

MARTINSVILLE, CITY OF
Established in 1791.
Incorporated as a town in 1873.
Became a city by court order in 1928.
City of First Class.

Charter, 1942, c. 69; repealed 1950, c. 193.

Charter, 1950, c. 193.

Amended 1954, c. 104 (Ch. 11, §§ 4, 7)
 1956, c. 589 (Ch. 1, § 2)
 1958, c. 92 (Ch. 4, § 2; Ch. 6, § 2)
 1962, c. 329 (Ch. 1, § 2)
 1968, c. 645 (Ch. 2, § 6)
 1975, c. 416 (Ch. 1, § 2; Ch. 2, §§ 2, 5, 7; Ch. 4, §§ 1, 2 [repealed];
 Ch. 6, §§ 3, 6, 8; Ch. 8, § 3)
 1977, c. 132 (Ch. 2, § 2)
 1980, c. 7 (Ch. 11, § 3)
 1981, c. 201 (Ch. 11, §§ 1, 2, 4, 5, 6, 7)
 1982, c. 193 (Ch. 1, § 2; Ch. 6, §§ 4, 5, 9; Ch. 13, § 5)
 1983, c. 24 (Ch. 4, § 2.1 [added])
 1991, c. 15 (Ch. 1, § 2)
 1992, c. 31 (Ch. 11, § 5)
 1995, c. 172 (Ch. 1, § 2)
 1998, c. 635 (Ch. 1, § 2)
 2008, cc. 435, 607 (Ch. 12, § 3 [added])
 2011, cc. 328, 598 (Ch. 2, §§ 2, 5; Ch. 6, § 3).

CHAPTER 1

Incorporation and Powers

§ 1. Incorporation.--The inhabitants of the territory comprised within the present limits of the City of Martinsville, as hereinafter described, or as the same may be hereafter altered and established by law, shall continue to be a body politic and corporate, to be known and designated as the City of Martinsville, and as such shall have and may exercise all powers which are now, or hereafter may be conferred upon, or delegated to the City under the Constitution and laws of the Commonwealth of Virginia, as fully and as 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 the said City of Martinsville 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.

The administration and government of the said City shall be vested in the Council of the City of Martinsville as hereinafter constituted, and in such other boards and officers as are hereinafter mentioned, or may be by law or the Council otherwise provided. And it shall continue to consist of one ward until such time as it may be subdivided into additional wards in the manner prescribed by law.

All contracts and obligations of the City of Martinsville heretofore made by the present council and government, while in office, not inconsistent with this charter and the general laws and Constitution of the State, shall be and are hereby declared to be valid and legal obligations of the City of Martinsville.

The metes and bounds of said City as its limits now are, are as follows, to wit:

BEGINNING at a concrete post with a brass tablet set in top on the North bank of Smith River in J. R. Wray's land; thence N 33° 37' 15" E 12,108.76 feet to a brass tablet set in a concrete post; thence N 56° 29' 15" E 2,153.65 feet to a brass tablet set in a concrete post; thence S 70° 04' 45" E 11,628.14 feet to a brass tablet set in a concrete post; thence S 9° 25' 15" W 18,303.77 feet to a brass tablet set in a concrete post, said post being located in the North right of way line of Mulberry Road; thence N 63° 30' 05" W 217.99 feet crossing Mulberry Road, to a brass tablet set in a concrete post, said post being located in the South right of way line of Mulberry Road; thence following the South right of way of Mulberry Road as it meanders N 10° 11' 25" W 140.20 feet, N 2° 53' 35" E 313.19 feet, N 3° 25' 45" E 120.00 feet, N 0° 17' 25" E 129.97 feet, N 11° 26' 05" W 150.04 feet, N 29° 36' 25" W 149.91 feet, N 30° 11' 25" W 50.20 feet, N 35° 43' 55" W 114.85 feet, N 37° 15' 40" W 100.50 feet, N 37° 27' 15" W 101.40 feet, N 38° 19' 45" W 99.28 feet, N 38° 37' 10" W 100.05 feet, N 41° 23' 30" W 102.87 feet, N 46° 23' 05" W 160.33 feet, N 48° 33' 00" W 205.49 feet, N 48° 48' 25" W 106.98 feet, N 48° 40' 05" W 106.92 feet, N 54° 45' 15" W 104.00 feet, N 61° 40' 30" W 99.93 feet, N 72° 21' 00" W 200.78 feet, N 72° 17' 00" W 114.95 feet, N 72° 04' 30" W 84.90 feet, N 72° 01' 35" W 99.90 feet, N 70° 46' 25" W 100.10 feet, N 68° 20' 20" W 100.00 feet, N 67° 10' 00" W 100.00 feet, N 60° 00' 05" W 100.85 feet, N 25° 43' 25" W 185.50 feet, N 44° 00' 10" W 98.00 feet, N 64° 19' 20" W 130.60 feet, N 70° 29' 30" W 105.10 feet, N 71° 02' 30" W 100.15 feet, to a brass tablet set in a concrete post, said post being located in the south right of way line of Mulberry Road, and marking the corner of Lots Number 13 and 14 of Section "K" of Lanier Farms, Inc., Sub-Division.

