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HOUSE BILL NO. 2210

Offered January 12, 2005

Prefiled January 11, 2005

A *BILL to provide a charter for the City of Waynesboro, Virginia, and to repeal Chapter 3, as amended, of the Acts of Assembly of 1948, which provided a charter for the city.*

Patrons—Landes; Senator: Hanger

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1.

CHARTER OF THE CITY OF WAYNESBORO
CHAPTER 1.
INCORPORATION AND BOUNDARIES.

§ 1.1. Incorporation.

The inhabitants of the territory comprised within the present limits of the city of Waynesboro as such limitations are now, or may hereafter be altered and established by law, shall constitute and continue a body politic and corporate, to be known and designated as the City of Waynesboro. The city shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal that it may later renew or amend, at its pleasure by proper ordinance.

§ 1.2. Boundaries.

The territory embraced within the city of Waynesboro is that territory presently constituting the city of Waynesboro and formerly in the County of Augusta, Virginia, as set forth in the clerk's Office for the Circuit Court of the city of Waynesboro, Virginia, in Deed Book 205 at page 174.

§ 1.3. Division of city into wards.

The said city shall be divided into as many wards as the council may determine in such manner as to include as nearly as may be consistent with the well-defined limits of said wards, an equal number of votes in each ward.

CHAPTER 2.
POWERS.

§ 2.1. General grant of powers.

(a) The city shall have and may exercise any or all powers now or subsequently authorized for exercise by cities of the first class in Title 15.2 or elsewhere in the Code of Virginia, 1950, as amended, regardless of whether such powers are set out or incorporated by reference in this Charter. All ordinances now in force in the city of Waynesboro, not inconsistent with this Charter, shall be and remain in force until altered, amended, or repealed by the council of said city.

(b) All powers vested in the city by this Charter shall be exercised by its governing body unless expressly provided to the contrary. Such powers shall include those not expressly prohibited by the Constitution and general law of the Commonwealth, and which are necessary or desirable to secure and promote the general welfare of the inhabitants of the municipality and the safety, health, peace, good order, comfort, convenience, morals, trade, commerce, and industry of the municipality and the inhabitants thereof, and the enumeration of specific powers shall not be construed or held to be exclusive or as a limitation upon any general grant of power, but shall be construed and held to be in addition to any general grant of power. The exercise of the powers conferred under this section is specifically limited to the area within the corporate limits of the municipality, unless otherwise conferred in the applicable sections of the Constitution and general laws, as amended, of the Commonwealth.

(c) Repeal of prior inconsistent acts and charters. All acts and parts of acts in conflict with this Charter are hereby repealed, in so far as they affect the provisions of this Charter, and former charters and amendments thereto for the city of Waynesboro are hereby repealed; provided, however, that nothing contained in this act, shall be construed to invalidate or to in any manner affect the present existing indebtedness and liabilities of the city of Waynesboro, whether evidenced by bonded obligations or otherwise, or to relieve it of any part of its present obligation or liability on account of district bond issues, liabilities or debts of whatsoever nature or kind.

§ 2.2. Eminent domain.

(a) (1) Generally. The city is hereby authorized to exercise the powers set forth in §§ 33.1-119 through 33.1-129 of the Code of Virginia as in force on the effective date of this Charter and as hereafter amended, relating to acquiring title and taking possession in eminent domain proceedings, and to acquire by condemnation proceedings lands, buildings, structures, and personal property or any

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59 interest, right, easement or estate therein, of any person or corporation, for its purposes whenever, in
60 the opinion of the council, a public necessity exists therefor, which shall be expressed in the resolution
61 or ordinance directing such acquisition, whether or not such lands, buildings, structures, or personal
62 property or interest, right, easement, or estate has already been devoted to a public use; provided,
63 however, that the provisions of Code of Virginia shall apply as to any property owned by a corporation
64 possessing the power of eminent domain that may be sought to be taken by condemnation under the
65 provisions of this act, and whenever the city cannot agree on terms of purchase or settlement with the
66 owners of the subject of such acquisition because of incapacity of such owner, or because of the
67 inability to agree on the compensation to be paid or other terms of settlement or purchase, or because
68 the owner or some one of the owners is a nonresident of the state and cannot with reasonable diligence
69 be found in the state or is unknown.

70 (2) Certificates issued pursuant to such eminent domain may be issued by the city council, signed by
71 the city manager, and countersigned by the city treasurer. Such certificates shall have the same effect as
72 certificates issued by the State Highway Commissioner under the aforesaid sections and may be issued
73 in any case in which the city proposes to acquire property of any kind by the exercise of its powers of
74 eminent domain for any lawful public purpose, whether within or without the city.

75 (b) (1) Alternative procedures in condemnation. The city may, in exercising the right of eminent
76 domain conferred by subsection (a), make use of the procedure prescribed by the general law of the
77 Commonwealth, or may elect to proceed as hereinafter provided. In the latter event, the resolution or
78 ordinance directing acquisition of any property, as set forth in the preceding section, shall provide
79 therein in a lump sum the total funds necessary to compensate the owners thereof for such property to
80 be acquired or damaged. Upon the adoption of such resolution or ordinance, the city may file a petition
81 in the clerk's office of a court having jurisdiction of the subject, which shall be signed by the city
82 manager and set forth the interest or estate to be taken in the property and the uses and purposes for
83 which the property or the interest or estate therein is wanted, or when property is not to be taken but is
84 likely to be damaged, the necessity for the work or improvement which will cause or is likely to cause
85 such damage. There shall also be filed with the petition a plat of a survey of the property with a profile
86 showing cuts and fills, trestles and bridges, if any, and a description of the property which, or an
87 interest or estate in which, is sought to be taken or likely to be damaged and a memorandum showing
88 names and residences of the owners of the property, if known, and showing also the quantity of property
89 which, or an interest or estate in which, is sought to be taken or which will be or is likely to be
90 damaged. There shall be filed also with said petition a notice directed to the owners and tenants of the
91 property, if known, copies of which shall be served on such owners and tenants of the freehold of such
92 property, if known. If the owner or tenant of the freehold is unknown or a nonresident of the state or
93 cannot with reasonable diligence be found in the state, or if the residence of the owner or tenant is
94 unknown, the owner or tenant may be proceeded against by order of publication which order, however,
95 need not be published more than once a week for two successive weeks and shall be posted at a main
96 entrance to the courthouse. The publication shall in all other respects conform to §§ 8.01-316, 8.01-317,
97 and 8.01-319 of the Code of Virginia, as in effect on the effective date of this Charter or hereinafter
98 modified or amended.

99 (2) Upon the filing of said petition and the deposit of the funds provided by the council for the
100 purpose in a bank to the credit of the court in such proceedings and the filing of a certificate of deposit
101 therefor, the interest or estate of the owner of such property shall terminate and the title to such
102 property or the interest or estate to be taken in such property shall be vested absolutely in the city and
103 such owner shall have such interest or estate in the funds so deposited as the owner had in the property
104 taken or damaged and all liens by deed of trust, judgment, or otherwise upon said property or estate
105 shall be transferred to such funds and the city shall have the right to enter upon and take possession of
106 such property for its uses and purposes and to construct its works or improvements. The clerk of the
107 court in which such proceeding is instituted shall make and certify a copy of the petition, exhibits filed
108 therewith, and orders, and deliver or transmit the same to the clerk of the court in which deeds are
109 admitted to record, who shall record the same in the deed book and index them in the name of the
110 person or persons who had the property before and in the name of the city, for which the clerk shall
111 receive the same fees prescribed for recording a deed, which shall be paid by the city.

