

City of First Class.

Island, and thence with the northwest property line of the Southern Railway across Daniel's Island and with the northwest line of the Southern Railway bridge across the southern branch of James River to the northwest end of the south abutment of the Southern Railway bridge spanning James River; thence up the south bank of James River to the point where the corporate line fixed by the annexation of 1908 intersects with said bank of the river; thence into the river to the Amherst County line; thence up James River with the Amherst County line to the point where the dividing line between Bedford and Campbell Counties intersects the Amherst County line; thence following the line between Bedford and Campbell Counties in a southerly direction to the intersection of said line with Ivy Creek and across the creek; thence down the right bank of Ivy Creek to the southern right of way line of the Norfolk and Western Railway main line; thence westward with the said southern right of way line to the boundary line between the properties of J. C. Woodson and J. R. Ford; thence with the line between Woodson and Ford in a southern direction to the left bank of Blackwater Creek; thence up the left bank of Blackwater Creek, all the creek being in the city, to the mouth of a small branch between the property of Hutter and Swisher; thence up the left bank of said branch, all of said branch being in the city, to the property line between Glass and Johnson; thence along the property line between Johnson and Hutter southwesterly to the corner of Johnson and Hutter; thence southerly along the westerly property lines of Johnson, Craddock and Early and crossing the Salem Turnpike on the same course to the southern side of said turnpike; thence with the said southerly side of said turnpike to its intersection with Ward's Road; thence along the westerly side of Ward's Road in a southerly direction to the line between the Harvey property and Edgewood farm; thence on a straight line across Ward's Road in an easterly direction to the intersection of the line between Lindsay and Harvey on the line of Lula Dodd; thence along the northwesterly line of Dodd and across Lindsay Street a straight line to a small branch running between the property of Lula Dodd and McKinney; thence down the right bank of said branch crossing the Norfolk and Western Railway to Fishing Creek and across the creek; thence down the right bank of Fishing Creek to the point where the right bank of Fishing Creek intersects the old corporate line as fixed by the 1908 annexation, which line is a straight line drawn between the point of intersection of the northern condemnation line of the Southern Railway and the west corner of James and Carroll Streets; thence with said line in an easterly direction to the Southern Railway at its intersection with the Durham division of the Norfolk and Western Railway and across the Southern Railway and the Norfolk and Western Railway on the same course to the easterly right of way line of the Durham division of the Norfolk and Western Railway; thence along the easterly right of way line of the Durham division of the Norfolk and Western Railway in a southerly direction to the line between Fairview Heights and Roseland Park; thence in an easterly direction along said dividing line between Fairview Heights and Roseland Park to the westerly line of Campbell Avenue and across Campbell Avenue on the same course; thence along the easterly line of Campbell Avenue in a southerly direction to the southerly line of Pocahontas Avenue; thence with the southerly line of Pocahontas Avenue in an easterly direction to the southern line of the Norfolk and Western Railway belt line right of way; thence with said line of said right of way in a northwesterly direction to the intersection of the same with the Morgan College property; thence crossing the right of way of the Norfolk and Western Railway belt line and along the line

between the properties of Morgan College and Poole to the intersection of said line with the O'Holloran property; thence along the line between Morgan College and O'Holloran to the southern line of College Avenue; thence along the southern line of College Avenue to its intersection with the Campbell Courthouse Turnpike and crossing the turnpike; thence along the eastern line of said turnpike to the southeasterly bank of Fishing Creek; thence down said bank of Fishing Creek, the creek being in the city, to the northerly condemnation line of the Southern Railway; thence with said condemnation line in a easterly direction to where said condemnation line again intersects with the right or southerly bank of Fishing Creek; thence with the right bank of said creek down the creek to where it again intersects with the northern condemnation line of the Southern Railway; thence with the northern condemnation line of the Southern Railway in a northerly direction to where it again intersects with the right or southerly bank of Fishing Creek; thence down said right or southerly bank of Fishing Creek to where it empties into James River at the point of beginning.

The inhabitants of the territory comprised within the present limits of the city of Lynchburg as hereinbefore described or as the same may be hereafter altered and established by law, shall continue to be one body politic in fact and in name under the style and denomination of the city of Lynchburg, and as such shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to cities under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though said powers were specifically enumerated herein, and no enumeration of particular powers by this charter shall be held to be exclusive, and shall have, exercise and enjoy all the rights, immunities, powers and privileges and be subject to all the duties and obligations now appertaining to and incumbent on said city as a municipal corporation, and the said city of Lynchburg, 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, renew or amend at its pleasure. (1928, c. 343)

CHAPTER II—GENERAL PROVISIONS

§ 2. The city of Lynchburg and its inhabitants shall be exempt from all assessments for levies in the way of taxes imposed by the authorities of Bedford, Campbell or Amherst counties for any purpose whatever, except upon property in the said counties owned by the inhabitants of said city, nor shall said inhabitants be liable to serve upon juries in said counties. (1928, c. 343)

§ 3. Unless otherwise specifically provided, the persons holding any of the offices provided for in this charter, which offices have existed under the charter heretofore in force, shall continue to hold the same under their previous election or appointment until the term of such office as herein provided shall expire, dating the commencement of such term from the time fixed in said former charter. (1928, c. 343)

CHAPTER III—GOVERNMENT AND ADMINISTRATION

§ 4. The government and administration of the city shall be vested in one body, to be called the council of the city of Lynchburg, and in one administrative officer, to be styled city manager, and in such other departments, boards and other officers as are hereinafter provided for, or as are permitted or required by law appointed by the council. (1928, c. 343)

§ 5. (a) Subject to paragraphs (b) through (f) of this section, on and after September 1, 1928, the council shall consist of seven members, who shall be elected at

large from qualified voters of the city and they shall serve for a term of four years from the first day of September next following the date of their election and until their successors shall have been elected and qualify; provided, however, that at the first election held hereunder in 1928, five councilmen shall be elected, three of the councilmen elected at said first election hereunder shall succeed the three present councilmen, whose terms expire on August 31, 1928, and shall serve for a period of four years, and two of the councilmen elected at the first election hereunder shall serve for a period of two years; the councilmen to serve for the two-year period shall be determined by lot between the five councilmen elected at the first election hereunder at the first meeting of the council held in September, 1928; and at the next election, four councilmen shall be elected to succeed the two present councilmen, whose terms expire on August 31, 1928, and the two councilmen elected at the first election hereunder to serve for two years, and at said election and each election thereafter, the councilmen elected to succeed those whose terms expire shall be elected for a period of four years.

(b) On and after July 1, 1976, the council shall consist of seven members of whom four shall be elected from wards and three of whom shall be elected at large as hereinafter provided. The terms of councilmen elected in 1976 and thereafter shall begin July 1, succeeding their election.

(c) On March 1, 1976, the council in office shall divide the city into four wards with reasonably equal populations. Upon the completion thereof, notice shall be given by publication once a week for four successive weeks in a newspaper having general circulation in the city.

(d) At the election to be held in May, 1976, successors to four councilmen whose terms expire June 30 next shall be elected for a term of four years. The four councilmen shall be elected from and be registered voters in the wards established under paragraph (c) above with one councilman to be elected from each ward. At the same election to be held in May, 1976, three successors to the councilmen whose terms expire in such year shall be chosen by election at large in the city to serve for terms of two years.

(e) After May, 1976, successors to the councilmen elected under paragraph (d) hereof shall be elected for terms of four years by ward or at large, as the case may be, depending upon whether the respective office was filled by election at large or by ward.

(f) The council shall be a continuing body and no measure pending before such body shall abate or be discontinued by reason of the expiration of the term of office or removal of the members of said body or any of them. Vacancies occurring in the membership of the council shall be filled by the council within thirty days for a term to expire when the qualified voters of the city at large or the ward in which the vacancy occurred, as the case may be, have elected a successor at the next ensuing general election for councilmen and the person so chosen has duly qualified. If the vacancy occurs in a ward, the successor so chosen shall be a registered voter of that ward. All vacancies filled by the council shall be by majority vote of the remaining members. (1928, c. 343; 1976, c. 3)

§ 6. The council shall elect one of its members to preside over its meetings, who shall be entitled president, and who shall be the ex-officio mayor of the city, and shall also elect another member to be vice-president of the council to act in the place of the president in his absence or incapacity. The president and vice-president shall be elected for a term of two years, and any vacancy in the offices shall be filled by the election by

the council for the unexpired term. The mayor shall have the same powers and duties as other members of the council with a vote, but no veto, and shall be the official head of the city. With the exception of those officers required by the Constitution of the Commonwealth to be elected by popular vote, the members of the council shall be the only elective city officials. (1928, c. 343)

§ 7. Present members of council shall be paid their current salary until July 1, 1976, thereafter the salary of each member of council shall be \$2,400 per annum, except that member who shall be elected mayor, whose salary shall be \$3,600 per annum, and except that member who shall be elected vice-mayor, whose salary shall be \$3,000 per annum, payable out of the treasury of the city of Lynchburg in monthly installments; provided, however, that the council may, from time to time, by five-sevenths vote of all members elected to council, change the salaries of each member of the council, and the members who shall be elected mayor and vice-mayor respectively, to such sums per annum as it may see fit, but not to exceed the sum of \$2,400 per annum for each member of the council and \$3,600 per annum for the mayor and \$3,000 per annum for the vice-mayor. (1928, c. 343; 1942, c. 167; 1968, c. 22; 1976, c. 298)

§ 8. The council shall meet at such times as may be prescribed by ordinance or resolution, provided, however, that it shall hold at least two regular meetings each month. No business shall be transacted at a special meeting except that for which it shall have been called, unless all members of the council attend such special meeting or give their written consent thereto. For lack of quorum, any regular meeting may be postponed to such time as the council may determine. (1928, c. 343)

§ 9. The president or any other two members of the council or the city manager may call special meetings of the council at any time upon at least twelve hours' written notice to each member served personally or left at his usual place of business or residence, but special meetings may be held at any time without notice, provided all members of the council attend said meeting or waive notice thereof. (1928, c. 343)

§ 10. A majority of the members of the council shall constitute a quorum for the transaction of business. No vote shall be considered or rescinded at any special meeting unless at such special meeting there be present as large a number of members as were present when such vote was taken. No ordinance or resolution appropriating money exceeding the sum of \$1,000, imposing taxes, or authorizing the borrowing of money, shall be passed by the council on the same day on which it is introduced, nor shall any such ordinance or resolution be valid unless at least three days intervene between its introduction and date of passage. Nor ordinance or resolution appropriating money exceeding the sum of \$100, imposing taxes or authorizing the borrowing of money shall be passed except by recorded affirmative vote of a majority of all members elected to the council. (1928, c. 343)

§ 11. The officers of the city whose election or appointment is not otherwise provided for herein or under the general statutes of the Commonwealth, shall be elected or appointed by the council except such administrative officers and employees as are appointed by the city manager under the powers granted him by this act. (1928, c. 343)

§ 12. Upon the announcement by the president of the adoption of resolutions or ordinances having for their object the increase of the indebtedness of the city, or the expenditure of its revenues, except for the payment of its salaried officers and employees, any two councilmen may give notice of a motion to reconsider, which motion shall delay

the question until said reconsideration can be acted on at the regular meeting of the council. (1928, c. 343)

§ 13. The city manager shall be the administrative head of the municipal government. He shall be chosen by the council without regard to his political belief and solely upon the basis of his executive and administrative qualifications. The choice shall not be limited to the inhabitants of the city or Commonwealth unless otherwise required by the Constitution of the Commonwealth. The city manager shall receive such compensation as shall be fixed by the council by ordinance or resolution. He shall be appointed for an indefinite period and shall serve at the will of the council. During the absence or disability of the city manager, the council shall designate some properly qualified person to perform his duties. (1928, c. 343)

§ 14. The city manager shall be responsible to the council for the efficient administration of all affairs of the city. He shall have power, and it shall be his duty:

First. To see that all laws and ordinances are enforced.

Second. Except as otherwise provided in this act, to appoint all heads or directors of departments, and all subordinate officers and employees of the city, with power to discipline and remove any officer or employee so appointed. Such appointment and removals shall be reported to the council at its next regular meeting.

Third. To exercise supervision and control over all departments and divisions created herein or that may be hereafter created by the council.

Fourth. To attend all regular meetings of the council with the right to take part in the discussion but having no vote. He shall be entitled to notice of all special meetings.

Fifth. To recommend to the council for adoption such measures as he may deem necessary or expedient.

Sixth. To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed; upon knowledge of any violation thereof, to call the same to the attention of the council and of the city attorney.

Seventh. To make and execute all contracts on behalf of the city except as may be otherwise provided by this act or by ordinance passed in pursuance thereof.

Eighth. To act as budget commissioner and as such to prepare and submit to the council the annual budget, after receiving estimates made by the heads or directors of the departments or of any boards or commission not within the departments.

Ninth. To keep the council at all times fully advised as to the financial conditions and needs of the city.

Tenth. To perform all such other duties as may be prescribed by law or be required of him by ordinance or resolution of the council. (1928, c. 343)

§ 14-A. At such time as council may direct, but not later than forty-five days before the end of each fiscal year, the city manager shall prepare and submit to the council for informative and fiscal planning purposes only, an annual budget for the ensuing year, based upon detailed estimates furnished by the several departments and other divisions of the city government according to a classification as nearly uniform as possible. The budget shall contain such other information as may be prescribed by council. (1960, c. 479)

§ 15. No person elected to the council, whether he qualify or not, shall during the term for which he was elected or twelve months after the expiration of that time be

elected by the council or appointed by the city manager to any position of trust or office of trust or profit of the city. (1928, c. 343)

§ 16. The council shall elect a city clerk, a city auditor (the duties of both officers, city clerk and city auditor may be imposed upon one individual) a city attorney and a city collector, each of whom shall serve for such term as may be provided by the council, and until his successor has been elected and qualified. (1928, c. 343)

CHAPTER IV—ELECTIONS, OATHS OF OFFICE, BONDS AND SO FORTH

§ 17. The election of all the municipal officers who are chosen by the vote of the people shall be held at the intervals and on the days prescribed for such elections by the laws of the Commonwealth. (1928, c. 343)

§ 18. In case of a vacancy arising in any elective municipal office hereinafter mentioned, except as otherwise provided, it shall be the duty of the council to certify the same to the judge of the corporation court, who shall issue his writ for an election to fill such vacancy in the manner prescribed by the general election laws of the Commonwealth. (1928, c. 343)

§ 19. Whenever any special election shall be ordered by the city council for any object not provided for in the general election laws of the Commonwealth, they shall communicate their order for the same to the judge of the corporation court, and the same proceedings shall be had by it as are provided by law for special elections to fill vacancies in any elective municipal office. (1928, c. 343)

INITIATIVE

§ 19.1. Procedure.