The above traverse lines being the lot fronts, or chord lengths of the curved lines, of Sections "Q," "O," "M" and "K" of Lanier Farms, Inc., Sub-Divisions.

Thence leaving Mulberry Road, S 16° 51' 00" W 216.89 feet to a brass tablet set in a concrete post; thence S 39° 10' 00" W 223.96 feet to a brass tablet set in a concrete post; thence N 70° 54' 00" W 3,017.70 feet to a brass tablet set in a concrete post; thence N 72° 56' 00" W 4,010.34 feet to a brass tablet set in a concrete post; thence N 23° 21' 45" W 1,257.85 feet to a brass tablet set in a concrete post, said post being located on the west side of U. S. Route Number 220; thence N 61° 53' 45" W 1,010.40 feet to a brass tablet set in a concrete post; thence N 84° 43' 45" W 2,779.15 feet to a brass tablet set in a concrete post, said post being located at the end of old road leading to Roundabout Farm and near the property line of E. I. DuPont Company; thence N 15° 56' 00" W 514.47 feet to a brass tablet set in a concrete post; thence N 24° 30' 30" W 633.30 feet to a brass tablet set in a concrete post; thence N 59° 08' 55" W 361.86 feet to a brass tablet set in a concrete post; thence N 19° 00' 55" W 1,095.53 feet to a brass tablet set in a concrete post; thence N 51° 09' 45" W 900.81 feet to a brass tablet set in a concrete post; thence N 7° 44' 30" W 484.57 feet to a brass tablet set in a concrete post; thence N 10° 36' 50" W 298.81 feet to a brass tablet set in a concrete post; thence N 52° 39' 15" W 1,110.31 feet to the point of beginning, as described in Paragraph No. 1, as shown on the map prepared by the City of Martinsville.

All of the above bearings refer to the True Meridian, and include all of the territory previously set out as the corporate limits of the City of Martinsville in the charter granted said City by the Act of March 30, 1936, by the General Assembly, and also include the territory annexed to said City by annexation proceedings in the Circuit Court of Henry County, Virginia, by Order entered in said proceedings on the 12th day of July, 1939, in Law Order Book No. 7, page 511, and also includes the territory annexed to said City by annexation proceedings in the Circuit Court of Henry County, Virginia, by Order entered in said proceedings on the 18th day of July, 1946, in Law Order Book No. 8, page 370. (1950, c. 193)

§ 2. Powers of the City.

In addition to the powers mentioned in the preceding section the said City shall have power:

(1) To raise annually by taxes and assessments in said City on all subjects the taxation of which by cities is not forbidden by general law, such sums of money as the Council herein provided for shall deem necessary for the purposes of said City, and in such manner as said Council shall deem expedient, in accordance with the Constitution and laws of this Commonwealth and of the United States.

(2) The City Council may levy a tax or a license on any person, firm, or corporation conducting any business, employment or profession whatsoever in the City, except when expressly prohibited by general law, whether a license may be required therefor by the Commonwealth or not, and may exceed the State license, if any be required.

(3) The Council may require of owners of motor vehicles, trailers and semitrailers, residing in or having a place of business in the City in which business the said motor vehicle is used, licenses for the privilege of operating such vehicles in the City, such licenses to be issued and the fees therefor fixed by the Council.

(4) All goods and chattels wheresoever found, may be distrained and sold for taxes assessed and due thereon, and no deed of trust or mortgage upon goods and chattels shall prevent the same from being distrained and sold for taxes.