112 (3) If the city and the owner of property so taken or damaged agree upon compensation therefor,
113 upon filing such agreement in writing in the clerk's office of such court, the court or judge thereof in
114 vacation shall make such distribution of such funds as to it may seem right, having due regard to the
115 interest of all persons therein whether such interest be vested, contingent or otherwise, and to enable
116 the court or judge to make a proper distribution of such money it may in its discretion direct inquiries
117 to be taken by a special commissioner in order to ascertain what persons are entitled to such funds and
118 in what proportions and may direct what notice shall be given to the making of such inquiries by such
119 special commissioner.

120 (4) If the city and the owner cannot agree upon the compensation for the property taken or

damaged, if any, upon the filing of a memorandum in the clerk's office of said court to that effect, signed by either the city or the owner, the court shall appoint commissioners provided for in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 of the Code of Virginia or as provided for in subsection (a), and all proceedings thereafter shall be had as provided in Chapter 2 of Title 25.1 of the Code of Virginia or §§ 38.2-1025 and 38.2-1040 through 38.2-1049, all as in effect on the effective date of this Charter or as hereafter modified, insofar as they are then applicable and are not inconsistent with the provisions of this and the preceding section, and the court shall order the deposit in bank to the credit of the court of such additional funds as appear to be necessary to cover the award of the commissioners or shall order the return to the city of such funds deposited that are not necessary to compensate such owners for property taken or damaged. The commissioners so appointed shall not consider improvements placed upon the property by the city subsequent to its taking nor the value thereof nor the enhancement of the value of said property by said improvements in making their award.

(5) Unclaimed funds in condemnation cases. Whenever any money shall have remained for five years in the custody or under the control of any of the courts enumerated in subsection (a), in any condemnation proceeding instituted therein by the city, without any claim having been asserted thereto such court shall, where the amount is one hundred dollars (\$100.00) or more, cause a publication to be made once a week for two successive weeks in a newspaper of general circulation published in the city, setting forth the amount of such money, the source from which it was derived and the proceeding in which it is held, and requiring all persons having any claim to said money to appear before said court within such time after the completion of the publication as the court may prescribe, and establish their claim. If the sum is less than one hundred dollars (\$100.00), the court shall direct the same to be paid into the treasury of the city, and a proper receipt for the payment taken and filed among the records of the proceeding. If no person shall appear and show title in himself, the court shall order the money, after deducting therefrom the costs of such publication if such publication is made and any other proper charges, to be paid into the treasury of the city and a proper receipt for the payment to be taken and filed among the records of the proceeding. The city treasurer shall, in a book provided for the purpose, keep an account of all money thus paid into the city treasury, showing the amount thereof, when, by whom, and under what order it was paid, and the name of the court and, as far as practicable, a description of the suit or proceeding in which the order was made and, as far as known, the names of the parties entitled to said funds. Money thus paid into the treasury of the city shall be paid out on the order of the court having jurisdiction of the proceeding, to any person entitled thereto who has not asserted a claim therefor in the proceeding in which it was held, upon satisfactory proof that such person is entitled to such money. If such claim be established, the net amount thereof, after deducting costs and other proper charges, shall be paid to the claimant out of the treasury of the city on the warrant of the city auditor. No claim to such money shall be asserted after ten (10) years from the time when such court obtained control thereof; provided, however, if the person having such claim was an infant, insane, or imprisoned at the time the claim might have been presented or asserted by such person, claim to such money may be asserted within five (5) years after the removal of such disability.

(6) In addition to city council, the school board established under this Charter shall have power to acquire by condemnation in accordance with general law land within or without the city, whether dwellings, yards, gardens or orchards, invaded or not, for school purposes not to exceed fifteen (15) acres for any one school when necessary.

§ 2.3. Financial powers.

(a) Generally. In accordance with the Constitutions of the Commonwealth of Virginia and the United States, the city may raise annual taxes and assessments on property, persons and other subjects of taxation, which are not prohibited by law, such sums of money as in the judgment of the city are necessary to pay the debts, defray the expense, accomplish the purposes, and perform the functions of the city, in such manner as the council deems necessary or expedient. The city shall impose no tax on its bonds.

(b) Consumer utility tax, etc. The city shall have power to impose, levy, and collect, in such manner as its council shall deem expedient, a consumer or subscriber tax upon the amount paid for the use within the city of water, electricity, gas, telephone, television, cell phone, wireless, and any public utility service, or the amount paid for any one or more of such public utility services used within the city, and the council may provide that such tax shall be added to and collected with bills rendered consumers for such services.

(c) Assessments for local improvements. The city may 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.

(d) Water, lights and sewerage, rates; rates and charges for public utilities or services, etc., operated, etc., by city. The city may establish, impose, and enforce water, light and sewerage rates, and

182 rates and charges for public utilities, or other service, products, or conveniences, operated, rendered, or
183 furnished by the city; assess, or cause to be assessed, water, light, sewerage, and other public utility
184 rates and charges directly against the owner or owners of the buildings, or against the proper tenant or
185 tenants; and in event such rates and charges shall be assessed against a tenant, then the said council
186 may, by an ordinance, require of such tenant a deposit of such reasonable amount as may be by such
187 ordinance prescribed before furnishing such services to such tenant.

188 (e) Imposition of license taxes; fine or penalty for doing business without license; fees to be paid on
189 grant or transfer of license.

190 (1) License taxes may be imposed by ordinance on businesses, trades, professions, and callings and
191 upon the persons, firms, associations, and corporations engaged therein, and the agents thereof, except
192 in cases where taxation by the locality shall be prohibited by general law, and nothing herein shall be
193 construed to repeal or amend any general law with respect to taxation.

194 (2) The council may subject any person, who, without having obtained a license therefor, shall do
195 any act or follow any business, occupation, vocation, pursuit, or calling in the city for which a license
196 may be required by ordinance, to such fine or penalty as it is authorized to impose for any violation of
197 its laws.

198 (3) For every city license granted or transferred by the commissioner of revenue under this Charter,
199 the commissioner shall charge a fee to be prescribed by an ordinance. Such license or transfer may be
200 withheld until the fees are paid into the city treasury for city purposes.

201 (f) Levy on other property. It is hereby expressly provided that said council shall, in its discretion, be
202 authorized to fix such annual levy on property subject to taxation in the city of Waynesboro, for city
203 purposes, without any limit as to the rate thereof, any provisions of the general laws of the state to the
204 contrary notwithstanding, provided that said council shall not fix such levy on property partially
205 segregated to the state for purposes of state taxation at a higher rate than is or may be permitted by the
206 general laws relating thereto.

207 (g) Issuance of bonds, notes, and evidence of debt.

208 (1) For the execution of its powers and duties, the city council may, in the name and for the use of
209 the city, contract loans and cause to be issued certificates of debts or bonds, provided no such
210 certificate of debt or bonds shall be issued except by ordinance adopted in accordance with Section 7 of
211 Article VII of the Constitution of Virginia, and otherwise in accordance with the requirements of the
212 Virginia "Public Finance Act." No such certificate or bonds shall be issued prior to city council holding
213 a public hearing on the question, duly advertised at least ten (10) days in advance in a general
214 newspaper of local circulation, and the ordinance authorizing any such certificate or bonds shall be
215 introduced at one meeting of city council and adopted at a second meeting at least seven (7) calendar
216 days after such introduction.

217 (2) Notwithstanding the foregoing paragraph, no bonds, notes, or other obligations shall be issued
218 until their issuance shall have been authorized by a majority of the qualified voters of the city voting on
219 the question at an election held for the purpose in the manner provided by general law, except as
220 follows:

221 (i) The council may authorize the issuance of refunding bonds or refunding notes by an ordinance
222 adopted in the manner set forth in subdivision (g) (1) by the affirmative vote of a majority of all
223 members of the council.

