

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 635

An Act to amend and reenact § 2 as amended of Chapter 1 of Chapter 193 of the Acts of Assembly of 1950, which provided a charter for the City of Martinsville, relating to powers of city.

[S 143]

Approved April 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 2 as amended of Chapter 1 of Chapter 193 of the Acts of Assembly of 1950 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 said City on all subjects the taxation of which by cities is not forbidden by general law, such sums of money as the Council herein provided for shall deem necessary for the purposes of said City, and in such manner as said Council shall deem expedient, in accordance with the Constitution and laws of this Commonwealth and of the United States.

(2) The City Council may levy a tax or a license on any person, firm, or corporation conducting any business, employment or profession whatsoever in the City, except when expressly prohibited by general law, whether a license may be required therefor by the Commonwealth or not, and may exceed the State license, if any be required.

(3) The Council may require of owners of motor vehicles, trailers and semitrailers, residing in or having a place of business in the City in which business the said motor vehicle is used, licenses for the privilege of operating such vehicles in the City, such licenses to be issued and the fees therefor fixed by the Council.

(4) All goods and chattels wheresoever found, may be distrained and sold for taxes assessed and due thereon, and no deed of trust or mortgage upon goods and chattels shall prevent the same from being distrained and sold for taxes.

(5) There shall be a lien on real estate for the City taxes as assessed thereon from the commencement of the year for which they were assessed. The Council may require real estate in the City delinquent for the nonpayment of City taxes to be sold for said taxes, with interest thereon at a percent per annum prescribed by Council but in no event to exceed the maximum interest rate allowed by law, and such percent as the Council may prescribe for charges. Such real estate may be sold and may be redeemed in the manner provided by law; provided that at any such sale, where no person bids the amount chargeable on any such real estate, it shall be lawful for the City treasurer to purchase the same for the benefit of the City upon the same terms and conditions prescribed by general law, for the purchase of delinquent real estate by the treasurer for the benefit of a city.

(6) To impose special or local assessments for local improvements and enforce payment thereof, subject, however, to limitations prescribed by the Constitution of Virginia, as may be in force at the time of the imposition of such special or local assessments.

(7) To contract debts, borrow money and make and issue evidence of indebtedness.

(8) To expend the money of the City for all lawful purposes.

(9) To acquire by purchase, gift, 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.

(10) To acquire or lease in any lawful manner for municipal purposes or 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 may from time to time sell or lease the same or any part thereof for all lawful purposes.

(11) To make and maintain public improvements of all kinds, including municipal and other public buildings, airports, armories, markets, municipal off street parking stations, swimming pools, libraries, hospitals, 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 for the sale of food stuffs, 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 regrating, and for the purpose of regulating and controlling the sale of fresh meats, seafood, farm and domestic products and all perishable foods in said City; the council shall also have authority to confine 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 regulate the same.

(12) To furnish all local public services; to purchase, hire, construct, own, lease, maintain and operate local public utilities, to acquire by condemnation or otherwise, within or without the corporate limits, lands and property necessary for any such purposes.

(13) To own, operate and maintain electric light and/or gas works, either within or without the corporate limits of the said City for the generating of electricity and/or the supplying of gas for illuminating, power and other purposes, and to supply the same whether said gas and/or electricity be generated or purchased by said City to its customers and consumers both at such price and upon such terms as it may prescribe, and to that end it may contract with owners of land and water power for the use thereof, or may have the same condemned, and to purchase such electricity and/or gas from the owners thereof, and to furnish the same to its customers and consumers, both within and without the corporate limits of the said City at such price and on such terms as it may prescribe.

(14) To establish, impose and enforce water, light and sewerage rates and rates and charges for public utilities, or other service, products or conveniences, operated, rendered or furnished by the City; and to assess, or cause to be assessed, water, light and sewerage rates and charges against the proper tenant or tenants or such persons, firms, or corporations as may be legally liable therefor; and the Council may by ordinance require a deposit of such reasonable amount as it may by such ordinance prescribe, before furnishing any of said services to any person, firm or corporation, but nothing herein shall be construed as conferring upon said Council authority to regulate rates and charges of public utilities which are subject to the jurisdiction of the State Corporation Commission.

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

(16) To acquire in the manner provided by the general laws any existing water, gas or electric plant, works or system, or any part thereof. Any public utility owned or operated by the City of Martinsville, whether it be water, gas, electric plant or otherwise shall not be sold until the same shall have been first submitted to the qualified voters of the City at a general or special election and shall have been approved by two-thirds of such voters voting on the question of such sale, which two-thirds shall include the majority of qualified registered voters owning real estate in said City and voting in such election on such sale.

