

LD1756440

## HOUSE BILL NO. 155

Offered January 12, 1994

A BILL to provide a charter for the Town of Dumfries, in Prince William County, Virginia, and to repeal Chapter 361 as amended of the Acts of Assembly 1887, which provided a charter for the town.

\_\_\_\_\_  
Patron—Rollison

\_\_\_\_\_  
Referred to Committee on Counties, Cities and Towns

**Be it enacted by the General Assembly of Virginia:****1.**

## CHARTER OF TOWN OF DUMFRIES.

## ARTICLE I. INCORPORATION AND BOUNDARIES

## § 1.01. Incorporation.

The inhabitants of the territory comprised within the limits of the Town of Dumfries, as the same are now or may hereafter be established by law, shall constitute and continue to be a body politic and corporate under the name of the Town of Dumfries, and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter at its pleasure.

## § 1.02. Boundaries.

The present boundaries of the Town of Dumfries are as set out in a decree entered in Prince William County Circuit Court Law Case No. 2285, styled "In the Matter of the Annexation of Part of the Territory Known as Dumfries Magisterial District to the Town of Dumfries," on the 30th day of December, 1966. Future boundaries shall be the same unless changed in accordance with law.

## ARTICLE II. POWERS

## § 2.01. General grant of powers.

The Town of Dumfries shall have and may exercise all powers which are now or may hereafter be conferred upon or delegated to cities and towns under the Constitution and general laws of the Commonwealth of Virginia. It is intended that the town shall possess all powers which, under the Constitution, it would be competent for this charter to enumerate specifically, and no enumeration of particular powers shall be held to be exclusive, but in addition to this general grant.

## § 2.02. Construction.

The powers which are now or may hereafter be conferred upon or delegated to the town under the Constitution and general laws of the Commonwealth and this charter shall be construed liberally when such powers are exercised by the town.

## § 2.03. Adoption of certain sections of the Code of Virginia.

The Town of Dumfries shall have all powers that may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, including, but not limited to, those powers set forth in §§ 15.1-837 through 15.1-907 of the Code of Virginia.

## § 2.04. Eminent domain and other powers relating to property.

The powers of eminent domain as set forth in Title 15.1 and Title 25 of the Code of Virginia are hereby conferred upon the town, including the power to issue certificates pursuant to §§ 33.1-119 through 33.1-132 of the Code of Virginia.

## ARTICLE III. THE COUNCIL

## § 3.01. Election, qualification and term of office.

(a) The Town of Dumfries shall be governed by a town council elected at large and composed of a mayor and six other members, all of whom shall be qualified voters of the town.

(b) On the first Tuesday in May, 1994, there shall be elected by the qualified voters of the town a mayor and three council members from the town at large for four-year terms. The three members whose terms began in 1992 shall serve until the election in May 1996. Thereafter, the council shall continue to have four-year terms, staggered so that three members shall be elected in years divisible by four and the other three members and the mayor shall be elected in the other even-numbered years.

## § 3.02. Powers of council.

The council along with the mayor shall make such rules as are necessary for the orderly conduct of their business not inconsistent with the laws of the Commonwealth of Virginia, and shall have the power in their discretion to appoint a town manager and a town attorney (who shall have the powers and duties provided in § 15.1-138 of the Code of Virginia). The person so appointed shall have such duties and shall serve for such terms and at such compensation as the council may determine. One person may

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60 *be appointed to more than one office.*

61 *§ 3.03. Mayor.*

62 *The mayor shall preside at meetings of the council and shall be recognized as head of the town*  
63 *government for ceremonial purposes and by the governor for the purposes of military law. He shall*  
64 *have the same powers and duties as other members of the council with a vote, but no veto powers.*

65 *§ 3.04. Vice mayor.*

66 *At its first meeting in July of every even-numbered year the council shall select from its membership*  
67 *one member to serve as a vice mayor. The vice mayor shall preside over meetings of council in the*  
68 *absence of the mayor.*

69 *§ 3.05. Vacancies.*

70 *Vacancies on the council and in the office of mayor and vice mayor shall be filled for the unexpired*  
71 *term by a majority vote of the members of council.*