Subject to the exceptions set out hereinafter in § 19.8, any proposed ordinance or ordinances, including ordinances for the repeal or amendment of an existing ordinance, may be submitted to the council by petition signed by voters equal in number to ten percent of the number of voters duly registered on January 1 of the year of the petition.

The execution of the petition by a registered voter shall be acknowledged by him, or it may be proved by the oath of a witness who shall swear on information and belief that he knows the registered voter and that the petition was signed by the registered voter in the presence of the witness. The petition may be in the form of separate sheets, each sheet containing at the top thereof the petition as set forth above, and when bound together and offered for filing, shall be deemed to constitute one petition. Such petition shall contain the proposed ordinance in full, and shall have appended thereto or written thereon the names and addresses of at least five voters who shall be officially regarded as filing the petition, and who shall constitute a committee of petitioners for the purposes hereinafter stated. An affidavit signed by the committee of petitioners shall be attached to the petition stating the date the petition was first circulated.

All papers comprising the petition shall be assembled and filed with the clerk of the council, as one instrument, within 120 days from the date stated in the affidavit that the petition was first circulated. Within fifteen days of the date the petition is filed, the clerk shall have the general registrar of the city certify that the petition has the number of signatures of registered voters required to meet the above mentioned percentage. After the general registrar has certified that the number of signatures of registered voters meets the required percentage, the clerk shall submit the petition to the council at its next regular meeting, and provisions shall be made for public hearing upon the proposed ordinance. (1982, c. 398)

§ 19.2. Petition for election.

The council shall at once proceed to consider such petition and shall take final action thereon within sixty days from the date of the submission thereof. If the council rejects the proposed ordinance, or passes it in a form different from that set forth in the petition, or fails to act finally upon it within the time stated, the committee of petitioners may require that it be submitted in its original form, or that it be submitted with any proposed change, addition, or amendment, to a vote of the voters by the following procedure: The committee shall present to the clerk of the circuit court of the city a petition for such election, addressed to the court and signed by voters equal in number to fifteen percent of the number of voters duly registered on January 1 of the year of the petition. The petition shall contain the proposed ordinance in full in the form in which it is to be submitted to the voters. The petition and all copies thereof shall be filed with the clerk as one instrument. Within fifteen days after the filing thereof, the clerk shall examine the same and ascertain and certify thereon whether the persons whose names are signed thereto are voters of the city, equal to the number required. However, the clerk of the circuit court shall have the general registrar certify which names on a petition are registered voters before certifying any petition himself. The general registrar and the clerk of the circuit court shall make their certifications within fifteen days of the date of filing. If it be found that the required number of voters have signed the petition, then the petition, with the certificate of the clerk thereon, shall be presented by the committee to the circuit court of the city, and thereupon the court shall forthwith enter an order calling and fixing a date for holding an election for the purpose of submitting the proposed ordinance to the voters of the city. Any such election shall be in accordance with § 24.1-165 of the Code of Virginia. At least ten days before any such election, the clerk of the circuit court shall cause such proposed ordinance to be published once in one or more newspapers of general circulation in the city. (1982, c. 398)

§ 19.3. Ballots and effect of voting.

The ballots at such election shall conform to § 24.1-165 of the Code of Virginia. With respect to each ordinance whose adoption, amendment or repeal is sought, the following question shall be submitted: "Shall the ordinance entitled (title of ordinance) be (either adopted, amended or repealed, as appropriate)?" (1982, c. 398)

If a majority of the voters voting on such proposed ordinance shall vote in favor thereof, the proposed ordinance shall, upon the ascertainment and certification of the results of such election as in other special elections, become an ordinance of the city. (1982, c. 398)

§ 19.4. Ordinances adopted by the voters; how amended or repealed.

No ordinance adopted by a vote of the voters, as herein provided, shall be repealed or amended, except by a vote of the voters; but the circuit court of the city, on request of the council, by resolution, may order that a proposed ordinance repealing or amending any ordinance so adopted be submitted to the voters at any election, or any special municipal election called for some other purpose, if in accordance with the provisions of § 24.1-165 of the Code of Virginia, provided that the clerk of the circuit court shall cause notice of the submission of such proposed ordinance repealing or amending such ordinance to be published once in one or more newspapers of the city not less than ten days prior to the election. If an amendment is proposed, the notice shall contain the proposed amendment in full, and the ballot shall be in the same form and the

vote shall have the same effect as in the case of an ordinance submitted to election by popular petition. The ballots and effect of voting shall be as provided in § 19.3 of this chapter. (1982, c. 398)

REFERENDUM

§ 19.5. Petition for referendum.

Subject to the exceptions set out hereinafter in § 19.8, if at any time within a thirty-day period following the adoption of an ordinance, a petition, signed by voters equal in number to fifteen percent of the number of voters duly registered on January 1 of the year of the petition, be filed with the clerk of the council, requesting that any such ordinance be repealed or amended as stated in the petition, such ordinance shall not become operative until the steps indicated herein shall have been taken or the time allowed for taking such steps shall have elapsed without action. Such petition shall state therein the names and addresses of at least five registered voters, who shall be officially regarded as filing the petition, and who shall constitute a committee of petitioners for the purposes hereinafter stated. Referendum petitions shall contain the text of the ordinance or ordinances, the amendment or repeal of which is sought, and shall contain the proposed amendment, if an amendment is demanded. (1982, c. 398)

§ 19.6. Procedures.

The clerk of the council shall present the petition to the council at its next regular meeting, and thereupon the council shall consider the ordinance. If, within sixty days after the filing of such petition, the ordinance is not repealed or amended as requested in such petition, the clerk of the council, if so requested by a writing signed by a majority of the committee and presented to the clerk of the council within twenty days after the expiration of sixty days, shall present to the clerk of the circuit court of the city, the petition and all copies thereof as one instrument, together with a copy of the ordinance, the repeal or amendment of which is sought. The clerk of the circuit court of the city shall examine the petition and ascertain and certify thereon whether the persons whose names are signed thereto are registered voters of the city, equal in number to fifteen percent of the number of voters duly registered as of January 1 of the year of the petition; provided, however, the clerk of the circuit court shall have the general registrar certify which names on the petition are registered voters before certifying any petition himself. The general registrar and the clerk of the circuit court shall make their certifications within fifteen days of the date of filing. If such signatures do amount to such percentage, the committee shall present the petition to the circuit court of the city, and thereupon the court shall forthwith enter an order calling and fixing a date for holding an election for the purpose of submitting the ordinance to the voters of the city. Thereupon the ordinance shall ipso facto be further suspended from going into effect until the election shall have been held and shall then be deemed repealed or amended upon the approval by a majority of those voting thereon. Any such election shall be held in accordance with § 24.1-165 of the Code of Virginia. At least ten days before any such election, the clerk of the court shall cause the ordinance to be published once in one or more newspapers of general circulation in the city.

The ballots used when voting upon such ordinance shall conform in all respects to the ballots required for an initiative election under § 19.3 hereof, and the method of voting in any such election shall be as prescribed in that section.

If in any such election the ordinance so referred or submitted be approved by a majority of the voters voting thereon, the ordinance shall, upon the ascertainment and certification of the results of such election as in other special elections, go into effect as an ordinance of the city. (1982, c. 398)

§ 19.7. Conflict of ordinances.

If two or more ordinances adopted or approved at the same election conflict in respect to any of their provisions, such ordinances shall go into effect in respect to such of their provisions as are not in conflict, and the one receiving the highest affirmative vote shall prevail insofar as their provisions conflict. (1982, c. 398)

§ 19.8. Measures not subject to initiative or referendum.

Ordinances passed providing for any work, improvement or repair certified by the city manager to be immediately necessary to protect public safety, public property, health or morals from imminent danger or protect the city from imminent loss or liability, shall not be subject to such referendum. The certificate of the city manager in any such case shall be conclusive. No ordinance concerning revenue levies, expenditures, zoning or any administrative act shall be subject to initiative or referendum. (1982, c. 398)

RECALL

§ 19.9. Procedure.

Any member of the council may be recalled and removed from office by the voters by the following procedure: A petition for the recall of the member or members designated, signed by voters equal in number to at least ten percent of the number of voters duly registered on January 1 of the year of the petition eligible to vote for the member or members sought to be recalled, and containing a statement of factual reasons of not more than 200 words of the grounds of the recall, shall be filed with the clerk of the council. Within fifteen days of the date such petition was filed, the clerk shall have the general registrar of the city certify that the petition has the number of signatures of voters required to meet the above mentioned percentage. If the petition contains the required number of signatures, the clerk shall forthwith notify the member or members sought to be removed, and such member or members may, within ten days after such notice, file with the clerk a defensive statement of not more than 200 words. The clerk shall, immediately upon the expiration of ten days, cause sufficient printed or typewritten copies of such petition, without the signatures, to be made, and to each of them he shall attach a printed or typewritten copy of such defensive statement or statements, if any such shall have been furnished him within the time provided. He shall preserve the original petition and any defensive statements in his office. He shall cause a copy of such petition, with a copy of any defensive statements, to be placed in the office of the general registrar of the city who shall provide facilities for signing the petition and for the proper custody thereof. The clerk shall immediately cause notice to be published in some newspaper of general circulation in the city of the place where the copies may be found and of the time in which the same may be signed.

The petition shall remain on file in the place designated for a period of thirty days, during which time it may be signed by voters of the city, including those who signed the original petition.

At the expiration of the period of thirty days, the clerk shall assemble all of the copies, and shall file the same as one instrument with the clerk of the circuit court of the city who shall examine the same and ascertain and certify thereon whether the persons

whose names are signed thereto are voters of the city, equal in number to fifteen percent of the number of voters duly registered on January 1 of the year of the petition; however, the clerk of the circuit court shall have the general registrar certify which names on the petition are voters before certifying any petition himself. The general registrar and the clerk of the circuit court shall make their certifications within fifteen days of the date of filing. If such signatures do amount to such percentage, the clerk of the circuit court of the city shall at once serve notice of that fact upon the member or members designated in the petition. (1982, c. 398)

§ 19.10. Recall election.

If the member or members, or any of them, designated in such petition file with the clerk of the council, within five days after the last mentioned notice from the clerk of the circuit court of the city his or their written resignation or resignations, the clerk of the council shall at once notify the clerk of the circuit court of the city of that fact, and such resignation or resignations shall be irrevocable and shall be filed and preserved in the offices of the clerk of the council; and the council shall proceed to fill the vacancy or vacancies, subject to the provisions of Section 5 of this charter. In the absence of notice from the clerk of the council that such resignation or resignations have been filed, as aforesaid, the clerk of the circuit court of the city shall, upon the expiration of the period of five days, forthwith present to the court the copies with his certificate as to the percentage of voters whose names are signed thereto, and a certificate as to the date of the service of the notice given by him to the member or members designated in the petition, as above provided. And, thereupon, the court shall forthwith enter an order calling and fixing a date for holding a recall election for the removal of the member or members named in the petition who have not resigned as aforesaid. Any such election shall be held in accordance with the provisions of § 24.1-165 of the Code of Virginia. (1982, c. 398)

§ 19.11. Ballots and effect of voting.

The ballots of such recall election shall provide, with respect to each person whose removal is sought, the following question: "Shall (name of person) be removed from the office of councilman by recall?" In all other respects the election shall be held in accordance with general law.

In any election, if the majority of the votes cast on the question of the removal of any member are affirmative, such member shall be deemed removed from office upon the ascertainment and certification of the results of such election as in other special elections, and the vacancy or vacancies caused by such recall shall be filled by the remainder of the council, according to the provisions of Section 5 of this charter. (1982, c. 398)

§ 19.12. Effect of resignations pending proceedings for the recall of the whole council.

No proceedings for the recall of all of the members of the council at the same election shall be defeated in whole or in part by the resignation of any of them or all of them; but in any such case upon the resignation of any of them, the remaining members of council or if a majority of the members of council resign, then the circuit court, as provided for in § 15.1-808 of the Code of Virginia (1950), as amended, shall have the power, and it shall be their duty or the court's duty, as the case may be, forthwith to fill such vacancy or vacancies temporarily until successors are elected, and the proceedings

for the recall and the election of successors shall continue and have the same effect as though there had been no resignation. (1982, c. 398)

§ 19.13. Miscellaneous provisions.

No petition to recall any member shall be filed within one year after he assumes the duties of his office.

The method of removal herein provided shall not be deemed or held to be exclusive, but it is in addition to such other methods as are now or may hereafter be provided by general law. (1982, c. 398)

GENERAL PROVISIONS RELATING TO INITIATIVE,
REFERENDUM AND RECALL

§ 19.14. Elections.

All municipal elections shall be conducted, and the results canvassed and certified by the regular election officials provided by the general election laws of the Commonwealth; and except as otherwise provided by this charter, all such elections shall be governed by the general election laws. (1982, c. 398)

§ 19.15. Petitions.

All petitions referred to in this charter shall be signed in ink or indelible pencil by the voter in person and not by agent or attorney. Each person signing any such petition shall print opposite his signature his full name and his place of residence by street and number. The signatures to any such petition need not all be appended to one paper, but to each such paper (except in the case of copies of recall petitions, which may not be circulated) there shall be attached an affidavit by the circulator thereof stating that each signature appended thereto is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant. All copies of any such petition shall be treated as originals. No such petition shall be deemed invalid by reason of the fact that it is signed by one or more persons who are not voters, but the names of such persons shall not be counted. As used in this charter the term "voter," "qualified voter" and "registered voter" are synonymous. (1982, c. 398)

§ 19.16. Presumptions.

