

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 172

An Act to amend and reenact § 20 and § 38 as amended of Chapter 343 of the Acts of Assembly of 1928, which provided a charter for the City of Lynchburg, relating to oaths of office and penalties.

[H 1615]

Approved March 17, 1999

Be it enacted by the General Assembly of Virginia:

1. That § 20 and § 38 as amended of Chapter 343 of the Acts of Assembly of 1928 are amended and reenacted as follows:

§ 20. Oaths of office.

The members of the city council and all other officers of the city, whether elected by the people or appointed by the council, before entering upon the duties of their respective offices, shall be sworn in accordance with the laws of the State. Such oaths may be administered by *the clerk of council, the judge or clerk of the circuit court or by any person competent to administer an oath under the laws of the State*; and a certificate of such oaths having been taken shall be filed by each officer with the clerk of the council, who shall enter the same upon the journal of the council. If any person appointed or elected to any office in said city, shall neglect to take such oath ~~for thirty days after receiving notice of his election or appointment, or shall neglect for a like space of time to give such securities as may be required of him by the city council, as hereinafter provided, or as may be hereafter required by any law or ordinance~~, his office shall be deemed vacant, and there shall be another appointment or election for the same.

§ 38. Same - powers enumerated.

The council shall have all the general powers vested in it by the Constitution and laws of the State, and it shall have power to enact ordinances providing for the exercise within its jurisdiction of all police powers which the State itself may exercise under the Constitution, except such as may be specially denied cities by act of the General Assembly; and shall further have power:

First. To control and manage the fiscal and municipal affairs of the city, and all property, real and personal, belonging to the city, and make such ordinances, orders and by-laws, relating to the same as it may deem proper and necessary; and to provide for group, life, health, and accident insurance on the lives and persons of the weekly payroll or salaried employees of the city on such terms as it may deem proper, and to make appropriation out of the city treasury to cover such portion of the cost of such insurance as it may deem wise and proper.

Second. To purchase, hold, sell and convey all real and personal property necessary for its uses and purposes.

Third. To establish markets in the city and regulate the same, and to enforce such regulations in regard to the keeping and sale of fresh meat, vegetables, eggs, and other green groceries, and the trade of hucksters and junk dealers, as may be deemed advisable.

Fourth. To erect in or near the city limits suitable workhouses, houses of correction or reformation, and houses for the reception and maintenance of the poor and destitute. It shall possess and exercise exclusive authority over all persons within the limits of the city receiving the benefits of the poor law; appoint officers and other persons connected with any institution or house which it may establish, and regulate pauperism within the limits of the city, and the council, through a board of overseers of the poor, or such other agencies as it may appoint for the direction and management of the poor of the city, shall exercise the powers and perform the duties vested by law in overseers of the poor.

Fifth. To erect and keep in order all necessary public buildings; to establish and regulate public squares, airports, playgrounds, and parks in or near the city, and to acquire by purchase, condemnation, or otherwise, the land it may deem necessary for such uses, and to construct in such public squares, playgrounds or parks, as it may maintain, or upon any city property, stadiums, swimming pools, and recreation or amusement buildings, structures, or inclosures of every character, refreshment stands, restaurants, et cetera; to charge for admissions, and use of the same, and to rent out or lease the privileges of construction or using such swimming pools, recreation or amusement building, structures or inclosures of every character, refreshment stands or restaurants, et cetera.

Sixth. To establish, maintain and enlarge water works or gas works within or without said city; to contract with the owners of land, water and riparian rights, for the use or purchase thereof, or to have the same condemned for the location or enlargement of said works, or the pipes and fixtures thereof, and to acquire by purchase or condemnation such quantity of the watershed land adjacent to the intake or source of supply, as in the judgment of the said council may be necessary to insure a sufficient supply of water for said city, and to protect the same from pollution; to acquire by purchase or condemnation from lower riparian owners the right to divert streams into the present or any future

reservoir; to prevent the throwing of the filth or offensive matter in *the* James River within six miles of the city limits, and to protect said water supply, works, pipes, reservoirs and fixtures, whether within or without the city, against injury and pollution, by appropriate ordinances and penalties, to be enforced as are other ordinances of said city.