(5) There shall be a lien on real estate for the City taxes as assessed thereon from the commencement of the year for which they were assessed. The Council may require real estate in the City delinquent for the nonpayment of City taxes to be sold for said taxes, with interest thereon at a percent per annum prescribed by Council but in no event to exceed the maximum interest rate allowed by law, and such percent as the Council may prescribe for charges. Such real estate may be sold and may be redeemed in the manner provided by law; provided that at any such sale, where no person bids the amount chargeable on any such real estate, it shall be lawful for the City treasurer to purchase the same for the benefit of the City upon the same terms and conditions prescribed by general law, for the purchase of delinquent real estate by the treasurer for the benefit of a city.

(6) To impose special or local assessments for local improvements and enforce payment thereof, subject, however, to limitations prescribed by the Constitution of Virginia, as may be in force at the time of the imposition of such special or local assessments.

(7) To contract debts, borrow money and make and issue evidence of indebtedness.

(8) To expend the money of the City for all lawful purposes.

(9) To acquire by purchase, gift, devise, condemnation or otherwise, property, real or personal, or any estate or interest therein, within or without the City or Commonwealth and for any of the purposes of the City; and to hold, improve, sell, lease, mortgage, pledge or otherwise dispose of the same or any other part thereof.

(10) To acquire or lease in any lawful manner for municipal purposes or for the purpose of encouraging commerce and manufacture, lands within and without the City not exceeding at any one time five thousand acres in the aggregate, and may from time to time sell or lease the same or any part thereof for all lawful purposes.

(11) To make and maintain public improvements of all kinds, including municipal and other public buildings, airports, armories, markets, municipal off street parking stations, swimming pools, libraries, hospitals, comfort stations or rest rooms and all buildings and structures necessary or appropriate for the use of the departments of fire and police; and to establish a market or markets in and for said City for the sale of food stuffs, to appoint proper officers therefor; to prescribe the time and place for holding the same; to provide suitable buildings and grounds therefor and to make and enforce such rules and regulations as shall be necessary to restrain and prevent huckstering, forestalling and regrating, and for the purpose of regulating and controlling the sale of fresh meats, seafood, farm and domestic products and all perishable foods in said City; the council shall also have authority to confine the sale of such articles or products to the public markets and public squares provided by the City for that purpose, and shall have full power and authority to regulate the same.

(12) To furnish all local public services; to purchase, hire, construct, own, lease, maintain and operate local public utilities, to acquire by condemnation or otherwise, within or without the corporate limits, lands and property necessary for any such purposes.

(13) To own, operate and maintain electric light and/or gas works, either within or without the corporate limits of the said City for the generating of electricity and/or the supplying of gas for illuminating, power and other purposes, and to supply the same whether said gas and/or electricity be generated or purchased by said City to its customers and consumers both at such price and upon such terms as it may prescribe, and to that end it may contract with owners of land and water power for the use thereof, or may have the same condemned, and to purchase such electricity and/or gas from the owners thereof, and to furnish the same to its customers and consumers, both within and without the corporate limits of the said City at such price and on such terms as it may prescribe.

(14) To establish, impose and enforce water, light and sewerage rates and rates and charges for public utilities, or other service, products or conveniences, operated, rendered or furnished by the City; and to assess, or cause to be assessed, water, light and sewerage rates and charges against the proper tenant or tenants or such persons, firms, or corporations as may be legally liable therefor; and the Council may by ordinance require a deposit of such reasonable amount as it may by such ordinance prescribe, before furnishing any of said services to any person, firm or corporation, but nothing herein shall be construed as conferring upon said Council authority to regulate rates and charges of public utilities which are subject to the jurisdiction of the State Corporation Commission.

(15) Subject to the provisions of the Constitution of Virginia to grant franchises for public utilities.

(16) To acquire in the manner provided by the general laws any existing water, gas or electric plant, works or system, or any part thereof. Any public utility owned or operated by the City of Martinsville, whether it be water, gas, electric plant or otherwise shall not be sold until the same shall have been first submitted to the qualified voters of the City at a general or special election and shall have been approved by two-thirds of such voters voting on the question of such sale, which two-thirds shall include the majority of qualified registered voters owning real estate in said City and voting in such election on such sale.

