

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 338

An Act to provide a charter for the City of Alleghany Highlands resulting from the consolidation of the County of Alleghany and the City of Covington and to repeal Chapter 227, as amended, of the Acts of Assembly of 1954, which provided a charter for the City of Covington.

[H 1770]

Approved March 22, 2011

Be it enacted by the General Assembly of Virginia:

1.

CHARTER OF THE CITY OF ALLEGHANY HIGHLANDS

Chapter I Incorporation and Boundaries

§ 1.01. Incorporation.

The inhabitants of the territory comprised within the limits of the County of Alleghany and the City of Covington as they are or hereafter may be established by law, shall be a body politic and corporate under the name of the City of Alleghany Highlands and as such shall have perpetual succession, may sue and be sued, contract and be contracted with, and may have a corporate seal which it may alter at its pleasure.

§ 1.02. Boundaries.

The boundaries of the City of Alleghany Highlands shall coincide with the boundaries of the County of Alleghany so as to include all of the territory comprising the county and the City of Covington as existing immediately preceding the effective date of this charter. The boundaries are incorporated herein by reference to the Acts of Assembly of 1822, as amended, establishing the boundaries of Alleghany County.

Chapter II Powers

§ 2.01. General grant.

The city shall have and may exercise the powers set forth in Chapter 11 (§ 15.2-1100 et seq.) of Title 15.2 of the Code of Virginia, 1950, as amended. In addition thereto, the city shall have and may exercise all other powers which are now or may hereafter be conferred upon or delegated to cities under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of a city government, which in the opinion of the council are necessary or desirable to promote the general welfare of the city and the safety, health, peace, good order, comfort, convenience, and morals of its inhabitants. No enumeration of particular powers in this charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers.

§ 2.02. Financial powers.

In addition to powers granted elsewhere in this charter, the city shall have the power to raise by taxes, assessments, and service fees as permitted by general law such sums of money as the council, in its sole discretion, shall deem necessary to pay the debts, defray the expenses of the city, and maintain reasonable reserves and surpluses. Without limiting the generality of the foregoing, but in addition thereto, the city shall have the following additional powers:

1. To levy an additional tax in such areas of the city wherein the city provides additional or more complete services of government than are provided in the city as a whole. The additional taxes shall be used to pay for the additional or more complete services. Such higher tax rate shall not be levied for school or general government services but only for those services which are not offered on a uniform basis in all the territory within the boundaries of the city. The proceeds from the higher tax rate shall be so segregated as to enable the same to be expended in the areas in which the proceeds were raised. Such areas are those established in the consolidation agreement or established by council and shall be known as special service districts;

2. To charge interest at the legal rate of interest on the unpaid balance in the event fees, rents, or charges payable for the use and services of any public utility or public service supplied by the city for or in connection with any real property are not paid when due. Such fees, rents, or charges and the interest due thereon shall constitute a lien against such property, ranking on a parity with liens for unpaid town, city, or county taxes, and shall also be recoverable by the city in an action at law or a suit in equity;

3. To levy and collect taxes for admission to or other charge for any public amusement, entertainment, performance, exhibition, sport, or athletic event in the city, which taxes may be added to and collected with the price of such admission or other charge; and to levy and collect meals and

transient occupancy taxes; and

4. To levy and provide for the assessment and collection of license taxes on all public service corporations doing business within the city in such manner as the council shall deem expedient in accordance with the laws of the Commonwealth; such authority shall be in addition to other provisions of law permitting the imposition of license taxes on businesses, trades, professions, occupations, and callings and upon the persons, firms, and corporations engaged therein within the city.

Chapter III City Council

§ 3.01. Composition.

A. The initial council shall consist of seven members. The mayor and vice-mayor are to be chosen from the members of council by majority vote of all the members of the council for terms of two years. Each of the seven members is to be elected from and by the duly qualified voters of each one of seven election districts. Each member elected from an election district shall be a qualified voter of that district, shall reside therein, and shall be elected by the qualified voters thereof.

