

VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

CHAPTER 689

An Act to amend and reenact § 2.3, §§ 2.4, 2.6, 2.7, and 3.1, as amended, §§ 3.2 and 3.3, § 3.4, as amended, § 3.7, §§ 3.8, 4.1, and 4.2, as amended, § 4.3, §§ 5.2, 5.3, 5.5, and 5.6, as amended, § 5.8, §§ 6.3, 7.2, 9.2, and 9.3, as amended, §§ 10.1 and 12.1, § 12.2, as amended, and §§ 12.4, 12.5, and 12.6 of Chapter 319 of the Acts of Assembly of 1966, which provided a charter for the City of Fairfax; to amend Chapter 319 of the Acts of Assembly of 1966 by adding sections numbered 10.4:1 and 10.5:1; and to repeal § 9.1 of Chapter 319 of the Acts of Assembly of 1966, relating to the mayor, city council, city powers, the fire department, and the school board.

[S 238]

Approved April 6, 2014

Be it enacted by the General Assembly of Virginia:

1. That § 2.3, §§ 2.4, 2.6, 2.7, and 3.1, as amended, §§ 3.2 and 3.3, § 3.4, as amended, § 3.7, §§ 3.8, 4.1, and 4.2, as amended, § 4.3, §§ 5.2, 5.3, 5.5, and 5.6, as amended, § 5.8, §§ 6.3, 7.2, 9.2, and 9.3, as amended, §§ 10.1 and 12.1, § 12.2, as amended, and §§ 12.4, 12.5, and 12.6 of Chapter 319 of the Acts of Assembly of 1966 are amended and reenacted and that Chapter 319 of the Acts of Assembly of 1966 is amended by adding sections numbered 10.4:1 and 10.5:1 as follows:

§ 2.3. The powers set forth in § 15.1-837 through 15.1-907 of Chapter 18 of Title 15.1 of the Code of Virginia (1950), as amended, as in force January 1, 1966, Article 1 (§ 15.2-1100 et seq.) of Chapter 11 of Title 15.2 of the Code of Virginia, and any acts amendatory thereof or supplementary thereto are hereby conferred on and vested in the City of Fairfax.

§ 2.4. Property assessments.

(a) The City Council shall provide for the annual assessment and reassessment of real estate for taxation.

(b) All real estate shall be assessed at its fair market value and the taxes for each year on such real estate shall be extended on the basis of the last assessment made prior to such year, subject to such changes as may have been lawfully made.

(c) The Assessor shall prepare the land books and extend the taxes thereon and perform all the duties required by law to be performed in respect to real estate assessments. The Clerk of the Circuit Court of Fairfax County, Fairfax, Virginia, shall furnish to the Assessor the list of real estate transfers within the City of Fairfax.

(d) Notwithstanding the provisions of § 58.1-3370 of the Code of Virginia, the Circuit Court of Fairfax County, Virginia, or the judge thereof in vacation, shall appoint for the City a Board of Equalization of Real Estate Assessments, to be composed of three members, who shall be freeholders of the City, and who shall be selected by the court or judge from the citizens of the City. Initially one member shall be appointed for a term of three years, one for a term of two years and one for a term of one year. Each succeeding year thereafter one member shall be appointed for a term of three years. All terms shall run from the first day of December in the year of appointment until the thirtieth day of November in the year of expiration, the terms of the members first appointed shall begin on the day of appointment. Members shall hold over until a successor is appointed and qualifies. Such court or judge thereof in vacation may reappoint any member upon the expiration of his term and shall fill any vacancy upon the Board for the unexpired term. The members of the Board shall receive per diem compensation for the time actually engaged in the duties of the Board, to be fixed by the Council, and paid out of the Treasury of the City; provided, however, the Council, may limit the per diem compensation to such number of days as in its opinion is sufficient for the completion of the work of the Board. Such Board of Equalization shall have and may exercise the power to revise, correct and amend any assessment of real estate made by the Assessor in the calendar year in which they serve and to that end shall have all the powers conferred upon Boards of Equalization by Article 14 of Chapter 32 of Title 58.1 of the Code of Virginia, and any acts amendatory thereof and supplemental thereto. Notwithstanding such Chapter, however, the Board of Equalization may adopt any regulations providing for the oral presentation, without formal petitions or other pleading or requests for review, and looking to the further facilitation and simplification of proceedings before the Board.