224 (ii) The council may authorize, by an ordinance adopted in the manner set forth in subdivision (g)
225 (1) by the affirmative vote of four-fifths (4/5) of all members of the council, the issuance of bonds and
226 other obligations of a type excluded from the computation of indebtedness of cities under Section 10 (a)
227 of Article VII of the Constitution by complying with the conditions for exclusion set forth therein.

228 (iii) The city shall have the authority without a vote of the people to make temporary loans not in
229 excess of what may be paid out of current revenues for the fiscal year in which made.

230 (iv) Bonds which are secured by a lien on the property being purchased may be issued for the
231 purchase of real or personal property without a vote of the people.

232 (v) The city shall have the authority, by an ordinance adopted in the manner set forth in subdivision
233 (g) (1) by the affirmative vote of four-fifths (4/5) of all members of the council, to issue without a vote
234 of the people bonds or interest-bearing obligations which, including existing general obligation
235 indebtedness, do not exceed ten percent (10%) of the assessed valuation of the real estate in the city
236 subject to taxation, as shown by the last preceding assessment for taxes.

237 (h) Liens for taxes, levies, and assessments. There shall be a lien on all real estate within the
238 corporate limits for taxes, levies, and assessments, in favor of the city, assessed thereon, from the
239 commencement of the year for which the same were assessed, and there shall also be a lien on the real
240 estate on which local assessments for improvements may be made for the amount of such assessments
241 from the time the same is levied by the city council. The council may by ordinance permit taxes to be
242 paid in semi-annual installments.

243 (i) Additional powers. The city, the financial officers, and all deputies and agents charged with the

duty of collecting any and all taxes, licenses, and assessments due the city shall have all the powers provided by law for the collection thereof to cities and towns and their respective officers thereof, and in addition shall have all the rights, powers, and remedies provided to any state officers for the collection of taxes. It is further expressly provided that the treasurer, commission of the revenue, and court clerk shall proceed under the general law for handling of delinquent lands, the sale thereof, the purchase of same with the required reports of sale and all provisions for redemption, or if not redeemed for the making of a tax title deed, in accordance with the provisions of the tax code of Virginia. In addition to the lien for the principal amount of such taxes, the city shall have a lien, with all the priorities provided therefor, for any and all penalties, interest, and costs accrued by reason of delinquency in the payment of such taxes.

§ 2.4. Contractual powers; gifts; grants.

(a) Acquisition of property generally; holding, selling, leasing, etc., city property. The city may purchase, gift, devise, condemn or otherwise, property, real and personal or any estate or interest therein, within or without the city or state and for any of the purposes of the city; and to hold, improve, sell, lease, mortgage, or pledge the same or any part thereof, including any property now owned by the city. In addition to its other powers under this Charter or general law, the council may issue purchase money obligations without a vote of the people, provided that such obligations are not general obligations of the city of Waynesboro, but shall be secured solely by the property purchased. Such obligations as may be from time to time issued for the purchase of property shall clearly show that such obligations are not general obligations of the city, but are secured only as herein provided, provided that nothing herein contained is contrary to or inconsistent with the Constitution of Virginia.

(b) Debts and evidence of indebtedness. The city may contract debts, borrow money, and make and issue evidence of indebtedness.

(c) Acquisition of property for encouraging commerce, etc.; sale, lease, etc., of city property for such purpose; donation of land for hospital purposes. The city may acquire, in any lawful manner, for the purpose of encouraging commerce, manufacturing, education, and the building of homes, lands within and without the city, not exceeding at any one time one thousand (1,000) acres in the aggregate, and from time to time to sell, dispose of, lease, or donate the same or any part thereof for commercial, industrial, educational, or residential uses and purposes, including any land now owned by the city, and including the power to donate any land now or hereafter owned by the city for hospital purposes.

(d) Gifts. The city may accept or refuse gifts, donations, bequests, or grants of any kind from any source, absolutely or in trust, which are related to the powers, duties, and functions of the municipal corporation, or for educational, charitable, or other public purposes, and do all the things and acts necessary to carry out the purposes of such gifts, grants, bequests, and devises, with power to manage, maintain, operate, sell, lease, or otherwise handle or dispose of the same, in accordance with terms and conditions of such gifts, grants, bequests, and devises.

(e) Acquisition of lands, quarries, water rights, machinery for production of materials for construction, etc., of streets, water works, public buildings, etc. The city may acquire by gift, purchase, exchange, or by the exercise of the power of eminent domain within the state, lands, and any interest or estate in lands, rock quarries, gravel pits, water and water rights and the necessary roadways thereto, either within or without the city, and acquire and install machinery and equipment and build the necessary roads or tramroads thereto, and operate the same for the purpose of producing materials required for the construction, repair, and maintenance of streets, highways, sidewalks, water works, reservoirs, sewer systems, electric lights, public buildings and any and all public purposes. The city may also acquire by gift, purchase, exchange, or by the exercise of the power of eminent domain within the state, lands and machinery and equipment, and build and operate a plant or plants for the preparation and mixing of materials for the construction of improved streets and other public improvements, and the maintenance and repair thereof, and to build and operate coal tipples and yards in connection therewith.

(f) Acquisition and disposition of property adjoining or near parks, etc., or necessary to convenient use of streets, and of lots affected by opening or widening streets or change in creek channels.

(1) The city may acquire by purchase, exchange, gift, devise, or condemnation, property adjoining its parks, or lots on which its monuments are located, or other property used for public purposes, or in the vicinity of such parks, plats, or property that is used and maintained in such a manner as to impair the beauty, usefulness, or efficiency of such parks, plats or public property. The city may likewise acquire property adjacent to any street, the topography of which, from its proximity thereto, impairs the convenient use of such street, or renders impracticable, without extraordinary expense, the improvement of the same, and the city may subsequently dispose of the property so acquired, making limitations as to the use thereof, which will protect the beauty, usefulness, efficiency, or convenience of such parks, plats, streets, and property.

(2) And when the city proposes to open or widen a street, or change the channel of a creek, by

305 taking any part of a block or square in such manner that the value of the property abutting the
306 proposed street or creek would be injuriously affected, unless the property on such block or square is
307 replatted and the property line or lines readjusted, then and in that event, the city, at the same time it
308 acquires the land for said street or creek channel, may in its discretion, also acquire by purchase, gift,
309 condemnation, or otherwise, all or any part of the property on such squares or block and may
310 subsequently replat and dispose of the property so acquired in whole or in part, making such limitations
311 as to the uses thereof as it may see fit.

312 § 2.5. Operational powers.

313 (a) Generally. The city may provide for the organization, conduct, and operation of all departments,
314 offices, boards, commissions, and agencies of the municipal corporation, subject to such limitations as
315 may be imposed by this Charter or otherwise by law, and may establish, consolidate, abolish, or change
316 departments, offices, boards, commissions, and agencies of the municipal corporation and prescribe the
317 powers, duties, and functions thereof, except where such departments, offices, boards, commissions, and
318 agencies or the powers, duties, and functions thereof are specifically established or prescribed by its
319 charter or otherwise by law.

320 (b) Records and accounts. The city shall provide for the control and management of the affairs of
321 the city, and shall prescribe and require the adoption and keeping of such books, records, accounts, and
322 systems of accounting by the departments, boards, commissions, courts, or other agencies of the local
323 government necessary to give full and true accounts of the affairs, resources, and revenues of the
324 municipal corporation and the handling, use, and disposal thereof.