(17) To establish, open, widen, extend, grade, improve, construct, maintain, light, sprinkle and clean, public highways, streets, alleys, boulevards and parkways, and to alter, or close the same; to establish and maintain public parks, playgrounds and other public grounds; to construct, maintain and operate public bridges, viaducts, subways, tunnels, sewers and drains, and to regulate the use of all such highways, parks, public grounds and works; to plant and maintain shade trees along the streets and upon such public grounds; to prevent the obstruction of such street drains and highways; to regulate the operation and speed of all locomotives, cars, and vehicles using the streets or railroads within the City; to regulate the services to be rendered and rates to be charged by public busses, motor cars, taxicabs and other public vehicles used for hauling passengers and baggage for hire, except when prohibited by the State Corporation Commission of Virginia, or the Interstate Commerce Commission; to require any telephone and telegraph wires and any wires and cables carrying electricity to be placed in conduits under ground and to prescribe rules and regulations for the construction and use of such conduits; and to do all other lawful things whatsoever adapted to make said streets and highways safe, convenient and attractive.

(18) To construct and maintain, or aid in constructing and maintaining, public roads, boulevards, parkways and bridges beyond the limits of the City, in order to facilitate public travel to and from said City and any property owned by said City and situated beyond the corporate limits thereof, and to acquire land necessary for such purpose by condemnation or otherwise.

(19) To collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals and other refuse, and to acquire and operate plants for the utilization or destruction of such materials, or any of them; or to contract for and regulate the collection and disposal thereof.

(20) To compel the abatement and removal of all public nuisances within the City, or upon property owned by the City, beyond its limits; to require all lands, lots and other premises within the City to be kept clean, sanitary and free from weeds; to regulate or prevent slaughter houses or other noisome or offensive businesses within said City, the keeping of animals, poultry or other fowls therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles or materials through the streets of the City; to compel the abatement of smoke, odors and dust; to prevent unnecessary noise therein; to regulate the location of stables and the manner in which they shall be kept and constructed, and generally to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City.

(21) If any ground in the said City shall be subject to be covered by stagnant water or if the owner or occupant thereof shall permit any offensive or unwholesome

substance to remain or accumulate thereon, the said Council may cause such ground to be filled up, raised or drained, or may cause such substance to be covered or removed therefrom, provided that reasonable notice shall be first given to the said owner or occupant or his agent. In case of nonresident owners who have no agent in said City, such notice may be given by publication for not less than ten days in any newspaper published in said City or having general circulation therein.

(22) To direct or prevent the location of all buildings for storing gunpowder or other explosive or combustible substances, to regulate or prohibit the sale and use of dynamite, gunpowder, firecrackers, kerosene oil, gasoline, nitroglycerine, camphene, burning fluid, and all explosives or combustible materials, the exhibition of fireworks, the discharge of firearms, the use of candles and light in barns, stables and other buildings, the making of bonfires and the carrying of concealed weapons.

(23) To prevent the running at large in said City of all animals and fowls, and to regulate the keeping or raising of same within said City, and to subject the same to such levies, regulations and taxes as it may deem proper.

(24) To inspect, test, measure and weigh any commodity or article offered for human consumption or use within the City.

(25) To provide for the care, support and maintenance of children and of sick, aged, insane, or poor persons and paupers.

(26) To establish, organize and administer public schools subject to the general laws establishing a standard of education for the Commonwealth.

(27) To provide and maintain, either within or without the City, charitable, recreative, curative, corrective, detentive, or penal institutions.

(28) To provide for the preservation of the general health of the inhabitants of said City, make regulations to secure the same, inspect all food and foodstuffs and prevent the introduction and sale in said City of any article or thing intended for human consumption, which is adulterated, impure or otherwise dangerous to health, and to condemn, seize and destroy or otherwise dispose of any such article or thing without liability to the owner thereof; prevent the introduction or spread of contagious or infectious diseases, and prevent and suppress diseases generally; to provide and regulate hospitals within or without the City limits, and to enforce the removal of persons afflicted with contagious or infectious disease to hospitals provided for them, to provide for the organization of a department of health, to have the powers of a board of health, for said City, with the authority necessary for the prompt and efficient performance of its duties, with powers to invest any or all the officials or employees of such department of health with such powers as the police officers of the City have; to establish a quarantine ground within or without the City limits and such quarantine regulations against infectious and contagious disease as the said Council may see fit, subject to the laws of the Commonwealth and the United States; to provide and keep records of vital statistics and compel the return of all births, deaths and other information necessary thereto.