(e) The City of Fairfax and any person aggrieved by any correction or assessment made by the Assessor or the Board of Equalization may apply for relief in the manner provided by §§ 58.1-3382, 58.1-3982 and 58.1-3984 of the Code of Virginia and any acts amendatory thereof and supplemental thereto.

(f) This section shall not apply to any real estate assessable under law by the State Corporation Commission.

(g) All provisions of law relating to the assessment of real estate in cities not in conflict with the

provisions of this section shall apply to the assessment made pursuant thereto.

§ 2.6. Contractual relationships.

The City of ~~Fairfax~~ may enter into contractual relationships with the Commonwealth and/or its departments, bureaus, boards and agencies, with other political subdivisions, with authorities, including regional authorities, and with private agencies on such terms and for such periods as the Council may determine to be in the public interest in order to promote the education, health, safety, and general welfare of its residents. Such contracts may include, but shall not be limited to, schools, libraries, sewage collection and disposal, water supply, police and fire protection, mass or rapid transit, parks, playgrounds and open spaces.

§ 2.7. Eminent domain.

The powers of eminent domain set forth in Title 15.2, ~~Title 25~~, Chapter ~~1-1~~ 2 of Title 25.1 and Chapter 1 of Title 33.1, ~~Chapter 1~~, of the 1950 Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, mutatis mutandis, are hereby conferred upon the City of ~~Fairfax~~.

(a) In any case in which a petition for condemnation is filed by or on behalf of the City, a true copy of a resolution or ordinance duly adopted by the City Council declaring the necessity for any taking or damaging of any property, within or without the City, for the public purposes of the City, shall be filed with the petition and shall constitute sufficient evidence of the necessity of the exercise of the powers of eminent domain by the City. The City may employ the procedures conferred by the foregoing laws, mutatis mutandis, and may, in addition thereto, proceed as hereinafter provided.

(b) Certificates issued pursuant to §§ 33.1-121 to 33.1-129, inclusive, and § 33.1-119, of the Code of Virginia, 1950, as amended, and acts amendatory thereof and supplemental thereto, may be issued by the City Council, signed by the Mayor and countersigned by the City Treasurer. Such certificate shall have the same effect as certificates issued by the Commonwealth Transportation Commissioner, under the aforesaid laws, and may be issued in any case in which the City proposes to acquire property of any kind by the exercise of its powers of eminent domain for any lawful public purpose, whether within or without the City; provided, however, that the provisions of § 33.1-119, of the Code of Virginia, 1950, as amended, and acts amendatory thereof and supplemental thereto, shall not be used for the acquisition of lands, easements or related interests in property located outside of the City except for the acquisition of said interests necessary for streets, water, sewer or utility pipes or lines or related facilities.

(c) In addition to the powers conferred by the aforesaid laws, such certificates may be amended or cancelled by the Court having jurisdiction of the proceedings, upon petition of the City, at any time after the filing thereof, provided that the Court shall have jurisdiction to make such order for the payment of costs and damages, if any, or the refund of any excessive sums theretofore paid pursuant to such certificate as shall, upon due notice and hearing, appear just. The Court shall have jurisdiction to require refunding bonds, for good cause shown by the City or any other person or party in interest, prior to authorizing any distribution of funds pursuant to any certificate issued or deposit made by the City.

§ 3.1. Election of ~~councilmen~~ Council members and Mayor.

On the first Tuesday in May, 1972, and in every second year thereafter there shall be held a general city election at which shall be elected by the qualified voters of the City at large six members of the Council and a Mayor for terms of two years. The terms of Council members and Mayor are to begin on the first day of July following their election.

All elections held pursuant to the prior provisions of this section are hereby ratified and confirmed.

§ 3.2. Nomination of candidates.

Candidates for the office of ~~Councilmen~~ Council member and Mayor may be nominated under general law. There shall be printed on the ballots used in the election of ~~Councilmen~~ Council member the names of all candidates who have been so nominated.

§ 3.3. Conduct of general municipal election.