325 (c) Expenditure of money. The city may expend money of the city for all lawful purposes.

326 (d) Construction, maintenance, etc., of improvements, buildings, etc., for use and operation of city
327 departments. The city may construct, maintain, regulate, and operate public improvements of all kinds,
328 including municipal and other buildings, armories, comfort stations, markets, and all buildings and
329 structures necessary or appropriate for the use and proper operation of the various departments of the
330 city; and may acquire by condemnation or otherwise all land, riparian, and other rights and easements
331 necessary for such improvements, or any of them.

332 (e) Sewers, sewer systems, and sewage treatment plants. The city may establish, construct, and
333 maintain sanitary sewers, sewer lines, and systems; require the abutting property owners to connect
334 therewith and to establish, construct, maintain, and operate sewage treatment plants; and acquire by
335 condemnation or otherwise within or without the city, all lands, rights of way, riparian, and other rights
336 and easements necessary for the purposes aforesaid, and charge, assess, and collect reasonable fees,
337 rentals, or assessments or costs of service for connecting with and using the same.

338 § 2.6. Planning and zoning powers.

339 (a) Comprehensive plan. In accordance with general law, the city council shall cause to be prepared
340 and adopted a comprehensive city plan providing for the future improvement and growth of the city,
341 within and without the city limits, and including the altering and extension of streets, and opening of
342 new subdivisions, the changing and improving of the channels of the creeks running into and through
343 the city, the location and opening of the most practical, cost efficient, and direct highways from the city
344 into the adjoining county, the improvement of entrances and terminals to and from the city, including
345 those of public service corporations looking to the future harmonious development of a city plan, the
346 planning for playgrounds, parks, and boulevard systems, the location of public buildings, including
347 school buildings and other public works and public utilities, and all such other things as will tend to
348 make the city of Waynesboro a more convenient, attractive, and modern city. The comprehensive plan
349 shall serve as a general guide to future council action concerning land use and development
350 regulations, urban renewal programs, and expenditures for capital improvements.

351 (b) Public streets, etc., vacation.

352 (1) The council, at its discretion, shall have power to vacate, alter, or discontinue, in whole or in
353 part, any public street, avenue, or alley, in the city in the following manner.

354 (i) On the application of any landowner or on resolution of the council of its own motion, the mayor
355 shall appoint three (3) viewers to act as commissioners, who shall ascertain and report if any
356 inconvenience will result to the public and whether in their opinion any, and if any, what special
357 damage will be suffered by the landowner or landowners abutting thereon, if the street, avenue, or alley
358 is vacated, discontinued, or altered in whole or in part, as proposed.

359 (ii) Upon the return of the report, the mayor shall fix a time and place to consider the said report,
360 of which the clerk of the council shall give notice by publication once a week for two successive weeks
361 in a newspaper published in the city, or having general circulation therein.

362 (iii) At the hearing, evidence may be offered for and against the report, and the council may at that
363 or any adjourned or regular meeting approve or modify the report as it deems right, just, and proper to
364 do, and as approved or modified, adopt the same, or reject the report and dismiss the proceeding.

365 (iv) If the report is adopted, or as modified is adopted, the council shall pass an ordinance
366 prescribing such conditions, if any, as it deems proper, vacating, discontinuing, or altering the said

street, avenue, or alley in whole or in part. The title to the street, avenue, or alley, or to such part thereof as shall be vacated, discontinued, or altered, shall vest in the city, or in the landowner or landowners, whose property abuts thereon, to be determined by the council in the ordinance.

(v) An appeal of right may be taken by a dissatisfied landowner affected, within ten (10) days of the passage of the ordinance, vacating, discontinuing or altering any street, avenue, or alley, or any part thereof, to the circuit court of the city of Waynesboro on the question of special damages awarded, but the right, motives, or purposes of the council touching the vacation, alteration, or discontinuance of the street, avenue, or alley, in whole or in part, or the conditions prescribed or annexed, shall not be open to inquiry on appeal.

(2) The said city shall have the use and control of all public streets and alleys, both below and above ground.

(c) Subdivisions. All subdivisions of lots and lands shall comply with Article 6 (§ 15.2-2240 et seq.) of Chapter 22 of Title 15.2 of the Code of Virginia, regarding land subdivision and development, as provided by the general law of the Commonwealth of Virginia and amendments thereto.

(d) Zoning generally.

(1) For the promotion of health, safety, morals, comfort, prosperity, or general welfare of the general public, the council may, by ordinance, divide the area of the city into one or more districts of such shape and area as may be deemed best suited to carry out the purposes of this Charter, and in such district or districts may establish, set back building lines, regulate and restrict the location, erection, construction, reconstruction, alteration, repair or use of buildings and other structures, their heights, area and bulk, and percentage of lot to be occupied by buildings or other structures, the size of yards, courts, and other open spaces, and the trade, industry, residence, and other specific uses of the premises in such district or districts.

(2) All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

(3) Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers, to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

(4) The council of said city shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced and from time to time amended, supplemented, or changed. Each such regulation, restriction, or boundary shall be first referred to the planning commission for a report and recommendation and such commission shall make such report and recommendation to the council after public hearing held thereon by the commission, either jointly with council or separately, pursuant to the requirements of the Code of Virginia. No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard, held by the city council, jointly with said commission or subsequent to the hearing of said commission, after notice as required by the Code of Virginia.

(5) Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such change signed by the owner of twenty percent (20%) or more either of the area of all the lots included in such proposed change, or of those immediately adjacent thereto, such amendment shall not become effective except by the favorable vote of four-fifths (4/5) of all the members of the council. The provisions of the previous subsection relative to public hearings and official notice shall apply equally to all changes or amendments.

(e) Board of Zoning Appeals; composition; appointment of members; powers. There shall be a board of zoning appeals which shall consist of five (5) members appointed for three-year terms by the judge of the circuit court and removable for cause by the appointing authority, upon written charges and after public hearing. Vacancies shall be filled by the judge for the unexpired term of any member whose term becomes vacant. The board of zoning appeals shall have all powers granted to boards of zoning appeals by general law.

(f) Vested rights. Nothing contained in this section shall be construed as intended to authorize the impairment of any vested right.

§ 2.7. Utilities; public improvements.

(a) Water works and water supply. The city may own, operate, and maintain water works and acquire in any lawful manner in any county of the state such water, lands, property rights, and riparian

rights as the council of said city may deem necessary for the purpose of providing an adequate water supply for said city, and of piping or conducting the same; lay all necessary mains and service lines, either within or without the corporate limits of the said city, and charge and collect water rents therefor; erect and maintain all necessary dams, pumping stations and other works in connection therewith; make reasonable rules and regulations for promoting the purity of its said water supply and for protecting the same from pollution; and for this purpose exercise full police powers and sanitary patrol over all lands comprised within the limits of the watershed tributary to any such water supply whenever such lands may be located in this state; impose and enforce adequate penalties for the violation of any such rules and regulations, and prevent by injunction any pollution or threatened pollution of such water supply and any and all acts likely to impair the purity thereof; and for the purpose of acquiring lands, interest in lands, property rights, and riparian rights or materials for any such use to exercise within the state all powers of eminent domain provided by the laws of this state. For any of the purposes aforesaid, said city may, if the council shall so determine, acquire by condemnation, purchase, or otherwise, any estate or interest in such lands or any of them in fee.

(b) Electric light and gas works; supplying electricity and gas to customers. The city may own, operate, and maintain electric light and gas works, either within or without the corporate limits of said city, for the generating of electricity and the manufacture of gas for illuminating, power, and other purposes, and to supply the same, whether said gas and electricity be generated or purchased by said city, to its customers and consumers both within and without the corporate limits of the said city, 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 purchase such electricity and gas from the owners thereof, and furnish the same to its customers and consumers.