All signatures to any petition referred to in this charter shall be accepted and treated as prima facie genuine. For the purpose of certifying the number of voters whose names are signed to any such petition, the clerk of the circuit court of the city shall presume that any person whose name appears thereon is a voter if such person be a voter within the meaning of § 19.17 hereof. All such petitions substantially complying with the requirements of this charter, and certified by the clerk of the circuit court to bear the required number of signatures of voters, shall be accepted and treated as prima facie sufficient. (1982, c. 398)

§ 19.17. Qualifications of persons signing certain petitions.

Any person shall be deemed to be a voter for the purpose of signing any petition referred to in this charter if the name of such person is on the registration books maintained by the general registrar of the city on the date such petition is filed with the appropriate official. (1982, c. 398)

§ 19.18. Duty of city attorney.

Before any ordinance or amendment proposed by popular petition shall be submitted to the council, it shall first be approved as to form by the city attorney, whose duty it shall be to draft such proposed ordinance or amendment in proper legal language,

and to render such other service to persons desiring to propose such ordinances or amendments as shall be necessary to make the same proper for consideration by the council. (1982, c. 398)

§ 19.19. Offenses.

No person shall:

A. Falsely impersonate another in the signing of any petition for initiative, referendum or recall, or forge any name thereto, or deface, destroy or remove from any of the places designated in this charter any copy of a petition for recall with intent to interfere with or defeat such recall;

B. Sign any petition for initiative, referendum or recall with knowledge that he is not qualified voter of the city; or purposely write his name or residence falsely in the signing of any such petition; or sign or intentionally permit to be signed any petition for recall at any other place than hereinbefore designated for the signing of such petitions; or employ or pay another or accept employment on the basis of the number of signatures subscribed thereto, or for circulating any petition permitted by this charter to be circulated.

Any person violating any of the provisions of this section shall be deemed guilty of a Class 1 misdemeanor.

The foregoing provisions shall not be deemed or held to be exclusive of, but in addition to, all laws of the Commonwealth prescribing penalties for the same offenses, or for other offenses relating to the same matter. (1982, c. 398)

§ 19.20. Compensation of clerk of the circuit court.

For his services in connection with any proceedings under the foregoing sections relating to the initiative, referendum and recall, the clerk of the circuit court of the city shall be paid by the city such reasonable fees as are now or may hereafter be provided by law for similar services in other cases. (1982, c. 398)

§ 20. Oaths of office.

The members of the city council and all other officers of the city, whether elected by the people or appointed by the council, before entering upon the duties of their respective offices, shall be sworn in accordance with the laws of the State. Such oaths may be administered by the clerk of council, the judge or clerk of the circuit court or by any person competent to administer an oath under the laws of the State; and a certificate of such oaths having been taken shall be filed by each officer with the clerk of the council, who shall enter the same upon the journal of the council. If any person appointed or elected to any office in said city, shall neglect to take such oath as required by law, his office shall be deemed vacant, and there shall be another appointment or election for the same. (1928, c. 343; 1999, c. 172)

§ 21. All persons elected by the people to fill any municipal office, shall enter upon the duties thereof at the time prescribed by the general laws of the Commonwealth, and shall respectively continue in office until their successors have qualified. (1928, c. 343)

§ 22. The council shall designate such officers and employees of the city as shall give to the city bonds, with securities to be approved by the council, conditioned so as to secure the faithful discharge of their official duties, and the several penalties of said bonds shall be the sums the council, by ordinance, shall prescribe; provided that the securities of the treasurer, collector, commissioner of revenue and high constable,

respectively, shall be equally liable for the acts of his deputy or deputies as for those of their principals.

The bonds provided for under this section are only to secure the faithful discharge of duties to the city, and in no wise are to supersede the official bonds of the Commonwealth required of any of said officials by law. All official bonds given by municipal officers and employees shall be filed with the clerk of the corporation court. (1928, c. 343)

§ 23. In case of default on the part of any bonded municipal officer, the city shall have the same remedies upon his bond against him and his sureties as are provided for the Commonwealth in enforcing the penalty of any official bond given to it. (1928, c. 343)

CHAPTER V—CORPORATION, CIRCUIT AND MUNICIPAL COURTS, BAIL COMMISSIONERS

§ 24. The jurisdiction of the corporation and the circuit courts of the city shall extend to the corporate limits thereof and to a space of one mile without and around said limits, except that the same shall not extend into the county of Amherst beyond the corporate limits; and any judgment, order or decree of the said corporation court or of the said circuit court for the city of Lynchburg heretofore made in any case, in which the said court would have had jurisdiction had this act been in operation, shall have the same effect as if this act had been at that time in force. (1928, c. 343; 1942, c. 167)

§ 25. The city council, in the month of September, 1943 and each four years thereafter, shall elect an officer, who at the time of his election shall be an attorney-at-law, licensed to practice in this Commonwealth for at least five years, who shall be called the Judge of the Municipal Court of said city, whose term of office shall begin on the January 1 succeeding his election, and shall continue for four years thereafter; his salary shall be fixed by the council and paid out of the city treasury in monthly installments and shall not be diminished during his term of office. The present judge of the municipal court shall be the judge of the municipal court until the expiration of the term for which he was elected and until his successor shall be elected and qualified. The council may elect to the position of judge of the municipal court the same person who holds the position of judge of the municipal civil court. The city council shall provide a suitable court room and office for the judge of the municipal court and shall furnish all necessary furniture, books and stationery. Such furniture, books and stationery shall be under the control of the judge of the municipal court, but shall remain the property of the city. (1928, c. 343; 1930, c. 11; 1942, c. 167)

§ 26. The judge of the municipal court shall have all the powers and duties in all criminal matters as by the laws of this Commonwealth are, or may be, conferred upon justices of the peace, and the same power to hold commissions to ascertain insanity, inebriety, addiction to drugs, feeble-mindedness, and epilepsy, and to enforce the laws of the Commonwealth relating thereto, as are now or may hereafter be conferred by state law upon justices of the peace, trial justices or courts of record or the judges thereof, and in addition to such powers and duties, it shall be his duty and he shall have jurisdiction to enforce the penal laws of the Commonwealth, the city ordinances of the city and resolutions of the council, and shall further have the same jurisdiction in all aforesaid matters as the civil and police justices of the cities of Virginia under the laws of the Commonwealth, and especially as set forth in section three thousand one hundred and two (3102) of the Code of Virginia. The said judge of the municipal court shall act as and

serve as judge of the juvenile and domestic relations court of said city and shall have and exercise all powers conferred by general state laws upon such courts and the judges thereof. The said judge of the municipal court shall expressly have original jurisdiction and power to hear, try and dispose of, subject to appeal from his judgment and decision as hereinafter provided, charges of misdemeanor for violation of the laws of the Commonwealth, and to hold preliminary hearings upon charges of felony for violation of the laws of the Commonwealth and to send on to the grand jury those charged with felony against whom he finds probable cause and to discharge those charged with felony as to whom he does not find probable cause of guilt. He shall expressly have exclusive original jurisdiction and power to hear, try and dispose of, subject to appeal from his judgment and decision as hereinafter provided, all charges of violation of the ordinances of said city and resolutions of the city council. And he shall have power to issue such warrants of arrest, search warrants, summons, capias, mittimus, and other process and papers as may be proper in enforcing the aforesaid laws, ordinances and resolutions and his judgments and decisions. And he shall have the power and jurisdiction within the said city to admit to bail persons charged with crime in all cases where the courts of record of this Commonwealth or the judges thereof are by general state law authorized to admit to bail, except he shall not admit to bail any person whose application therefor has been refused by a court of record or judge thereof or while such application for bail is pending before a court of record or judge thereof. In the enforcing of laws of the Commonwealth relating to misdemeanors and the city ordinances and resolutions of the council, he shall have power to impose, enforce and collect all fines and penalties and to impose and inflict such other punishment as by such laws, ordinances or resolutions are provided. His territorial jurisdiction or venue shall extend throughout the corporate limits of the city and for one mile beyond those limits, except that the same shall not extend into the county of Amherst beyond the corporate lines of the city. (1928, c. 343; 1942, c. 167)

§ 26-A. Notwithstanding any other provision of this charter, the council shall appoint or elect a person who at the time of his election shall be an attorney at law, who shall have been licensed to practice law in this Commonwealth for at least five years, who shall be known as the judge of the juvenile and domestic relations court of the city, whose term of office shall begin the first day of the month following his election and shall continue for six years thereafter; his salary shall be fixed by the city council and paid out of the city treasury in monthly, bi-weekly or weekly installments, and shall not be diminished during his term of office.

The assistant judge of the municipal court, or, if he be unavailable, the substitute assistant judge of the municipal court, shall be authorized to act in all matters in the place, room and stead of the said judge of the juvenile and domestic relations court in case of absence from the city or inability to act on the part of the judge of the said juvenile and domestic relations court or during the annual vacation of said judge; and the compensation for so acting shall be fixed by the council and paid out of the city treasury. The assistant judge of the municipal court, or the substitute assistant judge of the municipal court, independently of whether either be acting for the judge of the juvenile and domestic relations court or not, shall, subject to the general supervision and control of the judge of the juvenile and domestic relations court, have at all times the same authority and power with respect to the admitting to bail and the issuing of warrants, summons, process, capias, and other proper papers as to matters within the jurisdiction of

the juvenile and domestic relations court as such officers now possess with respect to bail and the issuance of such papers as to matters within the jurisdiction of the municipal court. The judge of the juvenile and domestic relations court shall hold court at such times as the council may by ordinance or resolution provide, and the city council shall further have the authority to provide by ordinance or resolution for the trial of juvenile cases coming before said court separate and apart from domestic relations cases.

Any vacancy in the office of such judge shall be filled for the unexpired term in the manner prescribed herein for original appointments or election to such office.

The judge of the juvenile and domestic relations court shall have the same powers, jurisdiction, duties, rights, privileges, and the same method of qualification as are now conferred and provided for by general state laws upon such courts in this Commonwealth and the judges thereof.

The present judge of the juvenile and domestic relations court shall continue in office until the expiration of the term for which he was appointed or elected, and upon the expiration of his term and of each successive term thereafter, a successor shall be appointed or elected for the term and in the manner prescribed herein. (1947, c. 5; 1958, c. 156)

§ 27. An appeal may be taken, as a matter of right, to the corporation court of said city from any judgment or decision of the judge of the municipal court imposing any fine, penalty, imprisonment, or other punishment, for violation of any penal laws of the Commonwealth. And from his judgment or decision imposing any fine, penalty, imprisonment, or other punishment, for any infraction of a city ordinance or resolution of the council, an appeal may be taken, as a matter of right, to the said corporation court, except in cases where the penalty imposed is a fine not exceeding twenty dollars, in which case his judgment or decision shall be final. (1928, c. 343; 1942, c. 167)

§ 28. The said court, and the judge thereof, shall have power to enforce the payment of any fine or penalty imposed by the said court for any violation of a city ordinance or resolution, or of any state law, by imprisonment in the city jails or by committing any person convicted by said court to the city farm. (1928, c. 343)

§ 29. Said judge shall hold court each day (except Saturdays and Sundays, and such holidays as may be specified by council, and such days as he may set apart for the trial of juvenile and domestic relations cases when he is sitting as judge of such court), to take cognizance of such cases as may be brought before him under the laws of the Commonwealth or the ordinances of the city. (1928, c. 343; 1942, c. 167; 1968, c. 22)

§ 30. When the judge of the municipal court is elected, the city council shall also elect an assistant judge of the municipal court whose term of office shall coincide with that of the judge of the municipal court, and who shall be an attorney-at-law licensed to practice in this Commonwealth, and who in case of the absence from the city or inability to act on the part of the judge of the municipal court, shall act in all matters in the place, room and stead of the said judge of the municipal court, and who when so acting shall possess the same powers and discharge the same duties as said judge; and his salary for so acting shall be fixed by the council and paid out of the city treasury. And in addition, the said assistant judge of the municipal court, independently of whether he be acting for the judge of the municipal court or not, shall at all times have the same power to issue warrants and to admit to bail as is hereinafter provided for bail commissioners, and at all times have the same powers as the judge of the municipal court in matters relating to

lunacy, inebriacy, drug addicts, feeble-mindedness and epilepsy, and in matters relating to the issuing of summons, mittimus, process, capias and other proper papers; and for his services in issuing warrants, admitting to bail or in connection with matters of lunacy, inebriacy, drug addicts, feeble-mindedness or epilepsy, he shall receive the same fees and from the same sources as allowed under the general laws of the Commonwealth to other officers for performing similar services. The present assistant judge of the municipal court shall be the assistant judge of the municipal court and fill that office until the expiration of the term for which he was elected and until his successor shall be elected and qualified. The city council may elect one or more attorneys-at-law licensed to practice in this Commonwealth as substitute assistant judges of the municipal court to act in case of the absence from the city or inability to act on the part of the assistant judge of the municipal court, who when so acting shall have all the powers and duties of the assistant judge of the municipal court. And the council may fix their terms of office and provide for and fix their compensation. (1928, c. 343; 1942, c. 167; 1970, c. 9)

§ 31. Any vacancy in the office of judge of the municipal court or of the assistant judge of the municipal court or of the substitute assistant judge thereof may be filled by election by the city council; and the person or persons thus elected shall serve for the unexpired term of their predecessor and until their successors shall be elected and qualified. (1928, c. 343; 1942, c. 167)

§ 32. The said judge of the municipal court shall appoint a clerk of said court who shall hold office at the pleasure of said judge and shall receive such salary as may be fixed by the city council. Said clerk shall also act as clerk of the domestic relations and juvenile court and shall perform such other duties as may be assigned him. The said judge of the municipal court may also appoint a deputy clerk, who shall hold office at the pleasure of said judge, and who if appointed, shall have the same powers and duties as the clerk of said court and shall receive such salary as may be fixed by the city council. (1928, c. 343; 1942, c. 167)

§ 33. The city council shall have authority to appoint from such of the qualified voters of the city not more than five persons, who shall, when appointed, be called bail commissioners, whose respective terms of office shall begin on the January 1 succeeding their respective appointment and shall continue for four years thereafter.