The ballots used in the election of ~~Councilmen~~ Council members and Mayor shall be without any distinguishing mark or symbol. Each qualified voter shall be entitled to cast one vote for each of as many as six Council candidates and no more. In counting the vote, any ballot found to have been voted for more than six Council candidates shall be void as to those votes but no ballot shall be void for having been voted for a less number. The six Council candidates and the candidate for Mayor receiving the highest number of votes cast in such election shall be declared elected. The general laws of the Commonwealth relating to the conduct of elections, so far as pertinent, shall apply to the conduct of the general municipal election.

§ 3.4. Vacancies in office of mayor or ~~councilmember~~ Council.

A vacancy in the office of the Mayor or in the Council, from whatever cause arising, shall be filled in accordance with the general laws of the Commonwealth relating to the filling of vacancies in such local offices, so far as pertinent.

§ 3.7. Eligibility of federal employees.

No person, otherwise eligible, shall be disqualified by reason of his accepting or holding an office, post, trust, or emolument under the Government of the United States from serving as Mayor or ~~Councilman~~ Council member, as an officer or employee of the City, or as a member of any board or commission.

§ 3.8. Advisory referendum.

The ~~City~~ Council, by majority vote of the entire Council, may submit to the qualified voters of the City for advisory purposes, any question or group of questions relating to the affairs of the City. Any such advisory referendum shall be conducted in the manner provided for bond elections, but the results thereof shall not be binding upon the ~~City~~ Council. There shall be no right of appeal from or recount of the results of an advisory referendum.

§ 4.1. City collector.

The Council may appoint a City Collector for an indefinite term and shall fix his salary, which shall be paid from the City Treasury. All of the duties theretofore performed by the Treasurer of the City of ~~Fairfax~~ in connection with the collection of taxes, special assessments, license fees, and other revenues of the City shall devolve upon the City Collector, when appointed. The City Collector shall be required to take an oath of office and shall furnish a bond with corporate surety in the manner and amount required by City ordinance. The City Collector shall have the following powers and shall be charged with the following duties and functions:

(a) The collection of all taxes, special assessments, license fees and other revenues of the City or for the collection of which the City is responsible.

(b) To transfer to and place in the custody of the City Treasurer all public funds belonging to or under the control of the City and to receive and maintain complete and accurate receipts and records thereof.

(c) The City Collector shall have any and all powers which are now or may hereafter be vested in any officer of the Commonwealth charged with the collection of State taxes in order to collect all City taxes, special assessments, license fees and other revenues of the City and may collect the same in the same manner by which State taxes are collected by an officer of the Commonwealth.

(d) The City Collector shall have power to use all legal means of collecting all delinquent City taxes, levies, special assessments, license fees, charges and other revenues of the City. The City Collector shall have the power to conduct public sales of real estate upon which delinquent taxes, levies or charges assessed thereon have not been paid for three consecutive years and may institute suits in equity to enforce any lien in favor of the City against any property within the City to which such lien may lawfully attach. The Council may determine by ordinance the procedure for the conduct of such sales not inconsistent with general law and the City Collector shall comply therewith.

§ 4.2. Department heads.

All department heads shall be chosen on the basis of their executive, technical, and administrative qualifications, with special reference to their actual experience in or knowledge of accepted practices with respect to the duties of the offices for which they are appointed. All department heads will be appointed and removed by the City Manager after he has received the concurrence of the ~~City~~ Council. At the time of the appointment said officials need not be residents of the City or the Commonwealth, but the Council, where deemed necessary, may require any City official during his tenure to reside within the City.

§ 4.3. Assistant registrars.

Whenever, in the judgment of the ~~City~~ Council, the Office of the Registrar shall require additional personnel the ~~City~~ Council may appoint such assistant registrars as may be required for the proper and efficient conduct of that office. The term and compensation for such appointments shall be determined by the ~~City~~ Council and paid from the City Treasury.

§ 5.2. 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:

(a) To provide for the organization, conduct and operation of all departments, bureaus, divisions, boards, commissions, offices and agencies of the City.

(b) To create, alter or abolish departments, bureaus, divisions, boards, commissions and offices.

(c) To designate the time and place for all Council meetings; provided, that special meetings of the Council may be called at the request of the Mayor or of not less than three members thereof.