(c) Streets; parks, playgrounds, etc.; infrastructure; vehicles. The city may establish, maintain, improve, alter, vacate, regulate, and otherwise manage its streets, alleys, parks, playgrounds, and all of its public infrastructure and public works, in such manner as best serves the public interest, safety, and convenience; regulate, limit, restrict, and control the services and routes of and rates charged by vehicles for the carrying of passengers and property in accordance with general law; permit or prohibit poles and wires for electric, telephone, telegraph, television, and other purposes to be erected, and gas pipes to be laid in the streets and alleys, and to prescribe and collect an annual charge for such privileges; and require the owner or lessees of any such poles or wires now in use or hereafter used to place such wires, cables, and accoutrements in conduits underground in accordance with the city's prescribed requirements.

(d) Continuation of use of south branch of Shenandoah River for sewage. In connection with the system of sewage, the city may continue to use the south branch of the Shenandoah River as heretofore.

(e) Public utilities. Subject to the provisions of the Constitution of Virginia, this Charter, and general law, the city may grant franchises for public utilities, reserving rights of transfer, renewal, extension, and amendment thereof.

(f) Collection and disposition of sewage, garbage, ashes, refuse, etc.; reduction and disposal plant. The city may collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals, and other refuse; make reasonable charges therefor; acquire and operate reduction or any other plants for the utilization or destruction of such materials, or any of them; contract for and regulate the collection and disposal thereof, and require and regulate the collection and disposal thereof.

§ 2.8 Nuisances; sanitary conditions, etc.

The city may compel the abatement and removal of all nuisances within the city; require all lands, lots, and other premises within the city to be kept clean; regulate the keeping of animals, poultry, and other fowl therein; regulate the exercise of any dangerous or unwholesome business, trade, or employment therein; regulate the transportation of all articles through the streets of the city; compel the abatement of smoke, dust, and unnecessary noise; compel the removal of grass and weeds from private and public property, and snow from sidewalks; require the covering or removal of offensive, unwholesome, unsanitary, or unhealthy substances allowed to accumulate in or on any place or premises; require the filling in to the street level of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; and require the raising or draining of the grounds subject to be covered by stagnant water and the razing or repair of all unsafe, dangerous, or unsanitary public or private buildings, walls or structures. The city may likewise compel the removal of inoperative or unlicensed motor vehicles or parts thereof from private or public property and 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. The city may provide and impose suitable penalties for the violation of such ordinances, rules, and regulations, or any of them, and the city may maintain a suit to restrain by injunction the violation of any ordinance.

§ 2.9. Police powers.

(a) The city may exercise full police powers as provided by general law and establish and maintain

a department or division of police.

(b) The city may also 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; prescribe any penalty for the violation of any city ordinance, rule, or regulation or of any provisions of this Charter, not exceeding the fine on sentences imposed by the laws of the state; and pass and enforce all by-laws, rules, regulations, and ordinances 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 to do such other things and pass such other laws as may be necessary or proper to carry into full effect and power, authority, capacity, or jurisdiction, which is or shall be granted to or vested in said city, or in the council, court or offices thereof, or which may be necessarily incident to a municipal corporation.

§ 2.10. Miscellaneous powers.

With respect to the following matters, the city may:

(1) Weights and measures. Inspect, test, measure, and weigh any commodity or article of consumption for use within the city, and to establish, regulate, license, and inspect weights, meters, measures, and scales.

(2) Fire prevention; building regulations; removal or reconstruction of unsafe buildings, etc.; fire limits; protection of public gatherings. Extinguish and prevent fires and compel citizens to render assistance to the fire department in case of need, and establish, regulate, and control a fire department or division; regulate the size, height, materials, and construction of buildings, fences, walls, retaining walls, and other structures hereafter erected in such manner as the public safety and conveniences may require; remove or require to be removed or reconstructed 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; establish and designate from time to time fire limits, within which limits wooden buildings shall not be constructed, removed, added to, enlarged, or repaired; 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; and enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblies, entertainments, or amusements.

(3) Fees for permits, etc. Charge and collect fees for permits to use public facilities and for public services and privileges.

(4) Health and health regulations; contagious diseases; hospitals; department or bureau of health; quarantine grounds and regulations. Provide for the preservation of the general health of the inhabitants of said city; make regulations to secure the same; inspect all foods and foodstuffs and prevent the introduction and sale in said city of any articles or things intended for human consumption which are adulterated, impure, or otherwise dangerous to health; 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 disease generally; provide and regulate hospitals within or without the city limits, and, if necessary to the suppression of diseases, enforce the removal of persons afflicted with contagious or infectious diseases to hospitals provided for them; provide for the organization of a department or bureau 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; and establish quarantine ground within or without the city limits, and such quarantine regulations against infectious and contagious diseases as the council may see fit.

(5) Cemeteries. Provide in or near the city lands to be used as burial places for the dead; improve and care for the same and the approaches thereto; charge for and regulate the use of ground therein; and provide for the perpetual upkeep and care of any plot or burial lot therein. The city is authorized to take and receive sums of money by gift, bequest, or otherwise, to be kept invested, and the income thereof is to be used for the perpetual upkeep and care of the said lot or plat, for which the said donation, gift, or bequest shall have been made.

(6) Injunctive relief. May maintain a suit to restrain by injunction the violation of any ordinance, notwithstanding any punishment that may be provided for the violation of such ordinance.

§ 2.11. Separability.

If any clause, sentence, paragraph, or part of this Charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said Charter, but shall be confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which said judgment shall have been rendered.

CHAPTER 3.

CITY COUNCIL; MAYOR.

§ 3.1. General powers and duties of council.

(a) The government of the city shall be vested in the council, which shall have the power to adopt ordinances, resolutions, and motions and enforce same, and carry into effect all powers granted by this Charter and by general law. The council shall be responsible for the determination of all matters of policy for the city and for ensuring the implementation thereof by the city administration.

(b) Acting in accordance with general law, the council may appoint all such boards and commissions as may be deemed proper or required and prescribe the powers and duties thereof. The council may determine its own rules of procedure, may punish its own members for misconduct, and may compel attendance of members. It shall keep a journal of its proceedings. A majority of all members of the council shall constitute a quorum to do business, but no resolution or ordinance shall be adopted except by affirmative vote of a majority of all members elected to the council; however, a smaller number may adjourn from time to time and compel the attendance of absentees. All elections by the council shall be viva voce and the vote recorded in the journal of the council.

§ 3.2. Composition and election of council; vacancies.

(a) The council shall consist of five (5) members, who shall be voted at large, whose term of office, except as hereinafter fixed, shall be for the term of four (4) years. At the municipal election held in 2006, and every four (4) years thereafter, two (2) council members shall be elected, one from each ward having a council member whose term is expiring, who shall serve for a term of four (4) years and thereafter until their successors shall have been elected and qualified. At the municipal election held in 2008, and every four (4) years thereafter, three (3) council members shall be elected, one from each ward having a council member whose term is expiring, and one member-at-large, who shall serve for a period of four (4) years and thereafter until their successors have been elected and qualified. Municipal elections shall be held and conducted at the time and in the manner provided for by general law. The persons elected shall take office July 1 of the year in which they are elected.

(b) Vacancies in the council shall be filled within thirty (30) days, for the unexpired terms, by a majority vote of the remaining council members except as otherwise provided by general law.

§ 3.3. Eligibility; forfeiture of office; dealing with city and administration employees.