(29) To acquire by purchase, gift, devise, condemnation or otherwise lands, either within or without the City, to be used, kept and improved as a place for the interment of the dead, and to make and enforce all necessary rules and regulations for the protection and use thereof; and generally to regulate the burial and disposition of the dead.

(30) To exercise full police powers, and establish and maintain a department or division of police.

(31) To create, regulate and maintain a fire department for the City and to prescribe the duties of said department and its officers.

(32) (a) For the purpose of guarding against the calamities of fires, the City Council may, from time to time, designate such portions and parts of the City as it deems proper within which inflammable buildings may not be erected. It may prohibit the erection of wooden buildings or buildings of inflammable material in any portion of the City without its permission, and may provide for the removal of such buildings or additions which shall be erected contrary to such prohibition at the expense of the builder or owner thereof; or if any building in process of erection or already built appears clearly to be unsafe, the Council may cause such building to be taken down, after reasonable notice to the owner; it may provide for the disposition of garbage and waste; provide precautionary measures against danger from fires; provide for the removal of buildings or structures of any kind, erected in violation of ordinances, at the expense of the builder or owner; and may do all other things lawful to be done, looking to the health and safety of the inhabitants of the City.

(b) The Council may, by proper ordinance, divide the City into zones; specify the kind and character of buildings which may be erected in the different zones; and may, after recommendation from the planning commission and public notice and hearing pursuant to § 15.2-2204, establish design overlay districts to encourage compatible development in areas of the City identified on an adopted comprehensive plan as having historic value or unique architectural value and located within an area designated on an adopted plan for conservation, rehabilitation or redevelopment. In such areas, the Council shall adopt specific standards as to new construction or rehabilitation within view from public streets and provide for a design review process. City Council may establish a fee applicable to such design review process which shall not exceed the actual cost of such review process.

(33) (a) The City Council shall not take or use any private property for streets or other public purposes without making the owner thereof just compensation for the same; but in cases where the Council cannot by agreement obtain title to the ground for such purposes the Council may exercise the power of eminent domain, as provided by law; and shall, subject to the following paragraphs, have all the powers provided in Chapter 19 (§ 15.2-1900 et seq.) of Title 15.2, of the Code of Virginia, as amended, which is incorporated herein by reference.

(b) The City may enter upon the property to be condemned at any time after the filing of its petition for condemnation and prior to the determination and deposit of the award of just compensation for its purposes if, upon the petitioner's application to do so, the court, after thirty days' notice to the parties and after hearing all parties in interest, finds (1) that a public necessity or an essential public convenience requires such entry for such purposes, and that an emergency exists justifying such entry, before the time when just compensation can be determined and the amount so determined paid into court, and (2) that the interests of the owners of such property will be adequately protected by the payment into court or to the clerk thereof for the benefit of the owners of the amount of the offer made in accordance with law. Upon such payment, the petitioner shall have the right to enter upon the property as described in its petition. At any time after such payment into court or to the clerk thereof, a party whose property or interest therein is to

be taken or damaged may apply to the court for the withdrawal of his share thereof in the manner provided by law.

(c) At any time during the condemnation proceedings, if it appears necessary so to do in order to protect the owners of the property or estate or interest therein to be condemned and assure unto them the payment of just compensation to which they are entitled, the court may require the petitioner to pay such additional sums into court as deemed necessary to protect the owners of the property or estate in interest being condemned.

(d) If the petitioner enters upon the property under this section and does any work thereon, or causes any injury or damage to such property, it shall not thereafter be entitled, without the consent of the owner, to abandon the proceedings for the condemnation thereof, but shall conduct such proceedings with reasonable dispatch to final judgment and the petitioner shall pay to the owner of the property or into court the amount of just compensation determined in the condemnation proceedings.

(34) In every case where a street in said City has been, or shall be encroached upon by any fence, building or otherwise, the Council may require the owner to remove the same, and if such removal be not made within the time prescribed by the Council, it may impose such penalty as it deems proper for each and every day it is allowed to continue thereafter, and may cause the encroachment to be removed, and collect from the owner all reasonable charges therefor, with costs by the same process that Council is hereinafter empowered to collect taxes.