B. The initial election districts shall be those generally described in the consolidation agreement between Alleghany County and the City of Covington and may be changed from time to time as provided by applicable law.

C. The initial council members shall be first elected, and the mayor and vice-mayor shall be first appointed, as provided in the consolidation agreement. After the initial election, elections for council members shall be held on the Tuesday after the first Monday in November of every even-numbered year for staggered terms of four years, each to commence on the January 1 following the election.

D. In the event of any vacancy of council of the consolidated city, such vacancy shall be filled in accordance with the provisions of applicable law.

§ 3.02. Compensation.

The initial council shall determine the compensation of the mayor, vice-mayor, and council members as provided by applicable law. Such compensation may be changed from time to time as provided by law.

§ 3.03. Powers.

All powers vested in the city shall be exercised by the council, except as otherwise provided in this charter. In addition to the foregoing, the council shall have the following powers:

1. To provide for the organization, conduct, and operation of all departments, bureaus, divisions, boards, commissions, offices, and agencies of the city;

2. To create, alter, or abolish departments, bureaus, divisions, offices, and agencies, except as specifically provided herein to the contrary;

3. To assign and reassign personnel to all departments, bureaus, divisions, offices, and agencies, except as specifically provided herein to the contrary;

4. To provide for the number, titles, qualifications, powers, duties, and compensation of all officers and employees of the city; and

5. To provide for the form of oaths and the amount and condition of surety bonds to be required of certain officers and employees of the city, including, when authorized by general law, constitutional officers and their deputies, assistants, and employees.

§ 3.04. Procedural powers.

The council shall have the power, subject to the provisions of this charter, to adopt its own rules of procedure, which rules shall be for the convenience of the council only. Such rules shall provide for the time and place of holding regular meetings of the council which shall be at least once each month. The rules shall also provide for the calling of special meetings by the mayor, the city manager, or any three members of the council and shall prescribe the methods of giving notice thereof. A majority of the council shall constitute a quorum for the transaction of business. No ordinance, resolution, motion or vote, other than motions to adjourn, to fix the time and place of adjournment and other motions of a purely procedural nature, shall be adopted by the council except at a meeting open to the public.

§ 3.05. Mayor.

The mayor shall preside over the meetings of council, shall act as head of the city government for ceremonial purposes, and shall have such other powers and duties as the council may prescribe. The mayor shall have the same powers and duties as other members of council, with a vote, but no veto.

§ 3.06. Vice-Mayor.

The vice-mayor shall preside in the absence of the mayor. The vice-mayor shall have the same rights, privileges, and duties as other members of council, with a vote, but no veto.

§ 3.07. Clerk.

The council shall appoint to serve at the pleasure of the council, a city clerk, who shall be clerk to the council and custodian of the corporate seal of the city and shall have such further duties as the council may prescribe.

§ 3.08. Ordinances.

No ordinance, unless it is an emergency ordinance, shall be passed until a descriptive notice of an intention to propose the same for passage has been published once a week for two successive weeks

prior to its adoption in some newspaper having a general circulation in the city. The second publication shall not be sooner than one calendar week after the first publication. The publication shall include a statement that a copy of the full text of the ordinance is on file in the office of the city manager. After the enactment of such ordinance by council, the ordinance shall become effective upon adoption or upon a date fixed by council. Emergency ordinances may be adopted without notice of intention, but no emergency ordinance shall be enforced for more than 60 days unless readopted in conformity with the provisions of this section.

Chapter IV City Manager

§ 4.01. Appointment; qualifications.

The council shall appoint a city manager who shall be the chief executive officer and the chief administrative officer of the city government. The city manager shall be chosen solely on the basis of executive and administrative qualifications and shall serve at the pleasure of the council.

§ 4.02. Powers and duties.