(a) Eligibility for council. Any person qualified to vote in the city shall be eligible to hold the office of council member.

(b) Forfeiture of office. Any member of the council who shall have been convicted of a felony while in office shall thereby forfeit the office.

(c) Dealing with city. No member of the council or other officer shall be interested directly or indirectly in the profits of any contract or work, or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies, or services (other than official services). Any member of the council or any other officer of the city offending against the provisions of this subsection shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or be imprisoned not more than ninety (90) days, or both, in the discretion of the court, and shall forfeit the office. The prohibitions of this subsection shall not apply if the council shall declare by unanimous vote of the members thereof that the best interests of the city are to be served despite a personal interest, direct or indirect.

(d) Dealing with administration employees. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager, either publicly or privately. Any such orders or other interferences on the part of the council or any of its members with subordinates or appointees of the city manager, instead of dealing with or communicating directly with the city manager, are prohibited.

§ 3.4. Organizational rules; election of mayor.

(a) At nine o'clock ante meridian on the first day of July following a regular municipal election, or if such day is a Sunday, then on the day following, the council shall meet at the usual place for holding the meetings of the legislative board of the city, at which time the newly elected council members, after first having taken oaths prescribed by law, shall assume the duties of the office. Thereafter, the council shall meet at such times as may be prescribed by ordinance or resolution, except that they shall regularly meet not less than once each month. The mayor, any member of the council, or the city manager may call special meetings of the council at any time (on at least twelve (12) hours written notice), with the purpose of said meeting stated therein, to each member served personally or left at such member's usual place of business or residence. No business other than that mentioned in the call shall be considered at such meeting, except upon the consent of no fewer than four-fifths (4/5) of the members of the council.

(b) All meetings of the council shall be public except, if otherwise authorized by general law. Any citizen may have access to the minutes and records thereof at all reasonable times.

(c) The council shall elect one of its members as chairman, who shall be ex officio mayor.

(d) The mayor shall be elected by the council for a term of two (2) years and shall preside at meetings of the council and perform such other duties consistent with the office as may be imposed by the council. The mayor shall have a vote and voice in the proceedings, but no veto. The mayor shall be the official head of the city but shall have no jurisdiction or authority to hear, determine, or try any civil or criminal matters. In times of public danger or emergency, the mayor, or during the mayor's absence or disability, the city manager, may take command of the police and maintain order and enforce the laws, and for this purpose, may deputize such assistant police officers as may be necessary. During absence or disability, except as above provided, the city manager's duties shall be performed by another member appointed by the council. The mayor shall authenticate by signature such instruments as the council, this Charter, or the laws of the state shall require.

(e) On the first day of July following the regular municipal election and organization of the council, or as soon thereafter as may be practicable, the council shall elect a city manager, city clerk, city attorney, city assessor, and such other officers as may come within their jurisdiction, each of whom shall serve at the pleasure of the council, provided that the council may elect the city clerk, city manager, city attorney, city assessor, and such other officers for terms of one year each, beginning July 1, subject to removal by the council for cause, and in no event shall the council elect any officer for a term extending beyond June 30 next succeeding each regular biennial municipal election for members of the council.

§ 3.5. Ordinances and resolutions.

(a) Except in dealing with parliamentary procedure, the council shall act only by ordinance or resolution, and with the exception of ordinances making appropriations or authorizing the contracting of indebtedness, shall be confined to one subject, although nothing shall prevent council from acting collectively on a number of resolutions or ordinances by one comprehensive action approving a consent agenda containing all such resolutions and ordinances.

(b) Each proposed ordinance or resolution shall be introduced in a written or printed form, and the enacting clause of all ordinances passed by the council shall substantially be, "Be it ordained by the council of the city of Waynesboro, Virginia."

(c) No ordinance, or resolution having the effect of an ordinance, or resolution suspending an ordinance, unless it is an emergency measure, shall be passed until it has been considered at two meetings not less than one week apart, one of which shall be a regular meeting and the other of which may be either an adjourned or called meeting. Any ordinance or resolution considered at one such meeting may be amended and passed as amended at the next such meeting, provided that the amendment does not materially change the ordinance. No ordinance shall be amended unless such section or sections as are intended to be amended shall be reenacted. The ayes and noes shall be taken and recorded upon the passage of all ordinances or resolutions and entered upon the journal of the proceedings of the council. Except as otherwise provided in this Charter, an affirmative vote of a majority of the members elected to the council shall be necessary to adopt any ordinance or resolution.

(d) Effective date of ordinances; emergency measures. No ordinance passed by the council shall take effect until at least ten (10) days from the date of its passage, except that the council may, by the affirmative vote of the majority of its members, pass emergency measures to take effect at the time indicated therein or specifically provide that a nonemergency ordinance take effect immediately upon its passage.

(e) Recordation and authentication of ordinances; publication of ordinances; introduction of ordinances in evidence.

(1) Every ordinance, or resolution having the effect of an ordinance, when passed shall be recorded by the city clerk in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the city clerk.

(2) Every ordinance of a general or permanent nature shall be published in full once within ten (10) days after its final passage by posting a copy thereof at the front door of the municipal building and at two other public places in the city or, when ordered by the council, by publication in a newspaper published or circulated in the city for such time as the council may direct, provided that the foregoing requirements as to publication shall not apply to ordinances reordained in or by a general compilation or codification of ordinances printed by authority of the council.

(3) A record or entry made by the city clerk or a copy of such record or entry duly certified by said clerk shall be prima facie evidence of the terms of the ordinance and its due publication. All ordinances and resolutions of the council may be read in evidence in all courts and in all other proceedings in which it may be necessary to refer thereto, either from the original record thereof, from a copy thereof, certified by the city clerk, or from any volume of ordinances printed by authority of the council.

(f) Publication of indexed ordinances. The council shall from time to time direct the publication, with suitable index, of the city ordinances.

§ 3.6. Delivery of books and papers at end of term.

Any person holding a municipal office and vacating the same on account of removal or otherwise shall deliver over to such person's successor in office, or to the city clerk, all property and books and papers belonging to the city, or appertaining to such office which may be in such person's possession or under such person's control. In case of such person's failure to do so within ten (10) days after such person shall have vacated the office, or within such time thereafter as the council shall elect, and upon due notification or request of the city clerk, such person shall forfeit and pay to said city a sum not in excess of five hundred dollars (\$500.00), to be sued for and recovered with costs, and all books, records, documents, and other property used in such office by virtue of any provisions of this act or of any ordinance or resolution of the council, or by order of any superior officer of said city, shall be deemed the property of said city as appertaining to said office, and the incumbent of such office and the incumbent's sureties on incumbent's bond shall be responsible therefor.

§ 3.7. City clerk generally.

The city clerk shall attend all meetings thereof; shall keep a permanent record of its proceedings, as well as all papers, documents, and records pertaining to the city of Waynesboro, Virginia, the custody of which is not otherwise provided for; shall be custodian of the city seal and shall affix it to all documents and instruments requiring the seal, attesting the same; shall give to the proper department or officials ample notice of the expiration or termination of any franchise, contracts, or agreements; shall, upon final passage, transmit to the proper departments official copies of all ordinances or resolutions of the council relating in any way to such departments or to the duties of such officials; shall perform such other duties as are required by this Charter or by the council by ordinance or resolution.

§ 3.8. Vacancies in Charter offices.

(a) Vacancies in any offices provided for in this Charter shall be filled by the authority and in the manner provided herein for the original appointment or election of such officers.

(b) Vacancies in the council shall be filled by the remaining members of the council, except as otherwise provided by general law.