Except, in case where there is a bona fide dispute as to the true boundary line or the location of the true street line (and if such passage over such street is not seriously impeded) the same shall be first established and determined by an adjudication of a court of competent jurisdiction in a proceeding instituted by either the City or the property owner for that purpose before the said City shall take any steps to remove the said obstruction or encroachment, or to impose any penalty therefor. No encroachment upon any street, however long continued, shall constitute any adverse possession to or confer any rights upon the persons claiming thereunder as against the said City.

(35) Dedication of any street, alley or lane in said City may be made by plat or deed. Any street or alley reserved in the division or subdivision into lots of any portion of the territory within the corporate limits of said City, by a plan or plot of record, shall be deemed and held to be dedicated to public use, unless it appears by said record that the street or alley so reserved is designated for private use. The Council shall have the right to elect, by resolution entered on its minutes, whether it will or will not accept the dedication of any street or alley.

(36) To do all things whatsoever necessary or expedient for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce or industries of the City or its inhabitants.

(37) To make and enforce all ordinances, rules and regulations necessary or expedient for the purpose of carrying into effect the powers conferred by this charter or by any general law, and to provide and impose suitable penalties for the violation of such ordinances, rules and regulations, or any of them, by fine or confinement, or both; which shall not exceed the maximum of such penalties allowable under the general laws of this Commonwealth for misdemeanors or, in the case of traffic infractions, the maximum penalties allowable under the general laws of this Commonwealth for such traffic

infractions; and the City may maintain a suit to restrain by injunction the violation of any ordinance notwithstanding such ordinance may provide punishment for its violation. The enumeration of particular powers in this charter shall not be deemed or held to be exclusive, but in addition to the powers enumerated herein or implied thereby, or appropriate to the exercise thereof, the said City shall have and may exercise all other powers which are now or may hereafter be possessed or enjoyed by cities under the Constitution and general laws of this State not inconsistent with this charter.

(38) 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 Martinsville, Virginia, during their respective terms of office as councilmen, are authorized and empowered to act as the Commissioners of the Martinsville Redevelopment and Housing Authority, whenever the said Council shall adopt a resolution declaring:

(a) The need for an authority to function in the City of Martinsville, and

(b) The determination that the members of the Council of the City of Martinsville shall act as the Commissioners of the said Authority.

Should the Council determine to act as the Commissioners of the Martinsville 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 bylaws 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 Laws; provided, however, that notwithstanding any other provision of Title 36 of the Code of Virginia, no bonds of the Authority shall be issued unless and until a majority of the voters voting on the question of such bond issue shall have approved the same in a referendum called and held in accordance with § 41 of this charter. (1950, c. 193; 1956, c. 589; 1962, c. 329; 1975, c. 416; 1982, c. 193; 1991, c. 15; 1995, c. 172; 1998, c. 635)

CHAPTER 2

The Council

§ 1. Creation of Council.

There shall be a council which shall have full power and authority, except as herein otherwise provided, to exercise all the powers conferred upon the City, and to pass all laws and ordinances relating to its municipal affairs, subject to the Constitution and general laws of the State and of this charter. (1950, c. 193)

§ 2. Election of Council; Composition of Council; Vacancies.

The Council shall be elected as provided by general law. The Council shall consist of five members, who shall be elected at large and serve for a term of four years from the first day of January next following the date of their election and until their successors have been elected and qualified. Three council members shall be elected on

the November 2012 general election date and every four years thereafter, and two council members shall be elected on the November 2014 general election date and every four years thereafter.

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 said body, or any of them. When a vacancy occurs in the council, it shall be filled by a majority vote of the remaining members within thirty days of such vacancy. If a majority of the remaining members cannot agree, or do not act within said thirty-day period, and if at least one hundred eighty days remain in the unexpired term at the expiration of said thirty-day period, the council, immediately upon expiration of said thirty-day period, shall petition the Circuit Court of the City of Martinsville to issue a writ of election to fill such vacancy. Upon receipt of such petition, the court shall issue the writ of election, directed to the secretary of the Electoral Board of the City of Martinsville, designating the office to be filled and the time and place of holding such election; and, upon receipt of such writ, the said secretary shall publish a copy thereof at not less than ten public places within the city or publish the same in a newspaper of general circulation at least ten days before such election. No such special election shall be ordered held within the sixty days prior to a general or primary election. Any member of the council who shall be voluntarily absent from three regular meetings of the council consecutively, may be removed from office by resolution of the council declaring his seat vacant. (1950, c. 193; 1975, c. 416; 1977, c. 132; 2011, cc. 328, 598)

§ 3. Qualification of members.