(d) To provide for the number, titles, qualifications, power, duties and compensation of all officers and employees of the City, and to supplement the salary of any elected official and his deputies and employees other than the Mayor and ~~Councilmen~~ *Council members*, provided that any such supplement shall not exceed the maximum permitted by general law.

(e) To provide for compensation of *the* Mayor in accordance with § 15.2-1414.6 of the Code of Virginia.

(f) To provide for compensation of members of boards or commissions in an amount not to exceed \$50 per meeting.

§ 5.3. Mayor.

The Mayor shall preside over the meetings of the Council and shall have the same right to speak. The Mayor shall have the power of veto which veto may be overridden by the ~~City~~ Council as provided herein. He shall not have the right to vote except in case of a tie *and, in the event of a tie, only when not expressly prohibited under the Constitution or general laws of the Commonwealth of Virginia.* He

shall be recognized as the head of the City government for all ceremonial purposes, the purposes of military law and the service of civil process, *and he shall be the principal representative of the City in interjurisdictional matters*. In the absence or disability of the Mayor, the Mayor may designate a member of the Council to *serve as Acting Mayor* and perform the duties of Mayor and if he fails to do so the Council shall, by majority vote of those present, choose one of their number to *serve as Acting Mayor* and perform the duties of Mayor.

Each ordinance and resolution having the effect of an ordinance, before it becomes operative, shall be transmitted to the Mayor for his signature. The Mayor shall have five days, Sundays excepted, to sign it or veto it in writing. If the Mayor fails to sign it or veto it in writing within such five days, such ordinance or resolution shall become operative as if he had signed it, unless his term of office or that of the City Council shall expire within such five days. If the Mayor vetoes such ordinance or resolution in writing, such written veto shall be returned to the Clerk to be entered on the City Council's record and the City Council shall reconsider the same at the next regular meeting. Upon such reconsideration, if such ordinance or resolution is approved by two-thirds of all members of the City Council, it shall become operative, notwithstanding the veto of the Mayor. The votes of the City Council shall be determined by yeas and nays and the names of the members voting for and against such ordinance or resolution shall be entered on the record.

§ 5.5. Induction of members.

The City Clerk shall administer the oath of office to the duly elected members of the Council and to the Mayor on or before June thirtieth immediately following their election. In the absence of the City Clerk the oath may be administered by any judicial officer having jurisdiction in the City. The Council shall be the judge of the election and qualification of its members. The first meeting of a newly elected Council shall take place in the Council chamber in the City Hall on the second Tuesday of July following their election, or at the first scheduled regular or special meeting of the City Council in July, whichever occurs first.

§ 5.6. Procedure for passing ordinances.

Except in the case of zoning ordinances, the following procedure shall be followed by the City Council in adopting ordinances of the City:

(a) Any ordinance may be introduced by any member of the Council at any regular meeting of the Council or at any special meeting when the subject thereof has been included in the notice for such special meeting or has been approved by a two-thirds vote of all members of the Council present at such special meeting. Upon introduction, the ordinance shall receive its first reading, verbatim, unless waived by a two-thirds vote of those Council members present, and, provided a majority of members present concur, the Council shall set a place, time and date, not less than three days after such introduction for a public hearing thereon. A copy of the proposed ordinance shall be delivered to *the Mayor* and each member of City Council and shall be made available to the public prior to its introduction.

(b) The public hearing may be held at a regular or special meeting of the Council and may be continued from time to time. The City Clerk shall publish in a newspaper of general circulation a notice containing the date, time and place of the hearing and the title or subject matter of the proposed ordinance. On direction of the Council the Clerk shall also publish the full text of the proposed ordinance which shall be available to citizens of the City.

(c) A proposed ordinance, unless it be an emergency ordinance, may be finally passed upon the completion of the public hearing.

(d) Amendments or additions to a proposed ordinance may be made at any time. Publication of an amendment shall not be required except that if said amendments or additions introduce an entirely new subject matter or radically change the overall purpose of the original ordinance, they shall be introduced and treated as a new ordinance. At the second reading only the title of an ordinance need be read, unless amendments or additions have been made subsequent to the introduction, in which case said amendments or additions shall be read in full prior to enactment.