All said bail commissioners, if appointed, shall each, at all times, have the same authority and power as the judge of the municipal court to issue search warrants and warrants of arrest for violation of the criminal laws of the Commonwealth and penal ordinances of the city, and each of said bail commissioners shall at all times have power and jurisdiction within the said city to admit to bail persons charged with crime in all cases where the courts of record or the judges thereof are authorized to admit to bail; but none of said bail commissioners shall issue any such warrants nor admit any persons to bail after any court of record having jurisdiction in the matter, or the judge thereof, or the judge of the municipal court of the city, has acted upon the application for such warrant or bail nor while the application for such warrant or bail is pending before such court or judge.

The council shall have authority by ordinance to provide such rules and regulations governing the work and duties of the said bail commissioners as it may deem proper and shall fix the fees and compensation of such bail commissioners as it may deem proper. (1928, c. 343; 1942, c. 167; 1970, c. 9)

§ 34. The city council, in the month of September, 1943, and each fourth year thereafter, shall elect an officer, who at the time of his election shall be an attorney-at-law licensed to practice law in this Commonwealth for at least five years, who shall be called the judge of the municipal civil court of said city, whose term of office shall begin on the January 1 succeeding his election, and shall continue for four years thereafter and until his successor shall be elected and qualified; his salary shall be fixed by the city council and paid out of the city treasury, by monthly instalments, and shall not be diminished during his term of office. The present judge of the municipal civil court shall be the judge of said municipal civil court until the expiration of the term for which he was elected and until his successor is elected and qualified. The council may elect to the position of judge of the municipal civil court the same person who holds the position of judge of the municipal court. Said judge of the municipal civil court shall give bond in the penalty of \$2,500 with such security as may be approved by the council, payable to the city of Lynchburg with a condition for the faithful discharge of the duties of his office. (1928, c. 343; 1942, c. 167)

§ 35. When the judge of the municipal civil court is elected, the council shall also elect an assistant judge of the municipal civil court who shall be an attorney-at-law licensed to practice in this Commonwealth whose term of office shall coincide with that of the judge of the municipal civil court. In the event of the inability of the judge of the municipal civil court to perform the duties of his office by reason of sickness, absence, vacation, or otherwise, such assistant judge of the municipal civil court shall perform the duties of the office during such absence or disability and shall receive for his services such compensation as may be fixed by the city council. While acting as such judge of the municipal civil court either the judge of the municipal civil court or the assistant judge of the municipal civil court may issue warrants, executions upon, grant new trials, hear motions and perform other acts in reference to the judgments and proceedings of the other in the same manner as if they were his own. The present assistant judge of the municipal civil court shall be assistant judge of the municipal civil court until the expiration of the term for which he was elected and until his successor shall be elected and qualified. (1928, c. 343; 1942, c. 167)

§ 36. Any vacancy in the office of the judge of the municipal civil court or assistant judge of the municipal civil court may be filled by election by the city council. The person or persons thus elected shall serve for the unexpired term and until their successor shall be elected and qualified. In case of absence from the city, or inability to act, on the part of either the judge of the municipal civil court or the assistant judge of the municipal civil court, the city council may designate some person to act in the place of said judges, who when acting, shall possess the same powers and discharge the same duties as such judges. (1928, c. 343; 1942, c. 167)

§ 36-a. The said judge of the municipal civil court shall appoint a clerk and may appoint a deputy clerk for said court, who shall hold office at the pleasure of the said judge and shall receive such salary as may be fixed by the city council. Such clerk shall be a conservator of the peace within said city, and shall as such clerk issue warrants, executions, garnishments, writs of possession, summons for witnesses, summons on interrogatories, copies of orders in attachment cases, abstracts of judgments and all other processes original, mesne and final, which might or could be issued by the judge of the municipal civil court himself. Such clerk shall keep the docket and accounts for the

municipal civil court, shall collect all fees and regularly deposit all moneys collected by him, and shall give bond in the sum of \$2,500 for the faithful performance of his duties as such clerk. Such clerk shall make a monthly report to the city auditor showing all fees collected by him as such clerk and shall pay monthly to the collector of the city of Lynchburg all fees collected by him. Such clerk shall perform such other duties as may be prescribed by the judge of the municipal civil court. He shall be allowed annually, a vacation period of two weeks with pay. If a deputy clerk is appointed for said court as provided herein, said deputy clerk shall exercise all the powers and duties herein given to said clerk. (1942, c. 167)

§ 36-b. The city council shall provide a suitable courtroom and office for the judge of the municipal civil court and shall furnish all necessary furniture, books and stationery. Such books and furniture shall be under the control of the judge of the municipal civil court, but shall remain the property of the city. (1942, c. 167)

§ 36-c. The high constable of the city of Lynchburg shall act as bailiff of said municipal civil court and shall have charge of the courtroom thereof. He shall also call the docket of said court and while exercising his duties as bailiff shall have all the powers, rights, and duties of a police officer of the city of Lynchburg. (1942, c. 167)

§ 36-d. The municipal civil court shall be presided over by the judge thereof and shall be held in such places as shall be designated by the city council and shall be held at least three days each week to take cognizance of such cases as may be brought before it. (1942, c. 167)

§ 36-e. The said judge of the municipal civil court shall have all the powers and duties of a justice of the peace, and of trial justices in civil matters, and of civil justices and shall have concurrent jurisdiction with the circuit and corporation courts of the city of Lynchburg, in all actions at law where the amount in controversy does not exceed \$1,000 exclusive of interest and costs. In furtherance of the aforesaid jurisdiction, powers and duties, but not in limitation thereof, the said judge of the municipal civil court, where the amount in controversy does not exceed \$1,000 exclusive of interest and costs, shall have the specific jurisdiction, powers and duties as follows:

1. The said judge of the municipal civil court shall have exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract, or for any injury done to property, real or personal, or for any injury to the person which would be recoverable by action at law when the amount of such claim does not exceed \$200, exclusive of interest and costs.

2. The said judge of the municipal civil court shall have the same jurisdiction in actions of unlawful entry and detainer as a court of record of general jurisdiction.

3. The said judge of the municipal civil court shall have jurisdiction to hear and determine and to enter the proper orders on petitions for the enforcement of any lien on personal property.

4. The said judge of the municipal civil court shall have jurisdiction to try and decide attachment cases.

5. The said judge of the municipal civil court shall have jurisdiction to decide controversies arising out of distress warrants issued by said judge of the municipal civil court.

6. The said judge of the municipal civil court shall have the power and jurisdiction in any action or suit pending in said municipal civil court wherein an infant,

idiot, or lunatic is a party, to approve and confirm a compromise of matters in controversy on behalf of such infant, idiot, or lunatic, if said compromise shall be deemed to be to the interest of the infant, idiot, or lunatic; and any order or decree approving and confirming any such compromise shall be binding upon such infant, idiot, or lunatic, except that the same may be set aside for fraud; and he shall have the same power and jurisdiction as a court of record of general jurisdiction to order the disposition of any such sum found to be due said infant, idiot, or lunatic.

7. The said judge of the municipal civil court shall have the same power as a court of record of general jurisdiction to issue summons in interrogatories and to determine issues arising therefrom, when the fieri facias upon any final judgment heretofore or hereafter rendered was issued by him.

8. The said judge of the municipal civil court shall have the same power as a court of record of general jurisdiction to issue summons in interrogatories to adverse parties or claimants and to determine issues arising therefrom. The procedure hereunder shall be the same as provided for courts of record of general jurisdiction.

9. The said judge of the municipal civil court shall have the power to recognize witnesses to appear at a subsequent date to give testimony in any case; and to issue subpoenas duces tecum, and to punish for contempt any failure to appear or produce the papers required. In order to procure the subpoenas duces tecum, the party applying therefor, must present an affidavit of himself or someone for him describing the desired papers with reasonable certainty and naming the person who is desired to produce the same, and stating that to the best of affiant's belief, the papers are relevant to the trial of the case.

10. The said judge of the municipal civil court shall have the same powers in matters of contempt as are conferred on courts and judges by the general law, but in no case shall the fine exceed fifty dollars nor shall imprisonment exceed ten days for the same contempt. From any such fine or sentence, an appeal shall be allowed as a matter or right to the corporation court of the city of Lynchburg, Virginia.

11. The said judge of the municipal civil court shall have the power and jurisdiction to try any statutory interpleader. (1942, c. 167)

§ 36-f. In any case in which the judge of the municipal civil court is given jurisdiction, the procedure of a court of record shall be followed unless otherwise herein provided, except that all cases shall be tried by said judge of the municipal civil court without the intervention of a jury.

1. Procedure before said judge of the municipal civil court, wherever practicable, shall conform to the chapter of the Code of Virginia of 1919, as now or hereafter amended, concerning warrants for small claims, except that either party may require the adverse party to file the particulars of his claim or the grounds of defense, as provided by general law, and except that the proceedings in a case wherein an infant or insane person is a party shall not be stayed because of such infancy or insanity, but the judge of the municipal civil court before whom such suit is pending, shall appoint some discreet and competent attorney-at-law as guardian ad litem for such infant or insane defendant, whether such defendant shall have been served with process or not, or, if no such attorney be found willing to act, the judge of the municipal civil court shall appoint some other discreet and proper person as guardian ad litem, who shall faithfully represent the interest or estate of the infant or insane person for whom he is appointed; but the said guardian ad

litem so appointed shall not be liable for costs. Any warrant issued hereunder shall be served on the defendant not less than five nor more than thirty days from the return day thereof, unless service of such warrant shall be accepted or waived by the defendant or his counsel.

2. Any person entitled to maintain an action at law or proceed by civil warrant as above set out before said judge of the municipal civil court, may, in lieu of such action at law or civil warrant, proceed by motion before such judge of the municipal civil court after not less than five days' notice, unless said notice is waived by the defendant or his counsel, which notice shall be in writing, signed by the plaintiff, or his counsel, and shall be returned to the said judge of the municipal civil court on the return day of same, and when so returned, shall be forthwith filed and the date noted thereon, and proceedings thereafter shall be the same as upon warrants for small claims. The said notice shall contain a brief informal statement of the plaintiff's claim. All such notices shall be served only by an officer authorized to serve civil process, unless said notice shall be accepted or waived by the defendant or his counsel.

3. Any proceedings by a debtor to have his wages exempt, shall be as provided by general law.

4. The proceedings on attachments and garnishments shall be the same as provided for courts of record, except that where the principal-defendant is a non-resident and said attachment or garnishment is returned executed, and the principal-defendant has not been served with a copy thereof, the said judge of the municipal civil court, upon affidavit in conformity with section six thousand and sixty-nine (6069) of the Code of Virginia of 1919, as now or hereafter amended, shall forthwith cause to be posted at the front door of the courtroom of said municipal civil court a copy of said attachment or garnishment, and shall file a certificate of the fact with the papers in the case, and in addition to the said posting, the plaintiff in said attachment or garnishment, or his attorney, shall give to the clerk of said municipal civil court, the last known address or abode of the said defendant, verified by affidavit, and the said clerk shall forthwith mail a copy of the said attachment or garnishment to the said defendant at his or her last known address or place of abode; or, if said defendant be a corporation, at its last known address and the mailing of the copy aforesaid shall be certified by the said clerk in writing and such certificate shall be filed with the papers in the case, and after the said copy of the attachment or garnishment has been so posted and mailed, as aforesaid for fifteen days, the said judge of the municipal civil court may proceed to try and decide the said attachment or garnishment.

5. All officers who may execute warrants of distress issued by said judge of the municipal civil court, where the amount of said warrant of distress does not exceed \$1,000, exclusive of interest and costs, shall make return of the same together with any bond, bonds or affidavit taken in connection therewith, to the said judge of the municipal civil court within sixty days after the same may have come to his hands, and thereafter proceedings shall be had in said municipal civil court as now or hereafter provided by law for courts of record. (1942, c. 167)

§ 36-g. From every judgment of said judge of the municipal civil court where the amount in controversy exceeds the sum of twenty dollars, exclusive of interest and costs, there shall be an appeal as of right to the circuit or corporation court of the city of Lynchburg, and all such appeals shall be tried and judgment rendered as provided by

section six thousand and thirty-eight (6038), Code of Virginia of 1919, as now or hereafter amended, but no appeal shall be granted unless within ten days from the date of judgment from which the appeal is sought, the party applying for the same or someone for him, shall have given bond, with sufficient surety or security, to be approved by said judge of the municipal civil court to abide the judgment of the court upon the appeal, if such appeal is perfected, except where such appeal is proper to protect the estate of a decedent, infant, convict, insane person, the Commonwealth of Virginia, a county, city or town, in which instance no bond shall be required, or if not so perfected, then to satisfy the judgment of said judge of the municipal civil court; judgment against such surety when the appeal is not perfected to be entered under section six thousand and twenty-eight (6028) of the Code of Virginia of 1919, as now or hereafter amended. No surety in such appeal bond shall be released by the appellant being adjudicated a bankrupt at any time subsequent to the judgment rendered by the judge of the municipal civil court, but such surety shall be entitled to make any defense on the trial of the appeal that the appellant could have made, except the defense of bankruptcy of the principal. When said appeal bond has been filed before said judge of the municipal civil court, he shall notify the opposing party in writing, by mailing to said opposing party or his counsel at his or his counsel's last known address, notice that said appeal has been taken and shall endorse on the papers in the case the date of mailing said notice. The party taking such appeal may direct to which of said courts said appeal shall be sent for trial, and in the absence of such direction, said judge of the municipal civil court may send the same to either the corporation or circuit court of the city of Lynchburg, and the clerk of said court, upon receipt of the papers in any such appeal, shall, upon payment of the writ tax forthwith docket such case in its regular order; but if said writ tax be not paid within thirty days from the date of the judgment, the said appeal shall thereupon stand dismissed, and the said judgment shall become final and the said papers, upon application of any party in interest, shall be returned to the said judge of the municipal civil court by the clerk of the appellate court whereupon judgment shall be forthwith rendered against surety thereon, such judgment to be endorsed "no security to be taken," or if security has been deposited with said judge of the municipal civil court, upon the appeal being taken, said security shall be applied to the payment of said judgment and costs and if there remains any balance, it shall be paid to the party depositing same. Appeal cases shall not have preference over other cases pending in said appellate court as regards the time of trial. (1942, c. 167)