Any person qualified to vote in the City shall be eligible to the office of councilman. (1950, c. 193)

§ 4. Limitations on powers and disqualifications.

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

(b) No member of the council or other officer shall be interested directly or indirectly in the profits of any contract or work, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services (other than official services). Any member of the council or any other officer of the City, who shall knowingly offend against the provisions of this section, shall be subject to removal from office by proceedings in either the Circuit Court or Corporation Court of the City for such purpose in the manner provided by law for removal of public officials from office by reason of malfeasance or misfeasance.

(c) Except for the purpose of inquiry, the council and its members shall so long as the city manager form of government obtains deal with the administrative service solely through the city manager, and neither the council nor any member thereof shall have authority to give orders to any of the subordinates of the city manager, either publicly or privately. (1950, c. 193)

§ 5. Organization rules of the Council.

(a) At nine o'clock ante meridian on the first regular business weekday of January following a regular municipal election, the council shall meet at the council chamber of the City, at which time the newly elected councilmen, after first having taken the oaths prescribed by law, shall assume the duties of their office. Thereafter the council shall meet at such times as it may prescribe by ordinance or resolution, except that it shall

regularly meet not less than once each month. The mayor, and any member of the council, or any two members of the council, or the city manager and any councilman, may call special meetings of the council, at any time after at least twelve hours' written notice, with the purpose of said meeting stated therein, to each member served personally or left at his usual place of business or residence; or such meeting may be held at any time without notice, provided all members of the council attend and vote unanimously on all matters acted upon. No business other than that mentioned in the call shall be considered at such meetings.

(b) The council may appoint all such other boards and commissions as may be deemed proper, and prescribe the powers and duties thereof. The council may determine its own rules or procedure, may punish its own members for misconduct in office and may compel attendance of members. It shall keep a journal of its proceedings. A majority of all members of the Council shall constitute a quorum to do business, but no resolution or ordinance shall be adopted except by affirmative vote of a majority of all members elected to the council, but a smaller number may adjourn from time to time and compel the attendance of absentees. All elections by the council shall be viva voce and the vote recorded in the journal of the council. No vote or question decided at a regular meeting shall be reconsidered at a special meeting unless all members are present and three of them concur. (1950, c. 193; 1975, c. 416; 2011, cc. 328, 598)

§ 6. Compensation of council.

Each member of the City council shall receive not to exceed eighty dollars for each regular or special meeting he attends, provided however, that the annual compensation paid to any councilman shall not exceed twenty-four hundred dollars for his services as such. (1950, c. 193; 1968, c. 645)

§ 7. Powers of Mayor.

The mayor shall be elected by the council for a term of two (2) years from the date of his election by council at its organizational meeting until his successor qualifies. Provided, however, the mayor elected by the council on September one, nineteen hundred seventy-eight shall serve a term of one year and ten months. He shall preside at meetings of the council and perform such other duties consistent with his office as may be imposed by the council and he shall have a vote and voice in the proceedings, but no veto. He shall be the official head of the City, but shall have no jurisdiction or authority to hear, determine, or try any judicial matters. In times of public danger, or emergency, he, or during his absence or disability, the city manager, may take command of the police and maintain order and enforce the laws, and for this purpose, may deputize such assistant policemen as may be necessary. During his absence or disability, except as above provided, his duties shall be performed by another member appointed by the council. He shall authenticate by his signature such instruments as the council, this charter, or the laws of the State shall require. (1950, c. 193; 1975, c. 416)

§ 8. Clerk.

The council shall appoint a clerk to serve at the will of the council, and shall have authority to adopt rules and appoint such officers and committees as they may deem proper for the regulations of their proceedings and for the convenient transactions of business; to compel the attendance of absent members; and enforce orderly conduct at meetings.