72 *§ 3.06. Procedure.*

73 *(a) No vote shall be reconsidered or rescinded at any special meeting unless at such special meeting*  
74 *there are present as large a number of members as were present when such vote was taken.*

75 *(b) The council shall have the power, subject to the provisions of this charter, to adopt its own rules*  
76 *of procedure, which rules shall be for the convenience of the council only. Such rules shall provide for*  
77 *the time and place of holding regular meetings of the council which shall be at least once each month.*  
78 *They shall also provide for the calling of special meetings by the mayor, the town manager or any two*  
79 *members of the council and shall prescribe the methods of giving notice thereof. A majority of the*  
80 *council shall constitute a quorum for the transaction of business. The mayor shall count as a member of*  
81 *council for purposes of the quorum. No ordinance, resolution, motion or vote, other than motions to*  
82 *adjourn, to fix the time and place of adjournment and other motions of a purely procedural nature,*  
83 *shall be adopted by the council except at a meeting open to the public.*

84 *§ 3.07. Ordinances.*

85 *(a) Action requiring an ordinance. In addition to other acts required by law or by specific provision*  
86 *of this charter to be done by ordinance, those acts of the town council shall be by ordinance which:*

87 *(1) Adopt or amend an administrative code or establish, alter or abolish any town department, office*  
88 *or agency;*

89 *(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine*  
90 *or other penalty is imposed;*

91 *(3) Levy taxes, except as otherwise provided in Article VI with respect to the real property tax levied*  
92 *by adoption of the budget;*

93 *(4) Grant, renew or extend a franchise;*

94 *(5) Regulate the rate charged for its services by the town; provided, however, that the council may*  
95 *by resolution authorize the rates or fees charged by the department of parks and recreation for use of*  
96 *its facilities or participation in its programs and authorize the rates and fees charged by other*  
97 *departments of the town for sale of maps, reports, or other publications or making of copies of printed*  
98 *or recorded matter;*

99 *(6) Authorize the borrowing of money;*

100 *(7) Convey or lease or authorize the conveyance or lease of any lands of the town.*

101 *Acts other than those referred to in the preceding sentence may be done either by ordinance or by*  
102 *resolution if not in conflict with law.*

103 *(b) Form. Every proposed ordinances shall be introduced in writing and in the form required for*  
104 *adoption. The enacting clause shall be "Be it ordained by the Council of the Town of Dumfries....."*

105 *(c) Procedure. An ordinance may be introduced by any member at any regular or special meeting of*  
106 *the council. Upon introduction of any ordinance, the town manager shall distribute a copy to each*  
107 *council member, shall file a reasonable number of copies in the office of the town manager and such*  
108 *other public places as the council may designate, and shall post or publish a summary of the ordinance*  
109 *together with a notice setting out the time and place for a public hearing thereon and for its*  
110 *consideration by the council. The public hearing shall follow the posting or publication by at least*  
111 *twelve days, may be held separately or in connection with a regular or special council meeting and may*  
112 *be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the*  
113 *hearing the council may adopt the ordinance with or without amendment or reject it but, if it is*  
114 *amended so as to materially change the purpose and character of the proposed ordinance, the council*  
115 *may not adopt it until the ordinances or its amended sections have been subjected to all the procedures*  
116 *hereinbefore required for a newly introduced ordinance. As soon as practicable after adoption of any*  
117 *ordinance, the manager shall have it posted together with a notice of its adoption.*

118 *To pass an ordinance, the council shall vote on the proposed ordinance two times: on first and*  
119 *second reading. If at any stage in this procedure the proposed ordinance fails to receive the affirmative*  
120 *vote of a majority of the members of the council, the ordinance shall be declared defeated and removed*  
121 *from the calendar of ordinances. Any ordinance which is not passed at the same meeting at which the*

public hearing is held may not be passed at a subsequent meeting unless the agenda for the meeting indicates that the ordinance will be included in the calendar of ordinances for consideration at that meeting.

(d) Effective date. Except as otherwise provided in this charter, every adopted ordinance shall become effective from its passage or at any later date specified therein.