§ 36-h. Whenever the amount involved in any case within the jurisdiction of said judge of the municipal civil court, as herein provided, exceeds the sum of \$300, exclusive of interest and costs, the judge of the municipal civil court shall at any time on or before the return date of the process, provided trial of the case has not commenced in said municipal civil court, but not thereafter, upon the application of the defendant, or if there be more than one defendant, then upon the application of any defendant, and the filing by him of an affidavit of himself, his agent or attorney that he has a substantial defense to the plaintiff's claim, and upon payment by him of the costs accrued to the time of application for removal and the writ tax as fixed by law, and four dollars on account of costs in the court to which it is removed, remove the case and all the papers thereof, to the corporation or circuit court of the city of Lynchburg; and the judge of the municipal civil court shall promptly transmit the papers in the case and the writ tax and four dollars

on account of costs to the clerk of the court to which the case is removed. If the defendant fails to pay the accrued costs, writ tax, and four dollars for costs in the court to which the case is to be removed at the time of his application for removal, the judge of the municipal civil court shall proceed to try the case. On the trial of the case in the corporation or circuit court, the proceedings shall conform to the proceedings under section six thousand and forty-six of the Code of Virginia of 1919, as now or hereafter amended. (1942, c. 167; 1946, c. 383)

§ 36-i. The judge of the municipal civil court rendering any judgment may issue a writ of fieri facias thereon immediately, if there be not a new trial granted, nor an appeal allowed, nor a stay of execution; and the said judge of the municipal civil court may from time to time renew such writ either before or after the expiration of one year from the date of judgment. The said judge of the municipal civil court may grant a stay of execution in the case for sixty days upon the defendant giving bond with sufficient surety or security approved by said judge, during which time the said defendant, or his surety, may discharge their liability by paying the total amount due on account of said judgment including principal, interest and costs to the date of payment. If such liability be not discharged within sixty days, then, after the expiration of the said period of sixty days, upon motion of the judgment creditor, the judge of the municipal civil court shall enter judgment thereon against the surety and such judgment shall be endorsed "no security to be taken" and shall have the same effect as a judgment rendered against a surety on an appeal bond as herein set out, or if security has been deposited as aforesaid, said security shall be applied to the payment of said judgment and costs and if any balance remains, it shall be paid to the party depositing same. (1942, c. 167)

§ 36-j. Any warrant or other process issued upon any claim or cause of action of which the judge of the municipal civil court is given jurisdiction may be made returnable before such judge of the municipal civil court if the defendant or one of them, if there be more than one defendant, resides in the city of Lynchburg, or within one mile of the city limits thereof, except in the county of Amherst, or if said defendant is regularly employed, or has a regular place of business in the city of Lynchburg, or if the cause of action or any part thereof, arose therein; but any such warrant, notice of motion, or any other process may be directed to a constable, sheriff, or sergeant of any county or city wherein the defendant resides or may be found; but no such warrant or notice of motion shall be executed in any county or in any city other than the city of Lynchburg, or within one mile of the city limits thereof, except in the county of Amherst, unless it be (a) an action against a corporation, (b) an action on a bond taken by an officer under authority of some statute, (c) an action to recover damages for a wrong, (d) an action against two or more defendants on one of whom such warrant, notice of motion, or other process has been executed in the said city of Lynchburg, or, (e) unless it be otherwise specially provided. (1942, c. 167)

§ 36-k. All papers connected with any of the proceedings in the trial of cases before such judge of the municipal civil court, and distress warrants, except such as may be removed on appeal or removal, shall be properly indexed, filed and preserved in the office of the judge of the municipal civil court, by said judge. Copies of any papers so filed in the office of the judge of the municipal civil court, certified by the judge or clerk thereof, shall be competent evidence in any court of the Commonwealth of Virginia, or the United States. (1942, c. 167)

§ 36-l. The judge of the municipal civil court shall have the power to make and enforce such reasonable rules of practice as are not in conflict with law. (1942, c. 167)

§ 36-m. For services rendered by said judge of the municipal civil court by virtue of his office, he shall charge the following fees:

1. For each warrant, summons in garnishment, writ of possession, summons and order in interrogatories, order of sale in attachment proceedings, order under section five thousand one hundred and ninety (5190), Code of Virginia of 1919, and for each laboring man's exemption, fifty cents.

2. For each claim tried, a trial fee of fifty cents for each \$100 or fraction thereof, claimed.

3. For each warrant, notice of motion, summons in garnishment, or other similar proceedings, an indexing and filing fee of fifty cents.

4. For each execution after the first, fifty cents.

5. For each witness summoned, for each abstract of judgment, and for attesting release of judgment in docket book, twenty-five cents.

6. For each continuance after the first, twenty-five cents shall be paid by the party asking for the same, but where any continuance is by agreement of the parties, the continuance fee shall be taxed as part of the costs.

7. For extra copies of any writ or process, except warrants and summons in garnishment, one-half of the above mentioned fees.

8. The costs of any affidavit required by law to be filed in any proceeding before the judge of the municipal civil court, shall be taxed as part of the costs.

For any services rendered by said judge of the municipal civil court by virtue of his office, not provided for herein, the said judge of the municipal court shall charge the same fees as provided by general law for clerks of courts of record of general jurisdiction. (1942, c. 167)

CHAPTER VI—THE CITY COUNCIL, ITS POWERS, DUTIES, ETC.

§ 37. The council shall have authority to adopt such rules and appoint such officers and clerks as it may deem proper for the regulation of its proceedings, and for the convenient transaction of business may compel the attendance of absent members, may punish its members for disorderly behavior, and by a vote of two-thirds of its members may expel a member for malfeasance or misfeasance in office. It shall cause a journal of its proceedings and its meetings to be kept and its meetings shall be open except when by recorded vote of two-thirds of the members present, the council shall decide that the public welfare requires secrecy. The council in any investigation held by it may order the attendance of any person as a witness and the production by any person or any proper books and papers. Any person refusing or failing to attend or testify or produce such books and papers, may be summoned by the council before the judge of the municipal court or other officer having the powers of a justice of the peace of the city, and upon failure to give a satisfactory excuse, may be fined by him not exceeding the sum of \$100, or imprisoned not exceeding thirty days, such person to have the right of appeal as in cases of misdemeanor, to the corporation court of said city. Such witness may be sworn by the officer presiding at such investigation and shall be liable for prosecution for perjury for any false testimony given at such investigation. (1928, c. 343)

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

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

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

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

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

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

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

works, pipes, reservoirs and fixtures, whether within or without the city, against injury and pollution, by appropriate ordinances and penalties, to be enforced as are other ordinances of said city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Twenty-fourth. To prevent vice and immorality; to preserve public peace and good order; to prevent and quell riots, disturbances and disorderly assemblages; to

suppress houses of ill-fame and gaming houses and gambling devices of all kinds; to prevent the carrying on of lotteries of all kinds and the conducting of raffles; to prevent lewd, indecent and disorderly conduct or exhibitions in the city, and to expel therefrom persons guilty of such conduct who have resided therein less than one year.

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

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

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

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

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

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

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

Thirty-second. To provide for the regular and safe construction of houses in the city for future, and to provide a complete building code for the city and to provide setback lines on the streets beyond which no building may be constructed.

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

Thirty-fourth. To prescribe penalties for the violation of any city ordinance, rule or regulation, but not exceeding any penalty established by the Commonwealth for a similar offense.

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

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

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

Thirty-eighth. No ordinance or section of ordinance, hereafter passed or amended by the council for the violation of which any penalty is expressly imposed in the ordinance or section of ordinance as passed shall take effect until the same shall have been published for five days consecutively in one of the daily newspapers of the said city to be designated by the city council; provided, however, that this requirement as to publication shall not apply to an ordinance merely granting to a person some individual right or privilege, nor to any ordinance re-ordained or amended in or by a compilation or codification of said ordinances, nor to the amendment of any ordinance, or section thereof, where no specific penalty for the violation thereof is provided in the ordinance or section of ordinance as amended or re-enacted, where the penalty for the violation of such ordinance or section of ordinance so amended and re-enacted is only the penalty imposed by the general ordinances of the city for the violation of any ordinance of the

city, or is only the penalty imposed for violation of any of the provisions of an ordinance, where only one or more of the sections of said ordinance are so amended or re-enacted; and provided further, that in cases where the council adopts ordinances or sections of ordinances which are substantially the same as state statutes or sections thereof, dealing with the same subject, it shall not be necessary to publish said ordinances or sections thereof, but it shall be sufficient to publish a notice that certain statutes of the Commonwealth or sections thereof, have by ordinance been adopted by the city council, said notice to cite the act of the Assembly or sections in the Virginia Code which have been so paralleled and adopted by the council, and said notice shall further give a brief description of the subject matter of the ordinance or section thereof so adopted.

The record or entry made by the clerk of said city, or a copy of such record or entry duly certified by him, shall be prima facie evidence of the fact and time of such publication; and all laws, regulations and ordinances of the city council may be read in evidence in all courts of justice and all proceedings before any officer, body or board in which it shall be necessary to refer thereto, either from a copy thereof certified by the clerk of said council or from the volume of ordinances printed by authority of the city council. (1928, c. 343; 1930, c. 9; 1934, c. 278; 1938, c. 183; 1999, c. 172)

§ 38-A. (1) Notwithstanding any provision of § 38, or of any other sections of the charter of the city of Lynchburg, as amended, it shall be unnecessary, whenever the council of such city shall codify, recodify, revise or amend any existing ordinance or ordinances or enact any new ordinance or ordinances of said city, and cause the same, or any part thereof, to be printed at one time or from time to time in book or pamphlet form, to publish in a newspaper or otherwise any new, revised or amended ordinance or ordinances, or any other ordinance or ordinances, or any codification or recodification of any ordinance or ordinances contained in any such book or pamphlet, and all new, revised or amended ordinances, codifications or recodifications contained in any such book or pamphlet shall take effect at such time, but not less than thirty days after the same have been printed in such book or pamphlet form, as may be prescribed by the council by ordinance.

(2) Notwithstanding any provision of paragraph (1) of this section or of § 38, or of any other section of the charter of the city of Lynchburg, as amended, it shall be unnecessary to either publish in a newspaper or otherwise, or to print in a book or pamphlet form any ordinance or ordinances of said city which prohibit or regulate traffic or parking on any designated street or streets, or other designated area or areas, or which prohibit or regulate the dumping of trash or other matter, or which prohibit or regulate any other specified activity or activities in or near any designated streets, areas, buildings or other locations; provided, however, such signs are present, within or near such streets, areas, buildings or other locations, as to apprise an ordinarily observant person of such prohibitions or regulations, and such ordinance or ordinances shall take effect at such time, but not before the signs called for in said ordinance or ordinances have been erected, as may be prescribed by the council by ordinance. (1942, c. 235; 1950, c. 253)

§ 38-B. (1) In order to carry out more effectually the powers conferred by this charter, the city of Lynchburg is hereby expressly authorized to acquire by condemnation proceedings instituted in the corporation court of the city of Lynchburg, or in the circuit court of the city of Lynchburg, if the subject lies or is situated within the city, and if not within the city, in the circuit court of the county in which subject lies, land or any interest

therein, any right, easement, or estate of any person or corporation therein, whenever in the opinion of its council a public necessity exists therefor, which shall be expressed in the ordinance or resolution directing such acquisition, whenever the city of Lynchburg cannot agree on terms of purchase or settlement with those entitled to such subject because of the incapacity of such owner, or some one of the owners, or because of the inability to agree upon the compensation to be paid, or other terms of settlement or purchase, or because the owner, or some one of the owners, of the subject proposed to be acquired is a nonresident of this Commonwealth, or cannot with reasonable diligence be found in this Commonwealth, or is unknown. If the subject is situated partly within the city and partly within the county, the circuit court of such county shall have concurrent jurisdiction in such condemnation proceedings with the courts of the city hereinbefore enumerated. The judge or the court exercising such concurrent jurisdiction shall appoint five disinterested freeholders, any or all of whom may reside either in such county or in the city, any three of whom may act, as provided by law.

(2) In addition to the procedure prescribed by general law for the exercise of the power of eminent domain, the council of the city may, by such ordinance or resolution, direct the acquisition of such property and provide therein in a lump sum the total estimated necessary funds to compensate the owners thereof for the property or properties to be acquired or damaged. Upon the adoption of such ordinance or resolution the city may file a petition in the clerk's office of any of the courts hereinbefore enumerated, which shall be signed by the mayor, vice-mayor or city manager and shall set forth the interest or estate to be taken in the property and the uses and purposes for which the property or the interest or estate therein is wanted, or when no property is to be taken but is likely to be damaged, the necessity for the work of improvement which will cause or is likely to cause damage to the property or estate of any person. There shall also be filed with the petition a plat of a survey of the property with a profile showing cuts and fills, trestles and bridges, if any, and a description of the property which, or an interest or estate in which, is sought to be taken or likely to be damaged and a memorandum showing the names and residences of the owners of the property, if known, and showing also the quantity of property which, or an interest or estate in which, is sought to be taken or will be or is likely to be damaged. There shall be filed also with said petition a notice directed to the owners of the property, if known, copies of which shall be served on such owners or on tenants of the freehold of such property, if known. If such owner or tenant of the freehold be unknown or a nonresident of the Commonwealth and cannot with reasonable diligence be found in this Commonwealth, or if the residence of such owner or tenant be unknown, he may be proceeded against by order of publication, which order, however, need not be published more than once a week for two successive weeks and shall be posted at a main entrance to the courthouse. The publication shall in all other respects conform to §§ 8-71, 8-72, 8-76 and 25-46.10 of the Code of Virginia. Upon the filing of said petition and the deposit of the funds provided by the council for the purpose, in a bank to the credit of the court in such proceedings and the filing of a certificate of deposit therefor, the interest or estate of the owner of such property shall terminate and the title to such property or interest or estate of the owner shall be absolutely vested in the city in fee simple, and such owner shall have such interest or estate in the funds so deposited as he had in the property taken or damaged and all liens by deed of trust, judgment or otherwise upon said property or estate shall be transferred

to such funds and the city shall have the right to enter upon and take possession of such property for its uses and purposes and to construct its works of improvement. The clerk of the court in which such proceeding is instituted, unless such court shall also be the court in which deeds are admitted to record, shall make and certify a copy of the petition, and any exhibits filed therewith, notice and orders and deliver or transmit the same to the clerk of the court in which deeds are admitted to record. The clerk of the court in which deeds are admitted to record shall record the same in his deed book and index them in the name of the person or persons who had the property before and in the name of the city, for which he shall receive the same fees prescribed for recording a deed, which shall be paid by the city. If the city and the owner of property so taken or damaged agree upon compensation therefor upon filing such agreement in writing in the clerk's office of such court, the court or judge thereof in vacation shall make such distribution of such funds as to it may seem right, having due regard to the interest of all persons therein, whether such interest be vested, contingent or otherwise, and to enable the court or judge to make a proper distribution of such money it may in its discretion direct inquiries to be taken by a special commissioner in order to ascertain what persons are entitled to such funds and in what proportions and may direct what notice shall be given of the making of such inquiries by such special commissioner. 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 § 25-46.20 of the Code of Virginia, or as provided for in this section, and shall in this order appointing such commissioners designate the day and hour for them to meet, and all proceedings thereafter shall be had as provided in §§ 25-46.20 through 25-46.34 of the Code of Virginia, or as provided in § 15.1-236 thereof, insofar as they are then applicable and are not inconsistent with the provisions of this act, and the court shall order the deposit in bank to the credit of the court 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 the erection of said improvements in making their award.