§ 3.9. Official bonds; oaths; penalties for failure to perform duties.

(a) All officers elected or appointed under the provisions of this Charter shall, unless otherwise provided by general law or by this Charter, execute such bonds with such approved corporate surety as may be required by general law, by this Charter, or by ordinance or resolution of the council, and file the same with the city clerk before entering upon the discharge of their duties. The city shall pay the premiums on such bonds if the requirements of this section have not been complied with by any officer within ten (10) days after the term of office shall have begun, or after his appointment to fill a vacancy, then such office shall be considered vacant.

(b) If any officer of the city of Waynesboro, whether elected by vote of the people or by the council or appointed by the council or the city manager, shall fail or refuse to perform any of the duties required by this Charter or by ordinance or resolution of the city council, such officer shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense, and such officer and sureties on such officer's official bond shall be liable for all damages which may accrue to the city or any other person by reason of such failure or refusal.

§ 3.10. Settlement of controversies between officers.

In the event the city manager, or other officer elected by the council, in the administration of such officer's respective duties shall disagree or have any controversy with any of the officers of the city elected by the voters, such matter in dispute or controversy shall be referred to the council for review and decision.

§ 3.11. Remedies upon default of bonded officer.

In case of default on the part of any bonded municipal officer, the city shall have the same remedies against such officer and any sureties as are provided for the state in enforcing the penalty of any official bond given to it.

§ 3.12. Official investigations.

(a) The council, the city manager, and any officer, board, or commission authorized by them, or either of them, shall have power to make investigation as to city affairs, and for such purpose to subpoena witnesses, administer oaths, and compel the production of books and papers.

(b) Any person refusing or failing to attend, testify, or produce such books and papers may, by summons issued by such board, commission, or officer, be summoned before the general district court of the said city by the board, commission, or official making such investigation, and, upon failure to give satisfactory explanation of such failure or refusal, may be fined by the said court not exceeding one hundred dollars (\$100.00) or imprisoned not exceeding thirty (30) days. Such person shall have the right to appeal to the circuit court of the city of Waynesboro, Virginia. Any person who shall give false testimony under oath at any such investigation shall be liable to prosecution for perjury.

CHAPTER 4.

CITY MANAGER.

§ 4.1. Vesting of executive and administrative powers of city; appointment, term and compensation of

city manager.

The administrative and executive powers of the city, including the power of appointment of officers and employees, are vested in an official to be known as the city manager, who shall be appointed by the council each year on July 1, or as soon thereafter as practicable, for a term of not exceeding one year unless sooner removed by the council upon proven charges preferred for malfeasance or misfeasance, neglect of duty, or incompetency. The city manager shall receive such compensation as shall be fixed by the council and shall devote all time to the business of the city.

§ 4.2. Powers and duties of city manager.

The city manager shall be responsible to the council for the proper administration of all affairs of the city coming within the city manager's jurisdiction under this Charter, the general law, or the ordinances or resolutions of the council. The city manager shall have the following powers and duties:

(1) To see that all laws and ordinances are enforced.

(2) To see that such city officers and employees as the council shall determine are necessary for the proper administration of the city be appointed, the same being removable by the city manager, except for publicly elected officials and officers and employees in the offices of the Treasurer and Commissioner of the Revenue, legal and judicial departments, and the clerical and other attendants of the council. The city manager shall report each appointment and removal to the council at the next meeting thereof following any such appointment or removal; to see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise or any contract are faithfully kept and performed; upon knowledge of any violation thereof to call the attention of the same to the council, whose duty it shall be forthwith to direct such steps as are necessary to protect and enforce the same.

(3) To exercise supervision and control over all departments and divisions created therein, or that may be hereafter created by the council, and have general supervision over all public improvements, works, and undertakings, except as otherwise provided in this Charter.

(4) To attend all meetings of the city council with the right of take part in the discussion, but having no vote.

(5) To recommend to the council for adoption such measures as are deemed necessary or expedient.

(6) To prepare the annual budget and keep the city council fully advised as to financial conditions and needs of the city.

(7) To make all such contracts on behalf of the city as may be authorized by this Charter, or in accordance with the provisions of the appropriation made by the council, or under continuing contracts or loans authorized under the provisions of this Charter, or pursuant to resolution or ordinance of the council.

(8) To perform such other duties as may be prescribed by this Charter, or be required by ordinance or resolution of the city council.

(9) To perform such other duties as may be prescribed by the council, not in conflict with the foregoing, and shall be bonded as the council may deem necessary.

§ 4.3. Departments; department heads, etc.; generally.

(a) The council shall by ordinance determine and prescribe the functions of each department and may create new departments, combine existing departments, and establish new departments for special work, when, in its opinion, the proper administration of the city requires it.

(b) The director of each department shall be appointed by and be immediately responsible to the city manager for the administration of the respective department, and each director shall be chosen on the basis of general executive and administrative experience and ability, and education, training, and experience in the class of work which is to be administered.

(c) Purchasing agent; purchases and sales.

(1) The city council shall designate some officer of the city as its purchasing agent, by whom all purchases of supplies for the city shall be made, and who shall approve all vouchers for the payment of same. The purchasing agent shall also conduct all sales of personal property that may be declared of no further use to the city by the proper official or officials.

(2) All purchases and sales shall conform to such regulations as the council may from time to time prescribe, but, in either case, opportunity for competition shall be given if the amount involved is in excess of five thousand dollars (\$5,000.00), except in case of emergency.

(3) Unless and until the council shall otherwise provide, the city manager shall act as such purchasing agent.

CHAPTER 5. BUDGETING; FINANCES.

§ 5.1. Fiscal year.

The fiscal year of the city of Waynesboro shall begin July 1 and end June 30.

§ 5.2. Submission of budget; tax levy; annual appropriation ordinance.

797 (a) *The annual calendar for the submission of budget, tax levy, and annual appropriation ordinance*
798 *shall be as follows:*

799 (1) *The Superintendent of Schools shall submit to the city council the school board's recommended*
800 *budget for the ensuing fiscal year at a public meeting of the council no later than the fourth Monday in*
801 *March.*

802 (2) *The city manager shall submit to the city council a recommended budget for the ensuing fiscal*
803 *year at a public meeting of the council no later than the first Monday in April.*

804 (3) *City council shall hold a reassessment public hearing as required by general law.*

805 (4) *City council shall hold a public hearing on the proposed tax rate ordinance for the ensuing fiscal*
806 *year and, following such hearing, introduce a tax rate ordinance for such fiscal year no later than the*
807 *second Monday in May.*

808 (5) *City council shall hold a public hearing on the proposed budget for the ensuing fiscal year no*
809 *later than the second Monday in May.*

810 (6) *City council shall introduce the annual appropriation ordinance for the ensuing fiscal year no*
811 *later than the fourth Monday in May.*

812 (7) *City council shall adopt the annual appropriation ordinance for the ensuing fiscal year no later*
813 *than the fourth Monday in June, specifying an effective date of the June 30 immediately following.*

814 § 5.3. *Disposition or transfer of unencumbered balances; limitations on obligations incurred by city*
815 *officer or employee.*

816 *At the close of each fiscal year, or upon the completion or abandonment at any time within the year*
817 *of any work, improvement, or other object for which a specific appropriation has been made, the*
818 *unencumbered balance of such appropriation shall revert to the general fund except that any*
819 *unencumbered balance of any such appropriation for the benefit of any of the city-operated public*
820 *utilities shall revert to the respective fund from which it was appropriated, and shall be subject to*
821 *further appropriation; provided, however, this does not prohibit the council from giving the city*
822 *manager permission to authorize such transfer within a department as may be necessary to meet*
823 *unexpected obligations. No obligations shall be incurred by an officer or employee of the city, except in*
824 *accordance with the provisions of the appropriations made by the council or under continuing contracts*
825 *and loans authorized under the provisions of this Charter.*