(e) If, in the opinion of Council, an emergency exists, an ordinance pertinent to the emergency may be passed with or without amendment at the same meeting at which it is introduced and no publication, hearing or specific time interval between introduction and passage shall be necessary. An emergency ordinance must contain a specific statement of the emergency upon which it is based, and must be passed by a two-thirds affirmative vote of the members of City Council present.

Every emergency ordinance shall automatically stand repealed as of the 91st day following the day upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner prescribed for ordinances not related to an emergency. An emergency ordinance may also be repealed by adoption of a repealing ordinance. The repeal of an emergency ordinance shall follow the procedure specified for the adoption of an emergency ordinance.

§ 5.8. No member of the Council shall cast any vote without first disclosing what interest, if any, he has in the outcome of the vote being taken. The City Council is hereby empowered to enact a conflict of interest and disclosure ordinance to govern elected and appointed City officials not inconsistent with the general law.

§ 6.3. Duties.

It shall be the duty of the City Manager to: (a) attend all meetings of the Council with the right to speak but not to vote; (b) keep the Council advised of the financial condition and the future needs of the City, and of all matters pertaining to its proper administration, and make such recommendations as may seem to him desirable; (c) prepare and submit the annual budget to the Council as provided in chapter 6 of this Charter and be responsible for its administration after its adoption; (d) ~~(Repealed.)~~ (e) present adequate financial and activity reports as required by the Council; (f) ~~(g)~~ (e) arrange for an annual audit by a certified public accountant, the selection of whom shall be approved by the Council; ~~(g)~~ (f) with the concurrence of the Council to appoint and remove all department heads; ~~(g1)~~ (g) supervise and issue orders for the performance of the functions of public safety and civil defense; ~~(g2)~~ (h) appoint and, when he deems it necessary for the good of the City, suspend or remove all City employees provided for by or under this Charter, except as otherwise provided by law or this Charter; and may delegate this power to an appointing authority as defined by the City Code; ~~(g3)~~ (i) direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law; and ~~(h)~~ (j) perform such other duties as may be prescribed by this Charter or required of him in accordance therewith by the Council or which may be required of the chief executive officer of a city by the general laws of the Commonwealth other than the duties conferred on the Mayor by this Charter.

§ 7.2. Submission of budgets.

On a day to be fixed by the Council, but in no case later than the first day of March in each year the City Manager shall submit to the Council and make available to the public a budget that presents a comprehensive financial plan for all City departments and for all City funds and activities for the next fiscal year. Such a plan shall contain, but not be limited to, a budget for the general operation of the City government hereinafter referred to as the general fund budget, including the total budget for the support of the public schools as filed by the School Board; a budget for the debt service of the City and reserve requirements therefor; a budget for proposed capital expenditures; a budget for all City enterprise activities; and a budget message by the City Manager presenting a concise and comprehensive view of City activities as proposed in the next fiscal year and the budget message of the School Board. A ~~resume~~ summary of the budget shall be published in a newspaper having general circulation in the City of Fairfax *and/or other media as permitted or prescribed by the Code of Virginia* at least fifteen days prior to the public hearing at which the budget is adopted.

Chapter 9.

Department of Law City Attorney.

§ 9.2. Qualifications and appointment Appointment and qualifications.

~~The head of the Department of Law shall be the~~ *There shall be a* City Attorney. ~~He~~ *who* shall be an attorney at law licensed to practice under the laws of the Commonwealth and ~~he~~ need not be a resident of the City of Fairfax. He shall be appointed by the Council to serve at the pleasure of the Council.

§ 9.3. City attorney; powers Powers and duties.