(3) In all cases under the provisions of this act, the enhancement, if any, in value of the remaining property of the owner by reason of the construction or improvement contemplated or made by the city, shall be offset against the damage, if any, resulting to such remaining property of such owner by reason of such construction or improvement, provided such enhancement in value shall not be offset against the value of the property taken; and provided, further, that if such enhancement in value shall exceed the damage, there shall be no recovery over against the owner for such excess.

(4) Whenever any money shall have heretofore remained or shall hereafter remain for five years in the custody or under the control of any of the courts hereinbefore enumerated in any condemnation proceedings instituted therein by the city under this section or the general law, without any claim having been asserted thereto, such court shall, where the amount is \$100 or more, cause a publication to be made once a week for two successive weeks in a newspaper of general circulation in the city, setting forth the amount of such money, the source from which it was derived and the proceedings 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 be less than \$100, the court shall direct the same to be paid into the treasury of the city, and a proper voucher 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 voucher for the payment to be taken and filed among the records of the proceeding. The city comptroller 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 thereout to any person entitled thereto, who has not asserted a claim therefor in the proceeding in which it was held, on the order of the court having jurisdiction of such proceeding, upon satisfactory proof that he 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 comptroller. No claim to such money shall be asserted after ten 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, claim to such money may be asserted within five years after the removal of such disability. (1947, c. 5; 1968, c. 22)

§ 38-C. Property for school purposes.

The city shall have authority to acquire by purchase, eminent domain, grant, or otherwise, property within the city or without the city for a distance of one mile from the corporate limits thereof for school purposes; provided, however, that no property for such purpose outside the city shall be acquired that is held for, or devoted to, county school purposes or other public use; and the school board of the city shall have the same control over school property outside the city, the title to which is vested in the city, as it exercises upon like property within the corporate limits. Procedure in any condemnation proceedings brought under authority of this section shall be prescribed in § 38-B of this charter. (1948, c. 130)

§ 38-D. Notwithstanding any of the provisions of the Housing Authorities Law (§§ 36-1 et seq. of the Code of Virginia, as amended), the members of the council of the city of Lynchburg, Virginia, during their respective terms of office as councilmen, are authorized and empowered to act as the Commissioners of the Lynchburg Redevelopment and Housing Authority, whenever the said council shall adopt a resolution declaring

- (1) The need for an authority to function in the city of Lynchburg; and
- (2) The determination that the members of the council of the city of Lynchburg, shall act as the Commissioners of the said Authority.

Should the council determine to act as the Commissioners of the Lynchburg Redevelopment and Housing Authority as above provided, it shall designate which of the Commissioners shall be the Chairman of the Authority, and four Commissioners shall constitute a quorum of the said Authority for the purpose of conducting its business and

exercising its powers and for all purposes, and action may be taken by the Authority upon the vote of a majority of the Commissioners present, unless in any case the by-laws of the Authority shall require a larger number. The determination of the council made hereunder and any determination that may be made by the Authority as constituted hereunder shall be effective without the prerequisite of an election being held to determine the question as provided by the Housing Authorities Law.

Nothing herein contained shall be construed to prevent the council and the Authority from otherwise proceeding under and in accordance with the Housing Authorities Law. (1950, c. 253; 1956, c. 244)

§ 38-E. In addition to such powers as the council may have under the provisions of § 38, or any other section or sections of the charter of the city of Lynchburg, as amended, or of any provisions of the general law, it shall have authority to limit the depth of any future excavations within the city and to regulate the rights and duties of adjoining property owners as to the lateral support of land and improvements thereon. (1950, c. 253)

§ 38-F. Except as otherwise provided in this charter, the council shall have the power to provide by ordinance the length of prior residence in the city, if any, which shall be required as a qualification for employment of regular, permanent officers and employees of the city, or any of them; and whether such officers and employees, or any of them, shall be required to reside within the city during their tenure in such office or employment. (1968, c. 22)

§ 38-G. Powers relating to public transportation.

In addition to the powers granted by other sections of this charter, the city shall have the power to acquire, operate, lease or otherwise provide for the operation of a public transportation system, including, by way of illustration but not limitation, the operation of passenger buses, both within and outside the city of Lynchburg, including providing for transportation of pupils attending public schools operated by the School Board of the city of Lynchburg; provided, however, that the operation of any such system outside the city of Lynchburg shall be only with the consent of the governing body of the political subdivision in which such operation is to occur. (1974, c. 22)

§ 38-H. Power relating to public museum.

The city shall have the authority to provide for and operate public museums and to acquire by purchase or gift, sites, landmarks, structures and all appropriate items for preservation and exhibition. The council shall have the power to appoint such boards, commissions and agencies as it deems appropriate to administer and regulate the operation of such museums. (1974, c. 22)

§ 38-I. Police jurisdiction of city-owned lands, buildings and structures located outside its corporate limits.

The powers set forth in § 15.1-887 of the Code of Virginia, as in force on January 1, 1974, are hereby conferred on and vested in the city of Lynchburg; provided, however, as to such facilities located outside the municipal corporation, that these powers shall be limited to jurisdiction over water supplies and facilities; and, airports and lands, structures, equipment and facilities appurtenant thereto, as provided in §§ 15.1-875 and 15.1-885. (1974, c. 22)

§ 39. There shall be a police department and a fire department, which may be incorporated into one department known as the "department of public safety," with the director therefor to be appointed by the city manager.

First. (a) The city manager shall, through the director of the department of public safety, if such department be established, appoint a chief of police whose duties and bond shall be such as the council may ordain. The city manager shall further, on nomination of the chief of police, through the director of the department of public safety, if such office be established, appoint such number of policemen as may be authorized by the council.

(b) The chief of police and policemen appointed as hereinbefore provided, shall constitute the police force of the city and shall hold their respective positions during good behavior or until they are removed by the city manager.

(c) The police force shall be under the control of the city manager for the purpose of enforcing peace and executing the laws of the Commonwealth and ordinances of the city. It shall perform such other duties as the council may prescribe. For the purpose of enabling it to execute its duties, every member thereof is hereby made a conservator of the peace and endowed with the powers of a constable in criminal cases, and with such other powers under the laws of the Commonwealth as may be necessary to the discharge of the duties of his office.

(d) The director of the department of public safety, if such department be established, or the chief of police, if there be no such department, may, with the approval of the city manager, in time of public emergency or at such times as there are an insufficient number of regular policemen to preserve the peace, safety and good order of the community, appoint and equip a sufficient number of special policemen to preserve the peace, safety and good order of the community. The director of the department of public safety, if such department be established, or the chief of police, if there be no such department, shall also appoint such employees of the city as may be designated by the city manager to be special policemen who, while in the performance of their official duties, shall have the powers and duties of policemen. The director of the department of public safety, if such department be established, or the chief of police, if there be no such department, may, with the approval of the city manager, upon the application of any individual, firm or corporation showing the necessity thereof, appoint one or more special policemen to be paid by the applicant who shall have the powers and duties of policemen while in or on the premises of such applicant or in the actual performance of the duties for which employed. The appointment of any special policeman shall be revocable at any time by the director of the department of public safety, if such department be established, or by the chief of police, if there be no such department.

(e) The pay of the said police and the said special police employed by the city shall be prescribed by the council, but the uniforms, rules and regulations of said police force and of all special police shall be prescribed by the city manager or by the director of public safety with the approval of the city manager.

Second. (a) The city manager shall, through the director of the department of public safety, if such department be established, appoint a chief engineer of the fire department, whose pay, duties and bond shall be such as the council may ordain. The city manager shall further, upon the nomination of the chief engineer, appoint such number of firemen as may be authorized by the council. Vacancies in the force of firemen shall be

filled in like manner. The chief engineer and firemen shall retain their position during good behavior or until they are removed by the city manager.

(b) The pay for the said members of the fire department shall be prescribed by the council, but the uniforms, rules and regulations of the said members of the fire department shall be prescribed by the city manager, or by the director of public safety with the approval of the city manager. (1928, c. 343; 1946, c. 381; 1952, c. 163)

CHAPTER VII—JUDGE AND CLERK OF CIRCUIT COURT, COMMONWEALTH'S ATTORNEY, CITY TREASURER AND OTHER OFFICERS (1994, c. 98)

§ 40. Judge and clerk of circuit court, Commonwealth's attorney, city treasurer, city sheriff and commissioner of revenue.

A. There shall be for said city a judge of the circuit court, a Commonwealth's attorney, a clerk of the circuit court, a treasurer, a sheriff, and a commissioner of the revenue, each of which shall be elected in the manner and at the time, and to hold office for the term prescribed by law; they shall respectively perform such duties, have such powers, and be liable to such penalties as may be prescribed by the laws of the Commonwealth or the ordinances of the city, made in pursuance thereof; and for all services performed for said city by the treasurer or by the commissioner of revenue, or performed under any ordinance or resolution of the council, such officers shall receive such compensation as may from time to time be fixed by the council, which compensation may be either in the shape of salary or commissions as the council may determine.

B. Notwithstanding any provision of law to the contrary, the sheriff shall, upon the adoption of an ordinance by the city council, in addition to the other duties and responsibilities imposed upon him by general law, be responsible for the operation of the city jail, lockup facilities, receiving unit and court holding facilities. (1928, c. 343; 1994, c. 98)

§ 41. There shall be elected by the qualified voters of each ward of the city one justice of the peace, who shall hold office for the term of four years and until his successor is elected and qualified, unless sooner removed from office. The said justices shall be conservators of the peace within the corporate limits of the city, and for one mile beyond the corporate limits thereof, except that the same shall not extend into the county of Amherst beyond the corporate lines, and within such limits shall possess the jurisdiction and exercise the powers conferred on justices of the peace under the laws of this Commonwealth, except that nothing herein contained shall be construed as vesting in such justices any portion of the jurisdiction given by law to the judge of the municipal court in enforcing the ordinances of the city or the criminal laws of the Commonwealth, and in case the council shall establish the municipal civil court as heretofore provided in this act, with exclusive civil jurisdiction to try civil cases, said justices of the peace shall not have authority to try civil cases, though such criminal and civil jurisdiction, or any part thereof, may be vested in them, or in any one or more of them, by resolution or ordinances of the council. (1928, c. 343)

§ 42. There shall be elected by the qualified voters of the city one high constable, who shall hold his office for the term of four years and until his successor be elected and qualified, unless sooner removed. Said high constable shall keep his office in some convenient place in the city, and shall have the same powers and duties and be subject to the same penalties as are prescribed by law for the constables, and shall further perform

such other duties as may be prescribed by the ordinances of the city, for which duties his compensation shall be fixed by the council. He may be appointed as clerk of the municipal civil court. (1928, c. 343)

§ 42-A. The council may abolish the office of high constable, whether or not the term of said high constable has expired, and may transfer the duties of high constable upon the sergeant of the city, provided, however, that no action shall be taken toward the abolition of said office until the expiration of the present term of the high constable. (1947, c. 5)

§ 43. The collector, commissioner of revenue and high constable may each appoint one or more deputies, provided such appointments meet with approval of the council; but the sureties of said officers, respectively, shall be equally liable for the acts of said deputies as for those of their principals. (1928, c. 343)

CHAPTER VIII—BONDS, TAXES, SINKING FUNDS, ET CETERA

§ 44. The council may, in the name and for the use of the city, contract debts and cause to be issued therefor notes or bonds; but no debt of the city shall be payable more than thirty-four years from the date thereof; provided that the council shall not have power to contract debts for the city or issue evidences therefor, whether notes or bonds for sums which, when added to the net debt of the city then existing after the deduction of sinking funds and all bonds issued for or allocated to the water department, shall cause the total amount of the indebtedness of the city to be greater than sixteen percent of the value of the real and personal estate, which shall include all capital on which a license is paid, in the city as assessed for taxation, either by the Commonwealth or the city; provided, however, that in determining the limitation of the power of the city to incur indebtedness there shall not be included the classes of indebtedness mentioned in subsections (a) and (b) of § 127 of the Constitution of the State; and, provided, further, that the council shall not contract debts or issue any evidence thereof for the purpose of subscribing to the capital stock of any internal improvement company or private corporation, nor shall it cause the bonds of any such company to be endorsed by the city, and the council shall provide for the retirement of said bonds either by sinking funds as hereinafter provided, or it may cause said bonds to be issued as serial bonds to be retired periodically as provided by the ordinance authorizing the same from the current revenues of the city, in which case no sinking fund shall be provided. (1928, c. 343)