The city manager shall be responsible for the proper administration of all the affairs of the city which the council has authority to control, except the legal department. As the administrative and executive head of the city government, the city manager shall be responsible to the council for supervising the collection of all revenues, guarding adequately all expenditures, securing proper accounting for all funds, looking after the physical property of the city, exercising general supervision over all city departments, institutions, and agencies, and coordinating the various activities of the city and unifying the management of its affairs. To accomplish these purposes the city manager shall have the following specific powers and duties:

1. The city manager shall appoint all employees in the service of the city, except the city attorney who shall be appointed by the council. All appointments shall be on the basis of ability, training, and experience of the appointees which fit them for the work they are to perform. All appointments shall be without definite term, unless for temporary service not to exceed 60 days. Any employee of the city appointed by the city manager may be laid off, suspended, or removed from employment by the city manager.

2. The city manager may be appointed by the council to act as the director or head of one or more or all departments of the city, provided the city manager is otherwise eligible to head such department or departments.

3. With the approval of the council, the city manager shall fix the compensation of all employees whom the city manager or a subordinate appoints or employs.

4. The city manager shall enforce all resolutions, ordinances, and orders of the council and see that all laws of the Commonwealth required to be enforced through the council or other city officers subject to the control of the council are faithfully executed.

5. The city manager shall attend all meetings of the council and have the right to take part in all discussions, to present the city manager's views on all matters coming before the council, and to recommend such action as the manager may deem expedient.

6. The city manager shall submit to the council each year a proposed annual budget, with the city manager's recommendations, and execute the budget as finally adopted.

7. The city manager shall make regular monthly reports to the council in regard to matters of administration and keep the council fully advised as to the financial condition of the city.

8. The city manager shall examine regularly the books and papers of every officer and department of the city and report to the council the condition in which he finds them.

9. The city manager shall perform such other duties as may be imposed upon the manager by the council.

Chapter V Borrowing

§ 5.01. Power.

The council may, in the name of and for the use of the city, incur indebtedness by issuing its negotiable bonds or notes for the purposes, in the manner, and to the extent, provided in this chapter or by general law.

§ 5.02. Purposes for which bonds or notes may be issued.

Bonds, and notes in anticipation of bonds when the issuance of bonds has been authorized as hereinafter provided, may be issued for any purpose for which cities are authorized to issue bonds by the Constitution of Virginia or general law. Notes may be issued, when authorized by the council, at any time during the current fiscal year for the purpose of meeting appropriations made for such fiscal year, in anticipation of the collection of the taxes and revenues of such fiscal year, and within the amount of such appropriations.

§ 5.03. Limitations on indebtedness.

In the issuance of bonds and notes, the city shall be subject to the limitations as to amount contained in Article VII, Section 10(a) of the Constitution of Virginia.

§ 5.04. Form of bonds and notes.

Bonds and notes of the city shall be issued in the manner provided by general law.

§ 5.05. When bond election required.

A. Notwithstanding any other provision of general law, no bonds or other interest bearing obligations of the following classes of indebtedness shall be issued by the city until their issuance shall have been authorized by a majority of the qualified voters of the city voting on the question at a general or special election held for that purpose in the manner provided by general law: (1) the council may not, in the name and for the use and benefit of the city, issue, negotiate, and sell bonds, to the payment of which the council shall pledge the full faith and credit of the city, in any amount or amounts exceeding \$10 million in any one fiscal year for any capital expenditures, including costs of issuance, other than for capital expenditures relating to the city's public schools, without submitting the question of their issuance to the qualified voters of the city; and (2) the council may not, in the name and for the use and benefit of the city, issue, negotiate, and sell bonds for capital improvements, including costs of issuance, that are payable solely from the revenues and receipts derived from the city's water system, sewer system, or any other specific undertaking from which the city may derive a revenue, in any amount or amounts exceeding \$25 million in any one fiscal year, without submitting the question of their issuance to the qualified voters of the city.