(e) "Publish" defined. As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the town:

(1) The ordinance or a brief summary thereof, and

(2) The places where copies of it have been filed and the times when they are available for public inspection.

(f) "Posting" defined. As used in this section, the term "post" means to put on public view in one or more public facilities. At least one copy shall be posted on the public bulletin board in Town Hall.

§ 3.08. Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money except as provided in subsection 6.06 (b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After its adoption the ordinance shall be published or posted as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

§ 3.09. Authentication and recording; codification; printing.

(a) Authentication and recording. Every ordinance or resolution upon its final passage shall be recorded by the town clerk in a properly indexed book designated for the purpose and shall be authenticated by the signature of the presiding officer and the town clerk.

(b) Printing of ordinances and resolutions. The council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed or otherwise reproduced promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Dumfries Town Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the Commonwealth of Virginia, or the codes of technical regulations and other rules and regulations included in the town code.

§ 3.10. Committees, boards and commissions.

(a) Creation and appointment. The council may create committees, boards and commissions to be composed of such numbers of citizens as the council may deem expedient as authorized by law. The council shall appoint the members, prescribe the compensation, if any, and the powers and duties of such committees, boards and commissions consistent with the general law.

#### ARTICLE IV. THE TOWN OFFICERS

§ 4.01. Appointment of manager; qualifications.

The council may appoint a town manager who shall be the chief executive officer and the chief administrative officer of the town government. The town 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 of the town manager.

The town manager shall have the administrative and executive powers and duties vested in the town manager under §§ 15.1-926 and 15.1-927 of the Code of Virginia.

§ 4.03. Town attorney.

An attorney shall be appointed by and serve at the pleasure of the council. The appointed attorney shall be qualified to practice law in the Commonwealth of Virginia, shall serve as chief legal advisor to the council, and shall also serve as legal advisor to the town administration.

#### ARTICLE V. ADMINISTRATIVE DEPARTMENTS

§ 5.01. Creation of departments.

The council may establish all departments, offices and agencies it determines are necessary for the proper administration of the town with such powers and duties and subject to those regulations it deems proper, consistent with the provisions of this charter and the Constitution and general laws of the

183 *Commonwealth.*

184 *§ 5.02. Departments of the town.*

185 *Administrative departments shall include but shall not be limited to departments concerned with*  
186 *public safety, finance, public works, planning, and parks and recreation.*

187 *ARTICLE VI. FINANCIAL PROCEDURES*

188 *§ 6.01. Fiscal year.*

189 *The fiscal year of the town shall begin on the first day of July and end on the last day of June.*

190 *§ 6.02. Submission of budget and budget message.*

191 *On or before the fifteenth day of April of each year, a budget for the ensuing fiscal year and an*  
192 *accompanying message shall be submitted to the council.*

193 *§ 6.03. Budget message.*

194 *The budget's message shall explain the budget both in fiscal terms and in terms of the work*  
195 *programs. It shall outline the proposed financial policies of the town for the ensuing fiscal year,*  
196 *describe the important features of the budget, indicate any major changes from the current year in*  
197 *financial policies, expenditures, and revenues together with the reasons for such changes, summarize the*  
198 *town's debt position and include such other material as is desirable.*

199 *§ 6.04. Budget.*

200 *(a) The budget shall provide a complete financial plan of all town funds and activities for the*  
201 *ensuing fiscal year and, except as required by law or this charter, shall be in such form as the council*  
202 *may require. The budget shall utilize the most feasible combination of expenditure classification by fund,*  
203 *organization unit, program, purpose or activity, and object. It shall begin with a clear general summary*  
204 *of its contents; shall show in detail all estimated income, indicating the proposed tax levies, user fees,*  
205 *assessments, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall*  
206 *be so arranged as to show comparative figures for actual income and expenditures of the preceding*  
207 *fiscal year.*

208 *(b) The total of proposed expenditures shall not exceed the total of estimated available funds.*

209 *§ 6.05. Council action on budget.*

210 *(a) Notice and hearing. The council shall publish in one or more local newspapers the general*  
211 *summary of the budget and a notice stating:*