826 § 5.4. *Treasurer and commissioner of the revenue.*

827 (a) *Election, term, and compensation of treasurer and commissioner of revenue. There shall be for*
828 *the city of Waynesboro a treasurer and a commissioner of revenue, each of whom shall be elected in the*
829 *manner and at the time and to hold office for the term prescribed by law. They shall respectively*
830 *perform such duties, have such powers, and be liable to such penalties as may be prescribed by the*
831 *laws of the state or the ordinances of the city, made in pursuance thereof. For all services performed*
832 *for the city, the treasurer and commissioner of revenue shall receive such compensation as the council*
833 *may from time to time prescribe by ordinance, subject to approval by the state compensation board. In*
834 *the event such board and the council shall not be able to agree on the amount of such compensation,*
835 *the matter shall be submitted to the judge of the circuit court of the city for final determination.*

836 (b) *Bond of treasurer and commissioner of revenue. The city treasurer and city commissioner of*
837 *revenue shall each give bond in such sum or sums as the council may prescribe, with surety to be*
838 *approved by the council conditioned on the faithful discharge and performance of their respective duties*
839 *in relation to the revenue of the city under this Charter and under the ordinances of the city.*

840 (c) *Deputies of treasurer and commissioner of revenue. The treasurer and commissioner of revenue*
841 *may each appoint one or more deputies, provided the number of such appointments and the expenses of*
842 *such offices shall be subject to the approval of the council and state compensation board, and in the*
843 *event such board and the council shall not be able to agree on the amount of such compensation, the*
844 *matter shall be submitted to the judge of the circuit court of the city for final determination.*

845 (d) *Collection of taxes by treasurer, deputies, and designated officials. The treasurer, or the*
846 *treasurer's deputies, and any official designated by city council shall have any or all of the powers*
847 *which are now or may be hereafter vested in any officer of the state charged with the collection of state*
848 *taxes, and may collect the same in the same manner in which the state taxes are collected by any officer*
849 *of the state.*

850 (e) *Special assessments. In addition to the other powers conferred by law, the city shall have the*
851 *right and power to impose an assessment upon abutting owners for making and improving the walkway*
852 *upon then-existing public streets, and for improving and paving then-existing public alleys, and for*
853 *either the construction of or use of sewers, provided that the assessment so imposed shall not be in*
854 *excess of the peculiar benefits resulting therefrom to such abutting landowners. Such improvements may*
855 *be ordered by the council and the cost thereof apportioned in pursuance of an agreement between the*
856 *city and abutting landowners. And in the absence of an agreement, improvements, the cost of which is*
857 *to be defrayed in whole or in part by such local assessment, may be ordered on a petition from not less*
858 *than three-fourths (3/4) of the landowners affected thereby, or by a four-fifths (4/5) vote of all the*

members elected to the council. But notice shall first be given as provided by general law to the abutting landowners, notifying them when and where they may appear before the council or some committee thereof, or the administrative board or other similar board of the city to whom the matter may be referred, to be heard in favor of or against such improvements. The cost of such improvement, when the same shall have been ascertained, but not to exceed the peculiar benefits resulting therefrom to such abutting landowners, shall be assessed or apportioned by the council or some committee thereof, or by any officer or board authorized by the council to make such assessment or apportionment, between the city and the abutting landowners.

Notice to the abutting landowners of the amount assessed or apportioned shall be given pursuant to general law. Any abutting landowner aggrieved by such assessment shall have the right of appeal to the circuit court for the city of Waynesboro, Virginia, and the proceedings upon such appeal shall be in accordance with general law.

(f) Audits of accounts. Upon the death, resignation, removal, or expiration of the term of any officer of the city, the city manager may order an audit and investigation to be made of the accounts of such officer and report to the council. As soon as practicable after the close of each fiscal year, an annual audit shall be made of all accounts of the city officers. Such audit shall be made by qualified public accountants, selected by the council, who have no personal interest, direct or indirect, in the financial affairs of the city or any of its officers or employees. The council may at any time provide for an examination or audit of the accounts of any officer or department of the city government.

(g) If the commissioner of revenue ascertains that any person or any real or personal property has not been assessed for city taxation for any year, or that the same has been assessed at less than the law requires for any year, or that the taxes thereon for any cause have not been realized, it shall be the duty of the commissioner to list the same and assess city taxes thereon at the rate prescribed for that year, adding thereto interest and penalty at the maximum rate allowed by general law. Where the same was omitted by no fault of the person charged with the taxes, no interest shall be charged.

(h) The provisions of this Charter, in so far as applicable, with respect to the collection of taxes shall apply to the assessment and collection, and to the administration of the assessment and collection of taxes, on personal property and all classes thereof.

(i) All goods and chattels of any person against whom taxes for the city are assessed and unpaid may be distrained and sold for said taxes when due in the same manner and to the same extent that goods and chattels may be distrained and sold for state taxes.

(j) Power of commissioner of revenue, clerk, treasurer, and city manager to administer oaths, take and sign affidavits. The commissioner of the revenue, city clerk, city treasurer, and city manager shall have power to administer oaths and to take and sign affidavits in the discharge of their respective official duties.

CHAPTER 6. SCHOOLS.

§ 6.1. School board; generally.

(a) The school board shall be composed of five (5) members, to be elected from the qualified voters of the city at large, one of whom shall be a resident of Ward A, one a resident of Ward B, one a resident of Ward C, one a resident of Ward D, and one member at large who may be a resident of any ward. Their terms shall be for four (4) years except that all elections to fill vacancies shall be for the unexpired term.

(b) At the municipal election held in 2006 and every four (4) years thereafter, two (2) school board members shall be elected for terms of four (4) years, one from each ward from which a council member is simultaneously elected to a full term. At the municipal election held in 2008 and every four (4) years thereafter, three (3) city school board members shall be elected for terms of four (4) years, one from each ward from which a council member is simultaneously elected to a full term. Municipal elections shall be held and conducted at the time and in the manner provided for by state law. The persons elected shall take office on July 1 of the year in which they are elected.

(c) Vacancies on the school board shall be filled within thirty (30) days, for the unexpired term, by a majority vote of the remaining school board members until an election can be held in accordance with general state law.

(d) Any person qualified to vote in the city shall be eligible to be a member of the school board.

(e) Compensation for school board members shall be as prescribed by law.

(f) The organizational meeting of the school board shall take place on each July 1, or as soon thereafter as may be practicable.

(g) The school board shall be a body corporate under the designation, "Waynesboro School Board," by which name it may sue and be sued, contract and be contracted with, and purchase, take, hold, lease, and convey school property, both real and personal. The title to all public school property within the corporate limits of the city shall be vested in the Waynesboro School Board. By mutual consent of

920 *the school board and the council of the city, the title to the school property may vest in the city.*

921 *§ 6.2. School board, powers and duties.*

922 *(a) The school board shall establish and maintain in the city a general system of public free schools*
923 *in accordance with the requirements of the Constitution and general education policy of the*
924 *Commonwealth for the accomplishment of which purpose it shall have the powers and duties set forth*
925 *by general law and under this Charter.*

926 *(b) The school board shall submit to the council annually or more often an estimate of what funds*
927 *may be needed for the proper maintenance and growth of the public schools of the city.*

928 **2. That Chapter 3, as amended, of the 1948 Acts of Assembly is repealed.**