

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 659

An Act to amend and reenact § 1, as amended, of Article IV of Chapter 634 of the Acts of Assembly of 1976, which provided a charter for the City of Poquoson, relating to referenda.

[H 1788]

Approved March 21, 1997

Be it enacted by the General Assembly of Virginia:

1. That § 1, as amended, of Article IV of Chapter 634 of the Acts of Assembly of 1976 is amended and reenacted as follows:

§ 1. Generally.

All powers of the city and the determination of all matters of policy shall be vested in the council. Except as otherwise provided in this charter, the council shall:

- A. Appoint the city manager, the city clerk, and the city attorney.
- B. Adopt a city budget.
- C. Inquire into the conduct of any office, department, or agency of the city and make investigations as to municipal affairs.
- D. Appoint the trustees of the city school division and fill any vacancies thereon.
- E. Appoint the members of the Planning Commission, the Board of Zoning Appeals, and the Recreation Commission, and fill any vacancies thereon.
- F. Provide, if it so desires, for the creation of a housing authority.
- G. Adopt and modify the official map of the city.
- H. Pass all ordinances relating to its municipal affairs, subject to the Constitution and general laws of the Commonwealth and of this charter and may from time to time amend, reenact, or repeal any or all of its ordinances for the proper regulation, management, and government of the city and impose fines and penalties for the violation or nonobservance thereof.
- I. Compel the attendance of its members and expel its members for improper behavior and by vote of four-sevenths of the whole council, expel a member.
- J. Fix salaries and wages of all officers and employees of the city, unless otherwise provided by this charter or by the general laws of the Commonwealth.
- K. Require and secure such bonds for any of the city employees as it may deem necessary.
- L. Keep a journal of its proceedings, which shall be open to public inspection.
- M. Appoint a Board of Architectural Review and designate Architectural Control Districts within commercial, industrial or research/development zoning districts in order to protect and promote the general welfare and to prevent deterioration of the appearance of the city which would tend to create hazards to public health, safety and morals and destroy economic opportunity for the development of business and industry within the city. Such Architectural Control Districts may also be created to include any lot, parcel or area of land which is used for other than single family, detached residences or which is the subject of an application for a use permit or building permit involving any such other use, without regard to its zoning classification. No structure shall be erected, reconstructed, altered or restored within such Architectural Control Districts until approved by the Board of Architectural Review.

The Board of Architectural Review shall consist of five members appointed by majority vote of the city council for terms not to exceed three years. At least one member of the board shall be an architect registered in Virginia, and at least one shall be a member of the Virginia State Bar. All members of the board shall be residents of the City of Poquoson except one architect member who may or may not be a resident of the City of Poquoson. In the event that the one architect member is not a resident of the City of Poquoson, that appointment shall be for a period of one year. The city council shall prepare and publish appropriate standards, rules, regulations and procedures for the operation of the board and to carry out the purposes and objectives herein set forth; however, the city council shall not adopt as part of any such standards a specific architectural style; it shall provide for appeals to the city council from any final decision of the board, which appeal shall stay the board's decision pending the outcome of the appeal before the city council. The city council, on appeal, shall apply the same standards as those established for the board and may affirm, reverse, or modify the decision of the board, in whole or in part. Parties aggrieved by the decision of the city council shall have the right to appeal to the Circuit Court for York County and the City of Poquoson for review by filing a petition within thirty days after the final decision is rendered by the city council. The filing of the said petition shall stay the city council's decision pending the outcome of the appeal to the court. The court may reverse or modify the decision of the city council, in whole or in part, if it finds upon review that the decision of the city council is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion.

The purpose of the Board of Architectural Review shall be to assure that all buildings, structures and

landscaping erected in the designated Architectural Control Districts conform to accepted architectural standards for permanent buildings, as contrasted with engineering standards designed to satisfy safety requirements only, and exhibit external characteristics as to material, texture, color, lighting, dimensions, line and mass of demonstrated architectural and aesthetic durability; and to prevent the erection in such district of buildings the external characteristics of which are designed to serve as advertisements or commercial displays or buildings which in terms of human sensibilities or otherwise constitute a reasonably foreseeable detriment to the community.

N. Request, by a resolution duly adopted by an affirmative vote of five members of city council, that the Circuit Court for York County and the City of Poquoson order a referendum election to be held on any question or group of questions as may be stated in the resolution. Such resolution shall state whether the results of the referendum shall be final and binding on the council or be for advisory purposes only. The referendum election shall be conducted and the results ascertained in accordance with general law, but there shall be no right of appeal from or recount of the results of an advisory referendum.