B. For purposes of determining the amount of bonds that may be issued pursuant to this section, refunding bonds shall not be included, and the terms "bonds" and "notes" as used in this section shall not include contractual obligations of the city other than bonds and notes.

C. The question or proposition submitted to the voters shall state in general terms the purpose or purposes of the proposed bond issue and the actual or maximum amount of the bond issue. All other details of the bond issue shall be left to be determined by the council of the city. No question as to the validity of such an election, or as to the determination of the result thereof, shall be raised in any court except in an action or proceeding commenced within 10 days after the determination of the result of such election.

§ 5.06. Payment of bonds and notes.

The power and obligations of the city to pay any and all bonds and notes issued pursuant to this chapter, except revenue bonds made payable solely from revenue-producing properties, shall be unlimited, and the city shall levy ad valorem taxes upon all taxable property within the city for the payment of such bonds or notes and the interest thereon, without limitation as to rate or amount. The full faith and credit of the city are hereby pledged for the payment of the principal and interest on all bonds and notes of the former City of Covington and the former County of Alleghany, issued and outstanding on the effective date of this charter, and of the city hereafter issued pursuant to this charter, except revenue bonds made payable solely from revenue-producing properties, whether or not such pledge is stated in the bonds or notes or in the bond ordinance authorizing their issuance.

*Chapter VI
Education*

§ 6.01. School board and division.

Notwithstanding any other provision of law, there shall be a school division and board for the City of Alleghany Highlands, which shall be known as the City of Alleghany Highlands School Division and Board. The existing Alleghany County School Division and Board and the existing City of Covington School Division and Board shall cease to exist, and the new school division shall be formed and become effective on July 1, 2013. The title to all school property, whether real or personal, tangible or intangible, of the Alleghany County School Division and the City of Covington School Division shall be vested in the City of Alleghany Highlands School Division as of that date, without further act or deed.

§ 6.02. School board.

The school board shall be composed of seven members who shall be duly qualified voters and who shall be appointed by council. One member shall be selected from each of the seven city council election districts. The council shall appoint school board members for terms of four years, except that initially the council shall appoint four members to a one year term commencing July 1, 2013, and ending June 30, 2014, and three members to a three year term commencing July 1, 2013, and ending June 30, 2016, thereby instituting staggered terms of office.

Notwithstanding such terms of office, the initial seven members of the school board shall be appointed no later than February 1, 2013, and shall assume office immediately upon qualification and shall hold office prior to the effective date of consolidation, but only for the following limited purposes: (i) to organize themselves and elect one of their members as chair of the City of Alleghany Highlands School Board; (ii) to designate the division superintendent for the City of Alleghany Highlands School Division; and (iii) to prepare, approve, and submit a budget to the council of the consolidated city with an estimate of required local funding for the City of Alleghany Highlands School Division for the fiscal year beginning July 1, 2013. Upon the effective date of school consolidation, the members of the consolidated city school board shall assume full powers, duties, rights, and responsibilities of their offices. Vacancies on the consolidated school board shall be filled by the council for any unexpired terms.

§ 6.03. School superintendent.

The persons holding office as the superintendents of the Alleghany County School Division and the City of Covington School Division shall continue in office for the unexpired portion of the terms to which they were appointed, at no lower rate of pay than they received at the effective date of consolidation. The school board shall designate one of such persons as division superintendent and the other as associate superintendent. If the designation is not made on or before March 1, 2013, the designation shall be made by the circuit court for the consolidated city. In the event of a vacancy in the position of superintendent or associate superintendent during the term to which appointed, the remaining incumbent shall be the superintendent and the position of associate superintendent shall be abolished. After the term to which the initial superintendent is appointed, the superintendent shall be appointed as provided by general law.

§ 6.04. Elementary school attendance zones.

In addition to other powers, duties, and obligations granted to the school board by the laws of the Commonwealth, the school board shall take care that elementary schools are so located near pupil population that pupil assignment plans will contribute to the efficiency of the school division and minimize busing.