(17) 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 public parks, playgrounds and other public grounds; to construct, maintain and operate public 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 street drains and highways; to regulate the operation and speed of all locomotives, cars, and vehicles using the streets or railroads within the City; to regulate the services to be rendered and rates to be charged by public busses, motor cars, taxicabs and other public vehicles used for hauling passengers and baggage for hire, except when prohibited by the State Corporation Commission of Virginia, or the Interstate Commerce Commission; to require any telephone and telegraph wires and any wires and cables carrying electricity to be placed in conduits under ground and to prescribe rules and regulations for the construction and use of such conduits; and to do all other lawful things whatsoever adapted to make said streets and highways safe, convenient and attractive.

(18) To construct and maintain, or aid in constructing and maintaining, public roads, boulevards, parkways and bridges beyond the limits of the City, in order to facilitate public travel to and from said City and any property owned by said City and situated beyond the corporate limits thereof, and to acquire land necessary for such purpose by condemnation or otherwise.

(19) To collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals and other refuse, and to acquire and operate ~~plans~~ *plants* for the utilization or destruction of such materials, or any of them; or to contract for and regulate the collection and disposal thereof.

(20) To compel the abatement and removal of all public nuisances within the City, or upon property owned by the City, beyond its limits; to require all lands, lots and other premises within the City to be kept clean, sanitary and free from weeds; to regulate or prevent slaughter houses or other noisome or offensive businesses within said City, the keeping of animals, poultry or other fowls therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles or materials through the streets of the City; to compel the abatement of smoke, odors and dust; to prevent unnecessary noise therein; to regulate the location of stables and the manner in which they shall be kept and constructed, and generally to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City.

(21) If any ground in the said City shall be subject to be covered by stagnant water or if the owner or occupant thereof shall permit any offensive or unwholesome substance to remain or accumulate thereon, the said Council may cause such ground to be filled up, raised or drained, or may cause such substance to be covered or removed therefrom, provided, that reasonable notice shall be first given to the said owner or occupant or his agent. In case of nonresident owners who have no agent in said City, such notice may be given by publication for not less than ten days in any newspaper published in said

City or having general circulation therein.

(22) To direct or prevent the location of all buildings for storing gunpowder or other explosive or combustible substances, to regulate or prohibit the sale and use of dynamite, gunpowder, firecrackers, kerosene oil, gasoline, nitroglycerine, camphene, burning fluid, and all explosives or combustible materials, the exhibition of fireworks, the discharge of firearms, the use of candles and light in barns, stables and other buildings, the making of bonfires and the carrying of concealed weapons.

(23) To prevent the running at large in said City of all animals and fowls, and to regulate the keeping or raising of same within said City, and to subject the same to such levies, regulations and taxes as it may deem proper.

(24) To inspect, test, measure and weigh any commodity or article offered for human consumption or use within the City.

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

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

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

(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; 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 for the organization of 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 powers 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 create, regulate and maintain a fire department for the City and to prescribe the duties of said department and its officers.

(32) (a) For the purpose of guarding against the calamities of fires, the City Council may, from time to time, designate such portions and parts of the City as it deems proper within which inflammable buildings may not be erected. It may prohibit the erection of wooden buildings or buildings of inflammable material in any portion of the City without its permission, and may provide for the removal of such buildings or additions which shall be erected contrary to such prohibition at the expense of the builder or owner thereof; or if any building in process of erection or already built appears clearly to be unsafe, the Council may cause such building to be taken down, after reasonable notice to the owner; ~~and the Council may, by proper ordinance, divide the City into zones; specify the kind and character of buildings which may be erected in the different zones; it may provide for the disposition of garbage and waste; provide precautionary measures against danger from fires; provide for the removal of buildings or structures of any kind, erected in violation of ordinances, at the expense of the builder or owner; and may do all other things lawful to be done, looking to the health and safety of the inhabitants of the City.~~

(b) The Council may, by proper ordinance, divide the City into zones; specify the kind and character of buildings which may be erected in the different zones; and may, after recommendation from the planning commission and public notice and hearing pursuant to § 15.2-2204, establish design overlay districts to encourage compatible development in areas of the City identified on an adopted comprehensive plan as having historic value or unique architectural value and located within an area designated on an adopted plan for conservation, rehabilitation or redevelopment. In such areas, the Council shall adopt specific standards as to new construction or rehabilitation within view from public streets and provide for a design review process. City Council may establish a fee applicable to such design review process which shall not exceed the actual cost of such review process.

(33) (a) The City Council shall not take or use any private property for streets or other public purposes without making the owner thereof just compensation for the same; but in cases where the Council cannot by agreement obtain title to the ground for such purposes the Council may exercise the

power of eminent domain, as provided by law; and shall, subject to the following paragraphs, have all the powers provided in §§ ~~15.1-897 through 15.1-907~~ inclusive *Chapter 19 (§ 15.2-1900 et seq.) of Title 15.2*, of the Code of Virginia, as amended, which is incorporated herein by reference.

