and other vehicles for the carrying of passengers and by vehicles for the transfer of baggage; to require all telephone and telegraph wires and all wires and cables carrying electricity to be placed in conduits underground and prescribe rules and regulations for the construction and use of such conduits; and to do all other things whatsoever adapted to make said streets and highways safe, convenient and attractive.

(12.1) To acquire, construct, own, maintain and operate, within and without the city, places for the parking or storage of vehicles by the public, which shall include, but shall not be limited to parking lots, garages, buildings and other land, structures, equipment and facilities, any of which may be provided in areas or space above or below public streets, sidewalks, or other public places, when in the opinion of the council they are necessary to relieve congestion in the use of streets and to reduce hazards incident to such use; provide for their management and control by a department of the city government or by a board, commission or agency specially established by ordinance for the purpose or to provide, by lease or franchise granted by the council, for their management and control by others than the city, authorize or permit others to use, operate or maintain such places or any portions thereof, pursuant to lease or agreement, upon such terms and conditions as the council may determine by ordinance; and charge or authorize the charging of compensation for the parking or storage of vehicles or other services at or in such places.

(12.2) To acquire, in any lawful manner, in fee simple or by easement, land and other property and to construct thereon and own, equip, maintain and operate, within and without the city, airports and all the appurtenances thereof and approach zones and clear zones reasonably necessary therefor, including all facilities deemed necessary for the landing, departure, storage and servicing of aircraft; provide for their management and control by a department of the city government or by a board, commission or agency specially established by ordinance for the purpose; to charge or authorize the charging of compensation for the use of any such airport or any of its appurtenances; lease any appurtenance of any

183 such airport or any concession incidental thereto or, in the discretion of the council, lease any such
184 airport and its appurtenances with the right to all concessions thereon to, or enter into a contract or
185 contracts for the management and operation of the same or any one or more of them with any person,
186 firm or corporation on such terms and conditions as the council may determine by ordinance; and to
187 have and exercise all other power and authority with respect to aviation and airports accorded to cities
188 under general law.

189 (12.3) To acquire, construct, own, maintain and operate, within and without the city, stadia, arenas,
190 golf courses, swimming pools and other athletic or recreational facilities; provide for their management
191 and control by a department of the city government or by a board, commission or agency specially
192 established by ordinance for the purpose, charge or authorize the charging of compensation for the use
193 of or admission to any such facility, including charges for any services incidental thereto; to regulate the
194 use of the same; to lease, subject to such regulations as may be established by ordinance, any such
195 aforesaid facility or any concession incidental thereto, or enter into a contract with any person, firm or
196 corporation for the management and operation of any such facility, including the right to all concessions
197 incident to the subject of such contract, on such terms and conditions as the council may determine by
198 ordinance.

199 (13) To construct and maintain, or aid in constructing and maintaining, public roads, sidewalks,
200 boulevards, parkways, tunnels and bridges beyond the limits of the city, in order to facilitate public
201 travel to and from said city and its suburbs and to and from said city and any property owned by said
202 city and situated beyond the corporate limits thereof, and to acquire land necessary for such purpose by
203 condemnation or otherwise.

204 (14) Subject to the provisions of the Constitution of Virginia to grant franchises for public utilities.

205 (15) To collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals and other
206 refuse, and to acquire and operate reduction or other plants for the utilization or destruction of such
207 materials, or any of them; or to contract for and regulate the collection and disposal thereof. To
208 compel the abatement of smoke, dust and fly-ash; to regulate and control the installation, alteration and
209 repair of all combustion equipment, and to control and prohibit pollution of the air.

210 (16) To compel the abatement and removal of all nuisances within the city, or upon property owned
211 by the city, beyond its limits; to require all lands, lots and other premises within the city to to be kept
212 clean, sanitary and free from weeds; to regulate or prevent slaughterhouses or other noisome or
213 offensive business within said city; the keeping of animals, poultry and other fowl therein, or the
214 exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the
215 transportation of all articles through the streets of the city; to compel the abatement of smoke and dust,
216 and prevent unnecessary noise therein; to regulate the location of buildings or lots where animals or
217 fowls are kept and the manner in which such shall be kept and constructed, and generally to define,
218 prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety,
219 convenience and welfare of the inhabitants of the city.