*Chapter VII
Law Enforcement*

§ 7.01. City Sheriff.

Law enforcement in the city shall be the responsibility of the city sheriff. The consolidated city shall not have a police chief appointed by the council of the consolidated city or its city manager. The city sheriff shall have all the powers and duties of sheriffs as provided by general law and shall be responsible for preservation of the public peace, protection of the rights of persons and property, and enforcement of the laws of the Commonwealth and the ordinances of the city.

§ 7.02. Additional functions of sheriff.

The city sheriff shall perform such additional duties, not inconsistent with his office, as the city council shall direct, and he shall be accountable to the city council as to such additional duties only.

*Chapter VIII
Utility Services*

§ 8.01. Utility service districts.

The council may charge and collect such fees, rents, and charges for water, sewer, and other utility services provided by the city as may be authorized by law. Such fees, rents, and charges, being in the nature of use or service charges, shall, as nearly as the governing body shall deem practicable and equitable, be uniform for the same type, class, and amount of use or service. Differing levels of services in existing service areas, differing investments in treatment, transmission, and collection facilities, and differing operating expenses may be compensated for and handled by separate rate levels within various districts in the city, which may be established by the consolidation agreement or by council and shall be known as utility service districts.

§ 8.02. Utilities defined.

For purposes of this chapter, utility services are defined as the production, transmission, delivery, or furnishing of heat, gas, water, light, power, sewerage collection and treatment or solid waste collection, recycling, and disposal services, either directly or indirectly, to or for the public by the city.

§ 8.03. Refuse disposal service districts.

The council may impose a monthly fee or charge to be paid by users of refuse disposal services in one or more refuse disposal service districts in the city. A fee or charge may be imposed for the purpose of paying all or a portion of liabilities for expenses, such as closure costs, resulting from the use of a landfill for refuse disposal prior to the effective date of consolidation by customers located within the area of such district. Any such district may be created by the consolidation agreement or by council for a period not exceeding 20 years. Such a monthly fee or charge within a refuse disposal service district shall be in addition to other fees, if any, that the council may impose for refuse collection, disposal, or recycling services.

*Chapter IX
Constitutional Officers*

§ 9.01. Powers and duties.

The clerk of the circuit court, attorney for the Commonwealth, commissioner of revenue, city treasurer, and city sheriff shall have the powers and perform such duties as are provided by the Constitution of Virginia, and, except as otherwise provided in this charter, as are provided by general law.

§ 9.02. Election and terms of office.

A. Upon the effective date of consolidation, the clerk of the circuit court, the attorney for the Commonwealth, and the sheriffs of the County of Alleghany and the City of Covington shall continue in office until January 1 following the next regularly scheduled election for each city constitutional officer pursuant to § 24.2-217 of the Code of Virginia, as amended, whether or not the term to which such officer was elected may have expired prior to that date. Thereafter, such constitutional officers of the city shall be elected as provided by the Constitution of Virginia and general laws of the Commonwealth.

B. The treasurer and the commissioner of revenue for the city shall be determined by agreement between those persons holding such respective offices on the effective date of consolidation, and the others shall become assistants or chief deputies, upon filing of a certification of said agreement in the Circuit Court of Alleghany County. In the event no agreement is reached or no certification is filed before December 1 prior to the effective date of consolidation, the Circuit Court of Alleghany County shall designate one officer as principal and the others as assistants or chief deputies. Each such constitutional officer shall continue in office, whether as the principal officer or as chief deputy, until January 1 following the next regularly scheduled election for each city constitutional officer pursuant to § 24.2-217 of the Code of Virginia, as amended, whether or not the term to which such officer was elected may have expired prior to that date. In the event of a vacancy in the office of assistant or chief deputy created pursuant to the provisions of this chapter, during said term, the position shall be abolished.