Seventh. To establish or acquire by purchase and to maintain and operate within or without the corporate limits suitable works for the generation of electricity for illumination or other purposes, and to supply the same to consumers in or near the city at such price and on such terms as it may prescribe, and to that end may contract with owners of land and water power for the use thereof, or may have the same condemned.

Eighth. To establish, or acquire by purchase, such other public utilities, abattoirs and other enterprises, either within or without the city, as may in its judgment be in the public interest, and to that end may contract with owners of land, with or without buildings, for the use or the purchase thereof, or may have the same condemned.

Ninth. To take care, supervision and control of streets, squares and commons, and to close, vacate, abandon, extend, widen, narrow, lay out, pave, graduate, improve and otherwise alter the streets in said city; have the streets properly lighted and kept in good order; make or construct sewers or public ducts through the same wherever else they may deem expedient; build bridges in or culverts under said streets or alleys, prevent or remove obstructions or encroachments over, under or in the same; plant shade trees along the same, and prevent the cumbering of streets, alleys, walks, public squares, lanes or bridges in any manner whatever.

Tenth. To permit railroads to be built and to determine and designate the route and grade thereof; to permit poles for electrical, telephone, or telegraph purposes to be erected, gas and steam pipes and conduits for wires to be laid in the streets, and to prescribe an annual license charge for the privileges granted hereunder; and to levy an annual inspection charge upon all such poles, pipes and conduits; to regulate the speed of engines and cars upon the railroads within the city, and to wholly exclude the same where the welfare of the city may demand it.

Eleventh. To provide for the weighing of hay, fodder, oats and shucks or other long forage, ice, coal and livestock, and the measuring of wood and lumber.

Twelfth. To require every merchant or trader in property of any description which is sold by measure or weight, to have his weights and measures sealed by the city sealer, or other officer designated to perform such duties.

Thirteenth. To provide for aid in the support or maintenance of public free schools; to appoint the school board for the city, and to designate the age of pupils to be admitted into the public schools and the grade of such schools.

Fourteenth. To grant aid to military companies and to contribute to the support of a band maintained within the city, to associations for the advancement of agriculture or the mechanic arts, to scientific, literary, educational or benevolent organizations or institutions and to public libraries, provided such action is not prohibited by the Constitution of the State, and that all such societies, organizations or institutions be located in or near the city, and provided further that no appropriation for any such purposes shall be made, nor shall aid be otherwise granted through exemption from charge for use of water or light facilities or otherwise, either with or without charge beyond the city limits, unless two-thirds of all the members elected to the council vote therefor.

Fifteenth. To secure the inhabitants from contagious, infectious or other dangerous diseases; to establish a quarantine ground; to provide and maintain hospitals; to compel the removal of patients to same; to appoint and organize a board of health or a department of public welfare; to define its duties, and grant to it the necessary authority effectually to discharge them.

Sixteenth. To provide for the registration of births in the city, and to that end may require physicians, midwives, or parents to report the same to the board of health or department of public welfare under such regulations as it may deem proper.

Seventeenth. To provide in or near the city lands to be used as burial places for the dead, to improve and care for the same and the approaches thereto, and to charge for and regulate the use of ground therein; to prohibit the burial of dead within the city and to regulate public cemeteries, and to require the return of bills of mortality by the keepers of all cemeteries in or near the city.

Eighteenth. To compel the abatement and removal of all nuisances within the city, or upon property owned by the city beyond its limits, at the expense of the person or persons causing the same, or of the owner or occupant of the ground or premises whereon the same may be; to require all lands, lots and other premises within the city to be kept clean, sanitary and free from weeds or to make them so at the expense of the owners or occupants thereof; to regulate or prevent slaughter houses or other noisome or offensive business within the said city; the keeping of animals, poultry or other fowl therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets of the city; to compel the abatement of smoke and dust; to prevent unnecessary noise therein; to regulate the location of stables and the manner in which shall be kept and constructed; to provide means for and to regulate the cleaning of all dry closets and to assess against the owner or occupant of the premises on which the same is located a reasonable charge

therefor, which shall be collectible as any other city taxes, and generally to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, safety, comfort, convenience and welfare of the inhabitants of the city.