§ 45. No debt shall be created by the council for a longer period than four months, unless the ordinance creating the same shall have been introduced at some meeting of the council at least thirty days before the same is passed; but an amendment to such an ordinance need not lie over for an additional thirty days. (1928, c. 343)

§ 46. For the execution of its powers and duties, the council may tax all real and personal property in the city not exempt by law from taxation, or segregated to the Commonwealth for exclusive taxation, all corporations located in the city or having their principal office therein and not exempt by law from taxation, all moneys owned by or credits due to any person living in the city, all capital of persons having a place of business in the city and doing business therein and employed in said business, though the said business may extend beyond the city; provided, that so much of said capital as is invested in real estate, or employed in the manufacture of articles outside the city limits, shall not be taxed as capital; all stocks in incorporated joint stock companies doing

business in the city and by whomsoever owned and not exempt by law from taxation; income, interest on money, dividends of banks, or other corporations; provided, that no capital, interest, income or dividends shall be taxed, when a license or other tax is imposed upon the business in which said capital is employed, or upon the principal, money, credits or stocks from which the interest, income or dividend is derived; nor shall a tax be imposed at the same time upon stock of a corporation and upon the dividends thereon; and provided further, that such property has not been segregated to the Commonwealth for exclusive taxation. Assessments upon stocks and bonds shall be according to the market value thereof. The council may, by curative ordinance, ratify and confirm irregular assessments and levies of taxes heretofore or hereafter made, and the acts of all ministerial officers in connection therewith, and any such ordinance heretofore passed is hereby ratified and confirmed. (1928, c. 343)

§ 47. The council may impose a tax of one dollar per annum upon each resident of the city who has attained the age of twenty-one years. For the purposes of this section every person domiciled in the city of Lynchburg on January 1 in any year, and every other person who has had his place of abode in this city for the longer portion of the twelve months next preceding January 1 in any year shall be deemed a resident of this city. (1928, c. 343; 1942, c. 167)

§ 48. The council may impose a tax on merchants, commission merchants, auctioneers, manufacturers, traders, lawyers, physicians, dentists, brokers, keepers of ordinaries, hotel keepers, boarding-house keepers, keepers of drinking or eating houses, keepers of livery stables, photographic artists of all kinds, agents of all kinds (including the agents of insurance companies, whose principal office is not located in the city), sellers of wines and other liquors, venders of quack medicine, public theatrical or other performances or shows, keepers of billiard tables, tenpin alleys, pistol galleries, hawkers, peddlers, sample merchants, railroad companies, canal companies, telegraphic companies, telephone companies, gas companies, electric companies, traction companies of all sorts, street railway companies, express companies, insurance companies, and any other person, firm, corporation or employment, whether of like kind with any of the foregoing or not, which it may deem proper, whether such person, firm, corporation or employment be herein specifically enumerated or not, and whether any tax be imposed thereon by the Commonwealth or not. As to all such persons, firms, corporations or employments, the council may lay a direct tax or may require a license tax therefor under such regulations as it may prescribe and levy a tax thereon; and where it is not prohibited by the laws of this Commonwealth, or of the United States, may levy both a direct tax and a license tax thereon; but the taxes herein authorized shall be subject to the provisions and conditions set forth in the third section of this chapter. But this section shall not render it legal to conduct within the city any business, calling or vocation which but for this section would be illegal. (1928, c. 343)

§ 48-A. In addition to the other powers conferred by law, the council shall have the power to impose, levy and collect, in such manner as it shall deem expedient, an admission tax on admission to any public amusement, entertainment, performance, exhibition, sport or athletic event in said city, and may provide that such tax shall be added to and collected with the price of admission or other charge for such amusement, entertainment, performance, exhibition, sport or athletic event. Furthermore, council shall have the power to impose, levy and collect, in such manner as it may deem expedient, a

consumer or subscriber tax upon the amount paid for the use of water, electricity, gas, telephone, and any other public utility within the city, or upon the amount paid for any one or more of such public utility services, and council may provide that such tax shall be added to and collected with bills rendered consumers for such services. (1947, c. 5)

§ 48-B. In addition to the other powers conferred by law, the council is hereby empowered to raise annually by taxes and assessments such sums of money as the council shall deem necessary for the purposes of the city, in such manner, on such subjects and transactions, and from such sources as council deems expedient in accordance with the Constitution and laws of the Commonwealth and the United States. (1947, c. 5)

§ 49. The council may subject any person, who without having obtained a license therefor, shall do any act or follow any employment or business in the city, for which a license may be required by ordinance, to such fine or penalty as it is authorized to impose for any violation of its laws. (1928, c. 343)

§ 50. There shall be set aside annually from the revenues of the city, a sinking fund equal to not less than one percent on the aggregate outstanding debt of the city, which by its terms is not payable within one year, and on the debt of the city contracted for a new water system for said city, or for improving the present system, there may be set aside an additional fund equal to the two percent of said debt contracted for a water system for said city; provided that no sinking fund need be set aside for the retirement of serial bonds maturing periodically. Said sinking fund shall be applied to the debt or debts for the discharge of which it was created, and until so applied, shall be invested, with its accumulations of interest, in direct obligations of the United States Government, or in other bonds and/or securities, the payment of which are guaranteed both as to principal and interest by the Government of the United States, or in bonds of the Commonwealth of Virginia, or of the city of Lynchburg, or of any city in the Commonwealth of Virginia having a population of 10,000 inhabitants or over, according to the latest United States census. (1928, c. 343; 1942, c. 167)

§ 51. The council shall not appropriate any part of the sinking fund or its accruing interest otherwise than as mentioned in the preceding section, except in time of war, insurrection or invasion, and then only by a vote of two-thirds of all the members elected to such council. (1928, c. 343)

§ 52. The treasurer, collector of city taxes and assessments, the collector of delinquent taxes, the collector of water rents and water assessments, sidewalk, sewer and dry closet assessments, and any other collector of funds due to the city which it may appoint, shall have power of distress, garnishment, renting or action, or any other power now possessed, or that may hereafter be given, to any person charged with the collection of state taxes, for the purpose of collecting any taxes or assessments as above set forth due to the city. The collector of any such city taxes or assessments as above provided shall not be required to first levy or distrain on the property, goods or chattels of the person so assessed, or to find or search for such property, goods or chattels, but without first applying to any person indebted to, or having in his hands estate of, the party assessed with taxes, may garnishee the estate of any person owing taxes or assessments to the city of Lynchburg, by serving, himself or by his deputy or by any other officer authorized to serve process, written notice upon any person indebted to, or having in his hands estate of, the party assessed with such taxes, levies or assessments, which notice

shall state the amount of taxes, levies or assessments, plus penalties, interest, and costs, due to the city, shall be signed and issued by the city collector or his deputy, and shall direct the person on whom such notice is served, if the sum due for such taxes, levies, or assessments does not exceed \$1,000, to appear before the judge of the municipal civil court, at the courtroom thereof, at such time as may seem reasonable, not exceeding sixty days from the date of service of such notice; and if the sum due exceeds \$1,000, such notice shall direct the person on whom such notice is served to appear before the corporation court of the city of Lynchburg, at the courthouse thereof, at such time as may seem reasonable, not exceeding ninety days from the date of the service of such notice; and from the time of the service of any such notice the taxes, levies or assessments, together with any penalties, interests, and costs, shall constitute a lien on any indebtedness due from such person, or on the estate in his hands, from such time of service up to the return day. Every notice of such garnishment shall be made in triplicate, one copy to be served on the garnishee, one to be served on or mailed to the person charged with such taxes, at his address appearing on the land book or other tax or assessment rolls of the city, and the third copy to be filed with the court with the return of the officer serving or mailing the same thereon. The city collector, or his deputy, shall be entitled to a fee of fifty cents for each service made by him hereunder. Court costs, other than service fees, shall not be assessed unless a trial of said notice or garnishment is held, in which latter event court costs shall be assessed as in other cases of garnishment. Any execution on judgment entered on said notice or garnishment shall be directed to the city collector or to any other officer whom he may designate. Except as herein provided, all proceedings on said notice or garnishment shall be the same as now or hereafter provided by general law for courts of record of general jurisdiction with respect to attachments and garnishments. No deed of trust or mortgage upon goods and chattels shall prevent the same from being distrained or sold for taxes assessed against the grantor in such deed while such goods and chattels remain in the possession of the grantor, nor shall any such deed prevent the goods and chattels conveyed from being distrained and sold for the taxes assessed thereon, no matter in whose possession they may be found. (1928, c. 343; 1942, c. 167)

§ 53. All moneys received or collected for the use of the city shall be paid over, held and disbursed as the council may order or prescribe. (1928, c. 343)

§ 54. It shall be the duty of the clerk of the corporation court of said city annually, between the first and fifteenth days of January, to furnish the commissioner of revenue for said city a certified list of all transfers of real estate which may have been made in his office during the preceding twelve months. (1928, c. 343)

§ 55. A tenant from whom payment of taxes on his landlord's property shall be obtained by distress or otherwise, shall have credit for the same against such person on account of his rent, unless by contract the tenant is to pay such taxes. (1928, c. 343)

§ 56. The council may impose a penalty of five percent for the non-payment of city taxes and levies, and may cause such penalty to be added to the amount of taxes or levies for any tax year at such time, on and after the first of July in each year, as it may by ordinance or resolution from time to time determine; and after such penalty has been added, the treasurer, city collector of taxes, collector of delinquent taxes, and all other officers of the city authorized to collect taxes or levies for the city of Lynchburg shall have the same rights, powers and methods of collection as are provided in § 52 of this

charter. If it come to the knowledge of the treasurer or collector of city taxes that any person, firm or corporation owing taxes or levies to the city, is moving or contemplating moving therefrom prior to the time said penalty may be added by the council, the treasurer or city collector shall have the right to collect the taxes by the method provided in § 52 at any time after such bills for taxes have come into his hands. (1928, c. 343; 1942, c. 167)

§ 57. On or before the fifteenth day of August in each year, the collector shall file with the clerk of the corporation court a list of all real estate in the city of Lynchburg delinquent for the non-payment of taxes thereon for the preceding year, which list shall be recorded by the clerk in the book of delinquent taxes kept in the clerk's office, indexed in the name of the parties against whom said taxes are assessed, and said clerk shall be paid for so recording said list of delinquent taxes the same sum that he has been heretofore paid for recording delinquent state taxes. (1928, c. 343; 1942, c. 167)

§ 58. There shall be a lien on all real estate, and on each and every interest therein, for the city taxes assessed thereon from the commencement of each year for which they are assessed. The city council may require real estate in the city delinquent for the non-payment of taxes, to be sold for the said taxes, with interest thereon at eight percent per annum, and such percent as they may prescribe for expenses of collection. Such real estate shall be sold and may be redeemed under the provisions of other sections of the charter. (1928, c. 343; 1942, c. 167; 1974, c. 22)

§ 59. On the second Monday in December in the year next after the year in which the real estate shall have been returned delinquent for taxes thereon for the preceding year, the city collector shall sell, a hereinafter provided, all real estate embraced in his said list of delinquent real estate for the said year, on which the levies for which the same were returned delinquent, or any part thereof, may remain unpaid on the day of sale.

Before making any such sale the collector shall give general notice thereof by posting a printed list of the real estate to be sold at the front door of the court house of the corporation court for the city, and he shall also post a copy of said list at the front door of his office or in the lobby of the city hall, and shall publish said list in one issue of some newspaper published in the city, such list to be published and posted at least thirty days before the delinquent sale.

The list to be so published and posted shall contain the names of the persons in whose names said real estate was returned delinquent and a description of the property in the same way it appears on the land books, and the amount for the satisfaction of which each certain parcel will be sold, and said list shall have appended thereto a notice to the effect that each and every parcel of real estate therein contained, or so much thereof as may be necessary, will be sold at public auction on the second Monday in December of said year, between the hours of ten in the morning and four in the afternoon, at the front door of the court house of the city, to satisfy all levies, penalties, interest and charges due thereon, unless the same shall have been previously paid to the city collector.

The cost of printing and publishing such notices, and all other proper expenses in connection with such sale, shall be apportioned among the delinquents embraced in said list, according to the amount of levies, penalties, and interest due by them respectively.

If the sale be not completed on the day fixed in said notice, it shall be adjourned from day to day between the same hours until it shall be completed. (1928, c. 343; 1946, c. 381)

§ 60. If such taxes, levies, interest, costs, and charges and a due proportion of said expenses be not previously paid, the collector shall proceed to make sale of the said several parcels of real estate according to said notice so published, and sell the several parcels of real estate separately, or such portion of each as shall be sufficient to satisfy the taxes, penalties, interest, and costs thereon, including the proportionate cost of expenses of sale; and the sale may be adjourned from day to day, and proceed between the hours aforesaid, until it shall be completed.

The city collector, on receipt from the purchaser of the amount of purchase and also an additional sum of fifty cents as a prerequisite, shall execute to the purchaser a certificate in which he shall set forth with reasonable certainty the quantity of land so sold, the land book description of the same, in whose name it was sold, the price paid, and the aggregate amount of taxes, penalties, interest and expenses of sale against said parcel, and also the fact that the additional sum of fifty cents as a fee for the certificate was received.

The city collector shall not for himself, either directly or indirectly, purchase any real estate so sold. If he does, he shall forfeit to the city fifty dollars for every such purchase, and the purchase shall be absolutely void. (1928, c. 343; 1946, c. 381)

§ 61. If at any such sale no bid shall be made for any such parcel of land, or such bid shall not be equal to the tax or assessment, with interest and charges, then the same shall be struck off to the city. As soon as practicable after the completion of such sales the city collector shall make out a list of all sales made to the city, or to others, in which the property purchased shall be described, and the aggregate amount of tax or assessment with charges and expenses specified, and shall deposit the same with the city auditor, and a copy thereof with the clerk of the corporation court, who shall record the same in a book kept for the purpose, and indexed as heretofore provided for state taxes. (1928, c. 343)

§ 62. (a) Where sold to city. - In all cases where the city has become the purchaser of any lot at any such sale as herein provided, the original owner, or his heirs or assigns, or anyone holding a lien thereon, may, within two years from the sale, redeem the same by paying to the collector of the city the amount for which the same was sold, and such additional taxes thereon as would have accrued to the city had it not been the purchaser, with interest on such purchase money and taxes at the rate of six percent per annum from the time the same may have or would have been paid, and all costs of sale and also the additional sum of fifty cents as a fee for the receipt therefor; and the city collector upon such payment shall give the party paying the same a receipt acknowledging receipt of taxes, interests, penalties, and costs, which receipt shall state the name of the owner in whose name the property was assessed for the year or years in which sold, the number of the lot, the feet frontage, the location, the amount of the tax due for each year, the penalty, interest and costs, and which receipt shall be acknowledged before a notary public for the purpose of providing for the satisfaction of the taxes on the delinquent land books and sale books in the clerk's office as provided in § 61 of this charter.