212 *(1) The times and places where copies of the message and budget are available for inspection by the*  
213 *public, and*

214 *(2) The time and place, not less than two weeks after such publication, for a public hearing on the*  
215 *budget.*

216 *(b) Amendment before adoption. After the public hearing, the council may adopt the budget with or*  
217 *without amendment. In amending the budget, it may add or increase programs or amounts and may*  
218 *delete or decrease any programs or amounts, except expenditures required by law or for debt service or*  
219 *for estimated cash deficit, provided that no amendment to the budget shall increase the authorized*  
220 *expenditures to an amount greater than the total of estimated available funds.*

221 *(c) Adoption. The council shall adopt the budget before the first day of the fiscal year for which*  
222 *adopted. Adoption of the budget shall constitute appropriations of the amounts specified therein as*  
223 *expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.*

224 *§ 6.06. Amendments after adoption.*

225 *(a) Supplemental appropriations. If during the fiscal year there are available for appropriation funds*  
226 *in excess of those estimated in the budget, the council by ordinance may make supplemental*  
227 *appropriations for the year up to the amount of the excess.*

228 *(b) Emergency appropriations. To meet a public emergency affecting life, health, property or the*  
229 *public peace, the council may make emergency appropriations. Such appropriations may be made by*  
230 *emergency ordinance in accordance with the provisions of § 3.14. To the extent that there are no*  
231 *available unappropriated funds to meet such appropriations, the council may by such emergency*  
232 *ordinance authorize the issuance of emergency notes, which may be renewed from time to time, all as*  
233 *may be authorized by the Constitution and general law, but the emergency notes and renewals of any*  
234 *fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the*  
235 *emergency appropriation was made.*

236 *(c) Reduction of appropriations. If at any time during the fiscal year it appears probable that the*  
237 *funds available will be insufficient to meet the amount appropriated, it shall be reported to the council*  
238 *without delay, indicating the estimated amount of the deficit, any remedial action taken and*  
239 *recommendations as to any other steps to be taken. The council shall then take such further action as it*  
240 *deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one*  
241 *or more appropriations.*

242 *(d) Transfer of appropriations. At any time during the fiscal year the manager, if any, may transfer*  
243 *part or all of any unencumbered appropriation balance among programs within a department, office or*  
244 *agency and, upon written request by the manager, the council may by ordinance or resolution transfer*

part or all of any unencumbered appropriation balance from one department, office or agency to another.

§ 6.07. Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if five years pass without any disbursement from or encumbrance of the appropriation.

§ 6.08. Municipal assessment.

(a) The assessment and taxation of property in the town may be set by the town council in such manner as the council may provide in accordance with the Constitution and the general laws of the Commonwealth. The levy shall in no case exceed fifty cents (\$0.50) on the one hundred dollars (\$100.00) worth of property, except that on a petition of three-fourths of the freeholders within the corporation, the council may levy a tax not to exceed the amount named in said petition.

(b) Notwithstanding any other provision of law, the council may annually assess property. The council may appoint, annually or on any other basis, an assessor to assess the real estate and personal property within the town. The town may, in lieu of appointing an assessor, use Prince William County's assessment of property.

§ 6.09. Assessments for local improvements.

The council may impose special assessments for local improvements and force payment thereof, subject to such limitations prescribed by the laws of the Commonwealth as may be in force at the time of the imposition of such special assessments.

The council may provide that the persons, firms, and corporations against whom the special assessments have been made may pay such assessments in equal installments over a period not exceeding ten years, together with interest on the unpaid balances as allowed by the Constitution and the general laws of the Commonwealth.

#### ARTICLE VII. DEBTS AND BONDS.

§ 7.01. Power of council to borrow money and to issue revenue bonds.

The council of the town shall be empowered to borrow such sum or sums of money as may be necessary or convenient, subject to such limitations that are now or may be imposed by the Constitution of and the laws of the Commonwealth of Virginia. The council of the town shall be empowered to issue revenue bonds as may be necessary or convenient, in the manner prescribed by law.