220 (17) If any ground in the said city shall be subject to be covered by stagnant water or if the owner
221 or occupant thereof shall permit any offensive or unwholesome substance to remain or accumulate
222 thereon, the said council may cause such ground to be filled up, raised or drained, or may cause such
223 substance to be covered or removed therefrom, provided, that reasonable notice shall be first given to
224 the said owner or occupant or his agent. In case of nonresident owners who have no agent in said city,
225 such notice may be given by publication; in which event two insertions of such notice on separate days,
226 in any newspaper published in said city, at least ten days before the first day any action is to be taken
227 shall be sufficient notice.

228 (18) To direct the location of all buildings for storing gunpowder or other explosive or combustible
229 substances, to regulate or prohibit the sale and use of dynamite, gunpowder, firecrackers, kerosene oil,
230 gasoline, nitroglycerine, camphene, burning fluid, and all explosive or combustible materials, the
231 exhibition of fireworks, the discharge of firearms, *the possession by any person of a handgun in any*
232 *public park of the City, provided that the exemptions set out in § 18.2-308 of the Code of Virginia shall*
233 *apply, mutatis mutandis*, the use of candles and lights in barns, stables and other buildings, the making
234 of bonfires and the carrying of concealed weapons, and to regulate the movement over its streets of
235 dangerous, explosive, or highly combustible materials.

236 (19) To regulate or prohibit the running at large in said city of any or all animals and fowl; to
237 regulate or prohibit the keeping or raising of same within said city, and to subject the same to such
238 levies, regulations and taxes as it may deem proper; to prohibit or regulate the keeping or raising of
239 pigeons or other birds; and to provide for the seizure, impounding, destruction or disposition of any
240 such animal or fowl found running at large or raised or kept in violation of such regulation.

241 (20) To restrain and punish drunkards, vagrants, mendicants and street beggars, and to provide for
242 the treatment of drunkards, alcoholics and drug addicts.

243 (21) To prevent vice and immorality; to preserve public peace and good order, to prevent and quell
244 riots, disturbances and disorderly assemblages; to suppress houses of ill fame, gambling houses and

gambling devices of all kinds, to prevent lewd, indecent or disorderly conduct or exhibitions in the city.

(22) To inspect, test, measure and weigh any commodity or article for consumption or use, manufactured, stored, processed or offered for sale within the city, and to establish, regulate, license and inspect weights, meters, measures and scales.

(23) To extinguish and prevent fires and 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.

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

(25) To establish, organize and administer public schools, colleges and libraries subject to the general laws establishing a standard of education for the Commonwealth.

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

(27) To provide for the removal of paupers or dependent persons recently come into the city where permitted by state or federal laws.

(28) To provide for the preservation of the general health of the inhabitants of said city, make regulations to secure the same, inspect all food 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, to 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 disease to hospitals provided for them, to provide a department of 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 disease as the said council may see fit, subject to the laws of the Commonwealth and the United States; to provide and keep records of vital statistics and compel the return of all births, deaths and other information necessary thereto.

(29) 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 to regulate the burial and disposition of the dead.

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

(31) 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 the city or its inhabitants.

(31.1) To enact an ordinance, after a public hearing, to define places of public accommodation and to prohibit discrimination in such places of public accommodation on the basis of race, creed, color, national origin or sex.

(32) To make and enforce all ordinances, rules and regulations necessary or expedient for the purpose of carrying into effect the powers conferred by this charter or by any general law, and to provide and impose suitable penalties for the violation of such ordinances, rules and regulations, or any of them, by fine not exceeding two thousand five hundred dollars or confinement not exceeding twelve months, or both, the city may maintain a suit to restrain by injunction the violation of any ordinance notwithstanding such ordinance may provide punishment for its violation. The enumeration of particular powers in this charter shall not be deemed or held to be exclusive, but in addition to the powers enumerated herein implied thereby, or appropriate to the exercise thereof, the said city shall have and may exercise all other powers which are now or may hereafter be possessed or enjoyed by cities under the Constitution and all laws of this Commonwealth

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