Nineteenth. To authorize and regulate the erection of party walls and fences, and to prescribe how the cost thereof shall be borne by coterminous owners.

Twentieth. To direct the location of all buildings for storing explosives or combustible substances; to regulate the sale and use of gun powder, nitroglycerine, fireworks, kerosene oil or other like materials; to regulate the exhibition of fireworks, the discharge of firearms and the making of bonfires in the streets and yards.

Twenty-first. To prevent fowls and animals being kept in or running at large in the city, and to subject the same to such taxes, regulations and confiscations as it may think proper.

Twenty-second. To prevent the riding or driving of horses or other animals at improper speed; to regulate the use of automobiles and other automotive vehicles upon the streets in accordance with law; to prevent the flying of kites, throwing of stones, or engaging in any sort of employment in the public streets which is dangerous or annoying to passersby, and to prohibit and punish the abuse of animals.

Twenty-third. To restrain and punish drunkards, vagrants and mendicants.

Twenty-fourth. To prevent vice and immorality; to preserve public peace and good order; to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill-fame and gaming houses and gambling devices of all kinds; to prevent the carrying on of lotteries of all kinds and the conducting of raffles; to prevent lewd, indecent and disorderly conduct or exhibitions in the city, and to expel therefrom persons guilty of such conduct who have resided therein less than one year.

Twenty-fifth. To prevent the coming into the city of persons having no ostensible means of support, or of persons who may be dangerous to the peace and safety of the city, and for this purpose may require any railroad company bringing such passengers into the city to enter into bond, with approved security, that such persons shall not become chargeable to the city for one year, or may compel such company to take them back from whence they came, or compel such persons to leave the city if they have been in the city more than six months before the order is given.

Twenty-sixth. To regulate and control auction sales, livery stables, garages, gasoline filling stations, slaughter houses, theatrical performances or other public shows or exhibitions, the hiring or use for pay of carriages, carts, wagons and drays, automobiles and other automotive vehicles, and the business of hawkers, peddlers, persons selling goods by sample, persons keeping billiard tables, tenpin alleys and pistol galleries for profit, and all other similar businesses and occupations and employments, and as to such trades, occupations and employments, and any other of a like nature, may grant or refuse license as it may deem proper.

Twenty-seventh. To compel persons sentenced to confinement in the jail of the city for petty larceny or other misdemeanor or other violations of the city ordinances to work on the public streets, parks or other public works of the city or on the city farm, or be sent to the poorhouse, there to perform such labor as the overseers of the poor or officer having charge of such department may direct; and on the requisition of the judge of the municipal court it shall be the duty of the sergeant of the city to deliver such person to the duly authorized agent of the city for such purposes from day to day as he may be required.

Twenty-eighth. To divide the administrative work of the city into such departments as the council, in its judgment, may deem proper and to appoint a city engineer, city surveyor, city electrician, a collector of city taxes, a city attorney and an auditor, and such other officers and employees as it may deem proper and necessary, and to prescribe their respective powers and duties, terms of office and compensation; and all such officers may have such assistants and clerks as the council may approve. Any office which the council has the power to fill by appointment or election it may abolish or declare vacant at any time whether the term of office of the incumbent has expired or not; and it may likewise at any time consolidate any such office with any other of the offices that the council has the power to fill by election or appointment, or it may consolidate any such office with any office to which the incumbent is elected by the voters of the city, provided that the fire and police departments shall not be abolished. When a vacancy occurs in any office to which the incumbent is elected by the council, the council is empowered to fill the vacancy, and when such vacancy occurs otherwise than by the regular expiration of the term of the incumbent the election shall be only for the unexpired term.