#### ARTICLE VIII. GENERAL PROVISIONS.

§ 8.01. Charter amendment.

Amendments to this charter may be made only in accordance with the procedure specified in the general laws of the Commonwealth of Virginia.

§ 8.02. Severability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons shall not be affected thereby.

§ 8.03. Oaths of office and official bonds.

All elected or appointed officers and officials of the town shall take the oath of office and execute such bonds as may be required by general law, by this charter, or by ordinance or resolution of the town council and file duplicate certificates with the town clerk and the clerk of the circuit court of Prince William County before entering upon the discharge of their duties. If the requirements of this section have not been complied with by any officer or official within thirty days after the term of office shall have begun or after appointment to fill a vacancy, then such office shall be considered vacant unless general law otherwise provides in which event general law shall prevail.

§ 8.04. Books, records, et cetera.

All books, records and documents used by any elected or appointed town officer, official or employee in their office or pertaining to official duties shall be deemed to be the property of the town. Any person designated by this charter, the general laws of the Commonwealth or the Dumfries Town Code as responsible for the keeping of such books, records and documents shall, within ten days after the end of the appointed term of office, or within ten days after the date of resignation or removal from office, deliver to the town clerk all such books, records and documents and town property. Any person failing to deliver such books, records and documents and property shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined no less than one hundred dollars and not more than five hundred dollars, or imprisoned not exceeding six months, or both, at the direction of the court or jury before whom the case is tried. The court shall also have the power to order the return of the books, records and documents to the town.

ARTICLE IX. TOWN AND COUNCIL TO HAVE POWERS SET FORTH IN FOLLOWING SECTIONS

§ 9.01. Additional powers.

In addition to, and supplementary of the powers conferred upon towns and town councils by general law, the Town of Dumfries and its council shall have the powers set forth in the following sections of this Charter.

§ 9.02. Power of town as to exercise of police powers, as to ordinances, etc., to carry enumerated Charter powers into effect and as to punishment for violation of ordinance, etc.

The town is empowered to exercise all such police powers as the council deems reasonably necessary for the promotion and protection of the health, morals, safety and general welfare of the inhabitants of the town, for the protection of the property of the town and its inhabitants, for the preservation of peace and good order, and for the general welfare; and the council is empowered to make ordinances and bylaws for the purpose of carrying into effect the enumerated powers conferred upon the town by this Charter, including police powers, and to prescribe punishments for violations thereof, provided that no such punishment shall exceed the maximum punishment prescribed by general law for a misdemeanor, and provided further, that all ordinances, bylaws and resolutions made and adopted by the council shall become effective thirty days after their passage, unless a different date is specified in any such ordinance, bylaw or resolution, upon which the same shall become effective.

§ 9.03. Power of council as to licensing of motor vehicles, etc.

The council may charge license fees upon motor vehicles, trailers and semitrailers, located within the corporate limits of the town. The amount of the license fee shall not be greater than that imposed by the Commonwealth on vehicles of like class.

§ 9.04. Other taxes and assessments.

The council may levy such other taxes and assessments as may now or later be provided under the Constitution or General Laws of the Commonwealth. However, notwithstanding any other provision of general or special law, the Town of Dumfries shall have no power to levy a personal property tax under Article 1 of Chapter 35, Title 58.1 of the Code of Virginia (1950), as amended.

ARTICLE X. TRANSITIONAL PROVISIONS.

§ 10.01. Ordinances.

All ordinances, resolutions, orders and regulations of the Town of Dumfries not inconsistent with this Charter shall remain in full force and effect until amended or repealed by the town council. Ordinances, resolutions, orders and regulations which are in force when this Charter becomes effective and which are inconsistent with this Charter are repealed.

§ 10.02. Continuity of terms of officers.

The officers of the Town of Dumfries who were in office immediately prior to the effective date of this Charter shall remain in office until the expiration of their several terms, or until their successors have been duly elected and qualified.

§ 10.03. Citation of act.

This act may for all purposes be referred to or cited as the Charter for the Town of Dumfries, Virginia, of 1994.

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