The City Attorney shall be the legal advisor of (1) the *Mayor and* Council, (2) the City Manager, and (3) of all departments, boards, commissions and agencies of the City, in all matters affecting the interests of the City and shall, (a) upon authorized request, furnish a written opinion on any question of law involving their respective official powers and duties; (b) at the request of the City Manager or of the Council prepare ordinances for introduction and render his opinion as to the form and legality thereof; (c) draw or approve all bonds, deeds, leases, contracts or other instruments to which the City is a party or in which it has an interest; (d) have the management and control of all the law business of the City and the departments, boards, commissions and agencies thereof, or in which the City has an interest as the Council may from time to time direct; (e) represent the City as counsel in any civil case in which it is interested and in criminal cases in which the constitutionality or validity of any ordinance is brought in issue; (f) have the power to prosecute in the courts of the Commonwealth of Virginia all violations of law constituting misdemeanors and traffic violations committed within the ~~city~~ City, whether violations of ~~city~~ City ordinances or the laws of the Commonwealth of Virginia; (g) attend in person or assign one of his assistants to attend all regular meetings of the Council and all other meetings of Council unless excused by a majority of the Council; (h) appoint and remove such Assistant City Attorneys and other employees as shall be authorized by the Council; ~~(h1)~~ (i) authorize the Assistant City Attorneys or any of them or special counsel appointed by the Council to perform any of the duties imposed upon him in this Charter; and ~~(i)~~ (j) have such other powers and duties as may be assigned to him by ordinance. The School Board shall have authority to employ legal counsel.

§ 10.1. Public safety functions; contracts for fire protection.

The functions of public safety shall be performed by the Police Department and such other bureaus, divisions and units as may be provided by ordinance or by orders of the City Manager consistent therewith.

The City of ~~Fairfax~~ may enter into contractual relationships with neighboring political subdivisions for the support and utilization of a joint fire department which shall be responsible for the protection from fire of life and property within the City, and may, at any time, establish a City fire department for

~~such purpose~~ and rescue services inclusive of hazardous materials response, technical rescue, and other ancillary services. These agreements and services shall augment the City Fire Department and provide for the protection of life and property from fire within the City.

§ 10.4:1. Fire Department.

The fire department shall consist of the City of Fairfax Fire Department and the Fairfax Volunteer Fire Department operating as one combined department and referred to as "the Fire Department." The Fire Department shall be made up of the Fire Chief and such other officers and employees of such ranks and grades as may be established by Council. The Fire Department shall be responsible for the protection of life and property from fire and injury through public education programs and the enforcement of applicable fire and building codes. Furthermore, the Fire Department shall provide emergency medical services, fire suppression, hazardous materials response, and technical rescue services to the public.

§ 10.5:1. Fire Chief.

The head of the Fire Department shall be the Fire Chief. He shall be appointed by the City Manager with the concurrence of Council and shall be under the supervision of the City Manager. The Fire Chief shall have responsibility and authority for all operational and administrative decisions of the Fire Department. The Chief of the Fairfax Volunteer Fire Department shall be known as the Deputy Chief of the Fire Department and shall be elected from and by the membership of the Fairfax Volunteer Fire Department in accordance with its corporate bylaws.

§ 12.1. School district.

The City of ~~Fairfax~~ shall constitute a separate school district.

§ 12.2. School board.

(a) The School Board shall consist of five qualified voters of the City elected by popular vote at large and who, at the time of their election, shall have resided in the City for at least one year prior to their election. (b) The election of members of the School Board shall be held to coincide with the election of the members of the City Council and Mayor. The terms of the members of the School Board shall be the same as the terms of the members of the City Council and Mayor. The School Board shall meet annually in July at which time the board shall fix the time for holding regular meetings for the ensuing year, shall elect one of its members chairman, and, on recommendation of the superintendent, shall elect or appoint a competent person as clerk of the School Board, and shall fix his compensation. In the discretion of the School Board, the superintendent may serve as clerk. The School Board shall conduct such other business, elect such other officers and make such other appointments at the annual meeting as it may, in its discretion, deem appropriate.

§ 12.4. The School Board by and with the consent of the City Council shall have the right to contract with the school board of nearby political subdivisions of the Commonwealth to provide for the education of City children on a tuition basis upon such terms and conditions as the respective school boards may agree, provided the same do not conflict with the Constitution of Virginia.

§ 12.5. All recreation facilities and grounds located on property owned by the School Board shall be under the ~~exclusive~~ control and supervision of the School Board, *except as provided by any contractual relationship entered into by the School Board or as otherwise required by applicable law*. The title to property and buildings devoted to public school purposes shall be in the School Board.

§ 12.6. The School Board may borrow subject to the approval of the City Council from the Literary Fund of Virginia or from such other sources as may be available to it by general law.

2. That § 9.1 of Chapter 319 of the Acts of Assembly of 1966 is repealed.