Twenty-ninth. To change the boundaries of wards and increase the number thereof.

Thirtieth. To give names to or alter the names of streets.

Thirty-first. To make such regulations and orders as will protect its citizens from unsafe houses or walls, and to that end it shall have power to cause to be condemned and take down any such building or wall, but no such condemnation shall be made or such house or wall taken down until the owner thereof, or in case of an infant or insane person, his guardian or committee, be duly summoned before the board of officers of the city, or the committee of the council thereof charged by the ordinances with such duty, and allowed reasonable opportunity to show cause against such action.

Thirty-second. To provide for the regular and safe construction of houses in the city for future, and to provide a complete building code for the city and to provide setback lines on the streets beyond

which no building may be constructed.

Thirty-third. To designate and prescribe from time to time the parts of the city within which no buildings of wood shall be erected, and to regulate the construction of buildings in the city so as to protect it against danger from fire; and to enact an ordinance dividing the city into zones under the provisions of State law; and to provide for a city planning commission and define its powers.

Thirty-fourth. To ~~provide any penalty~~ *prescribe penalties* for the violation of any city ordinance, ~~not exceeding a fine of five hundred dollars, or twelve months' confinement in the city jail or on the city farm, or both such fine and imprisonment~~ *rule or regulation, but not exceeding any penalty established by the Commonwealth for a similar offense.*

Thirty-fifth. To pass all bylaws, rules and ordinances not repugnant to the Constitution and laws of the State which it may deem necessary for the good order and government of the city, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health and protection of its citizens or their property, and do such other things and pass such other laws as may be necessary or proper to carry into full effect any power, authority, capacity, or jurisdiction, which is or shall be granted to or vested in said city, or in the council, court or officers thereof, or which may be necessarily incident to a municipal corporation.

Thirty-sixth. To provide for the due publication in the newspapers or otherwise of its ordinances and resolutions.

Thirty-seventh. To contribute funds or other aid to the building or improvements of permanent public roads leading to the city, or of bridges on such roads, or to the purchase of bridges on such roads by an affirmative vote of at least two-thirds of the members elect of the council, provided that no such appropriation shall be made toward the building, purchase, or improvement of any road or bridge at a point more than forty miles beyond the corporate limits of the city measured along the route of such road.

Thirty-eighth. No ordinance or section of ordinance, hereafter passed or amended by the council for the violation of which any penalty is expressly imposed in the ordinance or section of ordinance as passed shall take effect until the same shall have been published for five days consecutively in one of the daily newspapers of the said city to be designated by the city council; provided, however, that this requirement as to publication shall not apply to an ordinance merely granting to a person some individual right or privilege, nor to any ordinance reordained or amended in or by a compilation or codification of said ordinances, nor to the amendment of any ordinance, or section thereof, where no specific penalty for the violation thereof is provided in the ordinance or section of ordinance as amended or reenacted, where the penalty for the violation of such ordinance or section of ordinance so amended and reenacted is only the penalty imposed by the general ordinances of the city for the violation of any ordinance of the city, or is only the penalty imposed for violation of any of the provisions of an ordinance, where only one or more of the sections of said ordinance are so amended or reenacted; and provided further, that in cases where the council adopts ordinances or sections of ordinances which are substantially the same as State statutes or sections thereof, dealing with the same subject, it shall not be necessary to publish said ordinances or sections thereof, but it shall be sufficient to publish a notice that certain statutes of the State or sections thereof, have by ordinance been adopted by the city council, said notice to cite the act of the Assembly or sections in the Virginia Code which have been so paralleled and adopted by the council, and said notice shall further give a brief description of the subject matter of the ordinance or section thereof so adopted.

The record or entry made by the clerk of said city, or a copy of such record or entry duly certified by him, shall be prima facie evidence of the fact and time of such publication; and all laws, regulations and ordinances of the city council may be read in evidence in all courts of justice and all proceedings before any officer, body or board in which it shall be necessary to refer thereto, either from a copy thereof certified by the clerk of said council or from the volume of ordinances printed by authority of the city council.

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