(b) Where sold to others. - The owner of any real estate so sold to others than the city, his heirs or assigns, or any person having a right to charge such real estate for a debt, or any person having interest in said real estate by way or reversion, remainder or otherwise, may redeem the same by payment to the purchaser, his heirs or assigns, within two years from the sale thereof, the amount for which the same was sold (including the

fifty cents fee for a certificate of purchase), and such additional taxes thereon as may have been paid by the purchaser, his heirs or assigns, with interest on the purchase money at the rate of six percent per annum from the time the same may have been paid, or the same may be paid within the said two years, to the collector in any case in which the purchaser, his heirs or assigns, may refuse to receive the same, or may not reside or cannot be found in the city. (1928, c. 343; 1946, c. 381)

§ 63. Any infant, insane person, or person imprisoned, whose real estate may have been sold, or his heirs, may redeem the same by paying to the purchaser, his heirs or assigns, within two years after the removal of the disability, the amount for which the same was so sold, with the necessary charges incurred by the purchaser, his heirs or assigns, in obtaining the title under the sale, and such additional taxes on the estate as may have been paid by the purchaser, his heirs or assigns, and the appraised value of any improvement that may have been made thereon, with interest on the said items at the rate of six percent (6%) per annum within two years after the removal of such disability, the purchaser, his heirs or assigns, shall, at the cost of the original owners, his heirs or assigns, convey to him or them, by deed with special warranty, the real estate sold. (1928, c. 343)

§ 64. The purchaser of any real estate sold for taxes and not redeemed shall, after the expiration of two years from the sale, obtain from the city auditor a deed conveying the same, wherein shall be set forth what appears in the auditor's office in relation to the sale. In no case shall a deed to any such real estate be made to any such purchaser until after he has paid in full any other delinquent taxes against said real estate and until after he has given to the person in whose name the real estate so stood at the time of said sale and to the person to whom said real estate so sold has been conveyed by record subsequent to the time of such sale, or if any of said persons be dead, then to his or their personal representatives and heirs or devisees, and to the trustees, mortgagees, and beneficiaries as shown by the records in any deed of trust or mortgage on such property, or their personal representatives, four months' written notice of his said purchase; provided, that no notice need be given to any trustee, mortgagee or beneficiary of a mortgage which has been recorded, or the lien thereon renewed, more than twenty years prior to the date of such sale, and the person entitled to redeem the real estate shall have such right of redemption at any time before the expiration of said four months, although such time extends beyond the two years mentioned herein. Such notice to any person entitled to redeem, who is a resident of Virginia, shall be served by an officer authorized to serve process without the necessity of court procedure. Where, however, one or more persons entitled to redeem are non-residents of the Commonwealth, or where diligence has been used by and on behalf of the purchaser to ascertain in what county or corporation such persons are, without effect, or where a copy of the notice has been twice delivered to the proper officer of the county or city in which he resides without being executed, or where the names of persons who may be interested in said real estate are unknown, the purchaser may file a petition in any court of record for the city, in which petition shall be set forth the facts relating to his purchase, and the person or persons, known or unknown, who are or may be entitled to redeem shall be made parties defendant to the proceeding. After the filing of the petition, on affidavit by the purchaser setting forth the reason or reasons why personal service of notice could not be had and also setting forth the last known post office address of any person entitled to redeem, or

that such address is unknown, an order of publication may be entered by the court, or clerk thereof, against such parties. The object of the proceedings shall be to give notice to parties who are or may be entitled to redeem the real estate from the purchaser, and to determine whether any party claiming the right to redeem is in fact so entitled. The order of publication shall direct such parties, including unknown parties, if any there be, to appear within four months after due publication thereof and do what is necessary to protect their interests. It shall be published once a week for four successive weeks in some newspaper published in the city, and shall be posted by the clerk at the front door of the court house wherein the court is held, on or before the first day of the next term of court. The clerk shall also mail a copy thereof to each party whose address is stated in said affidavit directed to the post office address as stated therein, and file an affidavit stating the fact of such publication, posting and mailing of the papers in the proceeding.

When such order shall have been published as heretofore provided, if the defendants against whom it is published shall not appear within four months after the completion of the expiration of the four weeks required for the completion of such publication, the proceeding may be tried or heard as to them, and no other publication or notice shall thereafter be required. Any party having the right to redeem and who desires so to do may, within the time limit hereinbefore provided, file an answer to said petition setting forth the facts on which his right to redeem is based. If on the trial the court adjudicates that such person is entitled to redeem, an order shall be entered providing for such redemption on the payment to the purchaser of the amount set forth in § 62 (b) hereof, and, in addition, the costs of the proceeding. In the event, however, that no party shall appear, or in the event that any party appears and upon trial the court adjudicates that such party is not entitled to redeem, the court shall enter an order directing the auditor to convey the property to the purchaser. An appeal shall lie from the judgment of said court to the Supreme Court of Appeals in the same manner as provided by law for appeals in civil cases.

When any purchaser has assigned the benefit of his purchase, the deed may, with his assent, evidenced by his joining therein, or by writing annexed thereto, be executed to his assignee. If the purchaser shall have died, his heirs or assigns may move the corporation court of said city to order the auditor to execute a deed to such heirs or assigns. Such deed shall be executed in the name of the city by the auditor, under the seal attested by the treasurer, and shall be with special warranty. For each deed the auditor shall be paid by the purchaser one dollar. (1928, c. 343; 1946, c. 381)

§ 64-a. The provisions of § 64, as amended, shall apply to lands sold for taxes whether the same were purchased prior or subsequent to the enactment of the section, as amended; but this section shall not operate to defeat any person's right of redemption by law. (1952, c. 623)

§ 65. When the purchaser of any real estate sold for taxes, his heirs or assigns, shall have obtained a deed therefor within sixty days from the date of such deed shall have caused the same to be recorded, a fee simple estate shall stand vested in the grantee in such deed at the commencement of the year for which the said taxes were assessed, subject to be defeated only by proof that the taxes for which said real estate was sold were not chargeable thereon, or that the taxes properly chargeable on such real estate have been paid. And if it be alleged that the taxes, for the non-payment of which sale was made, were not in arrears, the party making such allegations must establish the truth

thereof by proving that the taxes were paid; but nothing in this section shall be construed to affect or impair the lien of the city on the real estate and on each and every interest therein, or affect, limit or impair the right of the city, when it becomes a purchaser of real estate under the next succeeding section. (1928, c. 343)

§ 66. In case that any real estate struck off to the city as hereinbefore provided, shall not be redeemed within the time specified, the auditor shall, within sixty days after the expiration of two years from the sale, cause to be recorded in the clerk's office of the corporation court, a certificate of sale with his oath that the same has not been redeemed, and thereupon the said corporation, or its assignee, shall acquire an absolute title in fee to such real estate, and every interest therein, for life, in reversion, in remainder and otherwise, subject to be defeated only by proof that the taxes for which said real estate was sold were not properly chargeable thereon, or that the taxes properly chargeable thereon had been paid at the time of the execution of such certificate. The said certificate shall be recorded in the said clerk's office in a record book known as "deed book, recording conveyances to city of lands sold for delinquent taxes," for recording which certificate the clerk shall be entitled to a fee of ten cents, payable out of the city treasury. The city council may impose penalties upon its officers for their failure to comply with the requirements of this section. The said certificate, or the record thereof, or a certified copy thereof, shall, in all courts and other places, be evidence of the facts therein stated; provided, however, that the failure to obtain or record such certificate shall not invalidate the lien of the city for all taxes assessed against such real estate, but the city may, at any time, elect to enforce its lien for taxes in a court of equity and release its right as purchaser, or to become a purchaser of such real estate. (1928, c. 343)

§ 67. When lands and lots returned delinquent for taxes are sold for taxes and have been redeemed as hereinbefore provided, and a receipt of the city collector or a receipt of the purchaser at the tax sale showing that all taxes, costs or other expenses to which he is entitled upon such redemption, duly assigned by him and acknowledged as a deed is required to be acknowledged, has been delivered to the clerk of the corporation court, the clerk shall endorse the satisfaction of such payment upon the delinquent land book opposite the entry of such tract or lot for the year or years for which it was redeemed, or in case the property has been purchased, on the delinquent sales book for the year or years for which it was sold to the purchaser. The clerk shall receive a fee of twenty-five cents to be paid by the person for whose benefit the endorsement was made for endorsing the fact of redemption or payment on delinquent land book or sales book. (1928, c. 343)

CHAPTER IX—STREETS, HIGHWAYS, DAMAGES, ETC.

§ 68. The city shall not take or use any private property for streets or any other public purposes without making just compensation for the same, but where the city cannot obtain the title to ground necessary for its purpose, it may proceed to condemn the same in the mode prescribed by law. (1928, c. 343)

§ 68-A. Limited access streets.

(a) A limited access street is defined as a street especially designed for through traffic over which abutters have no easement or right of light, air, or access to by reason of the fact that their property abuts upon such limited access street.

(b) The city shall have the same power and authority with respect to the planning, designation, acquisition, opening, construction, reconstruction, improvement,

maintenance, discontinuance, and regulation of the use of limited access streets; the designation of existing streets as limited access streets, and the extinguishment of easements in connection therewith; the regulation and restrictions of access to such streets; the construction of service roads in connection therewith; and all other authority with respect to such streets, and incidental thereto as the State Highway Commission has under the provisions of chapter seventy-eight of the Acts of the General Assembly, 1942, approved February 26, 1942, or as said State Highway Commission may hereafter be granted, by amendment to said act or otherwise. (1948, c. 130)

§ 69. No order shall be made and no injunction shall be granted by any judge or court of this Commonwealth to stay the proceedings of the city in the exercise of any power herein granted it over its streets and railways, unless it be manifest that it is exceeding its powers and that the interposition of the court is necessary to prevent injury which cannot be adequately compensated in damages. (1928, c. 343)

§ 70. In every case where there has been or shall be encroachments upon a street by a fence, building or otherwise, the judge of the municipal court may require the owner to remove the same. If such removal shall not be made within the time ordered, the judge of the municipal court may impose a penalty to be fixed by the council for each day which it is allowed to continue thereafter, and may cause the encroachment to be removed at the risk and cost of the owner, although the right to impose such penalty or require the removal of such encroachment involves the validity of a bona fide title to real estate. (1928, c. 343)

§ 71. Wherever any ground shall have been opened to and used by the public as a street for ten years it shall be considered as dedicated to the public, and the city shall have the same authority and jurisdiction over and right and interest therein as it has over other streets. (1928, c. 343)

§ 72. No property within the territorial limits of the city shall be laid out by the owner thereof with streets and alleys therein except upon a plan to be first approved by the council. Any street or alley reserved in the division or subdivision into lots of any portion of the territory within the corporate limits of the city by a plan or plat of record shall be deemed and held to be dedicated to the public use and the council shall have authority, upon the petition of any person interested therein, to open any such street or alley or any portion of the same. No agreement between or release of interest by the persons owning the lands immediately contiguous to any such alley or street, whether the same has been opened or used by the public or not, shall avail or operate to abolish said alley or street so as to divest the interest of the public therein or the authority of the council over the same; provided, however, that the right may be reserved by the owner of any subdivision and set forth on said plat to modify said plat by abolishing any block with the streets or alleys in said block, provided no lot has been sold in said block, and provided, further, that no such change shall be made which shall cut off the owner of any other property from convenient access to the main avenues of the city; and provided, further, that where said plat has been submitted for approval by the council before its recordation, no such modification shall be allowed without the approval of the council. (1928, c. 343)

§ 73. (a) In any action against the city to recover damages against it for any negligence in the construction or maintenance of its streets, alleys, lanes, parks, public places, sewers, reservoirs or water mains, where any person or corporation is liable with

the city for such negligence, every such person or corporation shall be joined as defendant with the city in any action brought to recover damages for such negligence, and where there is judgment or verdict against the city, as well as the other defendant, it shall be ascertained by the court or jury which of the defendants is primarily liable for the damages assessed.

(b) If it be ascertained by the judgment of the court that some person or corporation other than the city is primarily liable, there shall be a stay of execution against the city until execution against such person or persons or other corporation or corporations shall have been returned without realizing the full amount of such judgment.

(c) If the city, where not primarily liable, shall pay the said judgment, in whole or in part, the plaintiff shall, to the extent that said judgment is paid by the city, assign the said judgment to the city without recourse on the plaintiff, and the said city shall be entitled to have execution issued for its benefit against the other defendant or defendants who have been ascertained to be primarily liable, or may institute any suit in equity to enforce the said judgment, or an action at law, or scire facias to revive or enforce said judgment. (1928, c. 343)

§ 76. No action shall be maintained against the same city for damages for any injury to any person or property alleged to have been sustained by reason of the negligence of the city or of any officer, agent, or employee thereof, unless a written statement verified by the oath of the claimant, his agent or attorney, or the personal representative of any decedent whose death is the result of the alleged negligence of the city, its officers, agents, or employees, of the nature of the claim and the time and place at which the injury is alleged to have occurred or to have been received, shall have been filed with the city attorney of said city within six months after such cause of action shall have accrued. And no officers, agents or employees of the city shall have authority to waive such conditions precedent or any of them. (1928, c. 343)

CHAPTER X

§ 77. All acts and parts of acts inconsistent with this act are hereby repealed; and all acts and parts of acts in any way concerning the city of Lynchburg and the rights of the people thereof, or any of them, not inconsistent with this act, shall be in full force, to all intents and purposes, as if this act had never been passed. (1928, c. 343)