Chapter X Miscellaneous Provisions

§ 10.01. Consolidation agreement.

The consolidation agreement referred to in this charter is the agreement dated July 13, 2010, and any amendments thereto, made and entered into by and between the Committee appointed by order of the Circuit Court of Alleghany County dated November 23, 2009, to act for and in lieu of the governing body of the County of Alleghany, and the Committee appointed by order of the Circuit Court of Alleghany County dated November 23, 2009, to act for and in lieu of the governing body of the City of Covington, pursuant to § 15.2-3531 of the Code of Virginia, as amended.

§ 10.02. Assets of former city and county.

All property, real and personal, tangible and intangible, of the County of Alleghany and the City of Covington and of their respective school divisions and school boards, including debts owed to each, shall on the effective date of this charter become the property of and be vested in the City of Alleghany Highlands, without any further act or deed.

§ 10.03. Ordinances continued in effect.

All ordinances, rules, regulations, and orders legally made by the City of Covington and the County of Alleghany in force on the effective date of this charter, insofar as they or any portion thereof are not inconsistent with this charter or the consolidation agreement, shall remain in full force and effect as provided in the consolidation agreement.

§ 10.04. Township of Clifton Forge.

The Town of Clifton Forge shall continue as a township as provided by § 15.2-3548 of the Code of Virginia, as amended. The city shall exercise such powers in the township as exercised by the county in the town prior to the effective date of this charter. Notwithstanding any provision of general law, the township of Clifton Forge shall have the right to exercise the powers granted to towns by Article 1 (§ 15.2-3200 et seq.) of Chapter 32 of Title 15.2 of the Code of Virginia, as amended, as provided in the consolidation agreement.

§ 10.05. Township of Iron Gate.

The Town of Iron Gate shall continue as a township as provided by § 15.2-3548 of the Code of Virginia, as amended. The city shall exercise such powers in the township as exercised by the county in the town prior to the effective date of this charter. Notwithstanding any provision of general law, the township of Iron Gate shall have the right to exercise the powers granted to towns by Article 1 (§ 15.2-3200 et seq.) of Chapter 32 of Title 15.2 of the Code of Virginia, as amended, as provided in the consolidation agreement.

§ 10.06. Annulment of township charters.

The township of Clifton Forge or the township of Iron Gate may enter into an agreement with the city and thereafter petition the circuit court for an order requiring a referendum on the question of whether the township charter should be annulled and repealed, as provided in Chapter 37 (§ 15.2-3700 et seq.) of Title 15.2 of the Code of Virginia, mutatis mutandis.

§ 10.07. Appointments by courts.

All appointments required for this charter or by general law to be made by the circuit court or the judge or judges thereof shall be made by the judge normally designated by the chief judge of the judicial circuit to preside at the sessions of the circuit court in the City of Alleghany Highlands.

§ 10.08. Plan of government.

The plan of government provided by this charter may be changed to any other plan for the government of cities in the manner provided by general law.

§ 10.09. Reference to Code of Virginia.

The repeal of any section of the Code of Virginia to which this charter may refer shall not affect the validity of this charter or any provision thereof, which shall remain as valid as if there had been no such repeal, unless the context clearly indicates otherwise. Reference to any section of the Code of Virginia which may hereafter be recodified, shall be deemed references to the appropriate recodified section, unless the context clearly indicates otherwise.

§ 10.10. Severability.

In the event that any portion, section, or provision of this charter shall be declared illegal, invalid, or unconstitutional by final judgment of any court of competent jurisdiction, such judgment shall not invalidate any other portion, section, or provisions hereof, but all parts of this charter not expressly held to be invalid shall remain in full force and effect.

2. That Chapter 227, as amended, of the Acts of Assembly of 1954 is repealed.

3. That this act shall become effective at midnight on December 31, 2012, provided the consolidation of the County of Alleghany and the City of Covington be ordered by the Circuit Court of Alleghany County prior thereto.