(b) The City may enter upon the property to be condemned at any time after the filing of its petition for condemnation and prior to the determination and deposit of the award of just compensation for its purposes if, upon the petitioner's application to do so, the court, after thirty ~~days~~ *days'* notice to the parties and after hearing all parties in interest, finds (1) that a public necessity or an essential public convenience requires such entry for such purposes, and that an emergency exists justifying such entry, before the time when just compensation can be determined and the amount so determined paid into court, and (2) that the interests of the owners of such property will be adequately protected by the payment into court or to the clerk thereof for the benefit of the owners of the amount of the offer made in accordance with law. Upon such payment, the petitioner shall have the right to enter upon the property as described in its petition. At any time after such payment into court or to the clerk thereof, a party whose property or interest therein is to be taken or damaged may apply to the court for the withdrawal of his share thereof in the manner provided by law.

(c) At any time during the condemnation proceedings, if it appears necessary so to do in order to protect the owners of the property or estate or interest therein to be condemned and assure unto them the payment of just compensation to which they are entitled, the court may require the petitioner to pay such additional sums into court as deemed necessary to protect the owners of the property or estate in interest being condemned.

(d) If the petitioner enters upon the property under this section and does any work thereon, or causes any injury or damage to such property, it shall not thereafter be entitled, without the consent of the owner, to abandon the proceedings for the condemnation thereof, but shall conduct such proceedings with reasonable dispatch to final judgment and the petitioner shall pay to the owner of the property or into court the amount of just compensation determined in the condemnation proceedings.

(34) In every case where a street in said City has been, or shall be encroached upon by any fence, building or otherwise, the Council may require the owner to remove the same, and if such removal be not made within the time prescribed by the Council, it may impose such penalty as it deems proper for each and every day it is allowed to continue thereafter, and may cause the encroachment to be removed, and collect from the owner all reasonable charges therefor, with costs by the same process that Council is hereinafter empowered to collect taxes.

Except, in case where there is a bona fide dispute as to the true boundary line or the location of the true street line (and if such passage over such street is not seriously impeded) the same shall be first established and determined by an adjudication of a court of competent jurisdiction in a proceeding instituted by either the City or the property owner for that purpose before the said City shall take any steps to remove the said obstruction or encroachment, or to impose any penalty therefor. No encroachment upon any street, however long continued, shall constitute any adverse possession to or confer any rights upon the persons claiming thereunder as against the said City.

(35) Dedication of any street, alley or lane in said City may be made by plat or deed. Any street or alley reserved in the division or subdivision into lots of any portion of the territory within the corporate limits of said City, by a plan or plot of record, shall be deemed and held to be dedicated to public use, unless it appears by said record that the street or alley so reserved is designated for private use. The Council shall have the right to elect, by resolution entered on its minutes, whether it will or will not accept the dedication of any street or alley.

(36) 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.

(37) 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 or confinement, or both; which shall not exceed the maximum of such penalties allowable under the general laws of this Commonwealth for misdemeanors or, in the case of traffic infractions, the maximum penalties allowable under the general laws of this Commonwealth for such traffic infractions; and 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 or 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 general laws of this State not inconsistent with this charter.

(38) Notwithstanding any of the provisions of the Housing Authorities Law (§ 36-1 et seq., of the Code of Virginia, as amended), the members of the Council of the City of Martinsville, Virginia, during their respective terms of office as councilmen, are authorized and empowered to act as the Commissioners of the Martinsville Redevelopment and Housing Authority, whenever the said Council shall adopt a resolution declaring:

(a) The need for an authority to function in the City of Martinsville, and

(b) The determination that the members of the Council of the City of Martinsville shall act as the Commissioners of the said Authority.

Should the Council determine to act as the Commissioners of the Martinsville Redevelopment and Housing Authority as above provided, it shall designate which of the Commissioners shall be the Chairman of the Authority, and four Commissioners shall constitute a quorum of the said Authority for the purpose of conducting its business and exercising its powers and for all purposes, and action may be taken by the Authority upon the vote of a majority of the Commissioners present, unless in any case the bylaws of the Authority shall require a larger number.

The determination of the Council made hereunder and any determination that may be made by the Authority as constituted hereunder shall be effective without the prerequisite of an election being held to determine the question as provided by the Housing Authorities Law. Nothing herein contained shall be construed to prevent the Council and the Authority from otherwise proceeding under and in accordance with the Housing Authorities Laws; provided, however, that notwithstanding any other provision of Title 36 of the Code of Virginia, no bonds of the Authority shall be issued unless and until a majority of the voters voting on the question of such bond issue shall have approved the same in a referendum called and held in accordance with § 41 of this charter.