The council shall keep a minute book, in which the clerk shall note the proceedings of the council, and shall record said proceedings at large on the record book, and keep the same properly indexed. (1950, c. 193)

CHAPTER 3

Ordinances

§ 1. Legislative procedure.

Except in dealing with parliamentary procedure, the council shall act only by ordinance or resolution, and with the exception of ordinances making appropriations or authorizing the contracting of indebtedness, shall be confined to one subject. (1950, c. 193)

§ 2. Enactments.

(a) Each proposed ordinance, or resolution, shall be introduced in a written or printed form, and the enacting clause of all ordinances passed by the council shall substantially be "Be it ordained by the Council of the City of Martinsville, Virginia," and all resolutions shall begin with "Be it resolved by the Council of the City of Martinsville, Virginia."

(b) No ordinance shall be passed on the same day it is introduced before the council unless said ordinance shall state that an emergency exists, in which case all councilmen present vote in the affirmative on the question of the emergency. (1950, c. 193)

§ 3. Emergency Measures.

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

(b) An ordinance may be enacted as an emergency measure in all cases except that no ordinance providing for the selling or conveying of any real estate or making a grant, renewal, extension of a franchise or other special privileges, or regulating the rate to be charged for its services by any public utility shall ever be so passed. (1950, c. 193)

§ 4. Record.

Every ordinance or resolution having the effect of an ordinance when passed shall be recorded by the clerk of council in a book kept for that purpose, and shall be authenticated by the signature of the presiding officer and the said clerk. (1950, c. 193)

CHAPTER 4

§ 1. Courts.

The City may pay to any Judge of the Circuit Court that serves the City of Martinsville, when such Judge resides within the City, a salary of not less than Five Hundred Dollars per year, to be fixed by the council. (1950, c. 193; 1975, c. 416)

§ 2. (1950, c. 193; 1958, c. 92; repealed, 1975, c. 416)

§ 2.1. District Courts.

There shall be established for the City of Martinsville a General District Court and a Juvenile and Domestic Relations District Court. The District Courts shall have such jurisdiction and powers as shall be set by state law. (1983, c. 24)

CHAPTER 5

The City Manager

§ 1. General Provisions.

The administrative and executive powers of the City, including the powers of appointment of officers and employees, are vested in an official to be known as the City Manager, who shall be appointed by the council at its first meeting, or as soon thereafter as practicable. The City council shall appoint the city manager for an indefinite term and may remove him at any time by a majority vote of all its members. At least sixty (60) days before such removal shall become effective the council shall advise the manager in writing of the reason for his removal. The council may suspend the manager from duty (with pay) during the sixty (60) day period. The manager shall receive such compensation as shall be fixed by the council, by ordinance, and shall devote his entire time to the business of the City. (1950, c. 193)

§ 2. Powers and duties of the City Manager.

The city manager shall be responsible to the council for the proper administration of all affairs of the City coming within his jurisdiction under this charter, the general law or the ordinances or resolutions of the council. He shall have power and it shall be his duty:

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

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

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

(d) To attend all meeting of the City council with the right to take part in the discussion but having no vote.

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

(f) To prepare the annual budget and be responsible for its proper administration after adoption, and keep the City council full advised as to financial conditions and needs of the City.

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

(h) To perform such other duties as may be prescribed by this charter.

(i) He shall be bonded as the council may deem necessary. (1950, c. 193)

CHAPTER 6
City Officers

§ 1. The City council shall grant and pay to all city officers such salaries or compensation, if any, as the said council may from time to time deem just and proper, or shall be fixed by this act, except such salaries or compensation as may be fixed by general law. (1950, c. 193)

§ 2. If any person, having been an officer of such City, shall not within ten (10) days after he shall have vacated, or been removed from office, and upon notification or request of the clerk of the council deliver over to his successor in office all property, books and papers belonging to the City, or appertaining to such office in his possession or under his control, he shall forfeit and pay to the City the sum of Five Hundred Dollars, to be sued for and recovered with costs; and all books, records and documents used in any such office by virtue of any provision of this act, or of any ordinance or order of the City council, or any superior officer of the said City, shall be deemed the property of the said City and appertaining to said office, and the chief officer thereof shall be responsible therefor. (1950, c. 193; 1958, c. 92)

§ 3. Election of officers by council; enumeration and terms of officers.

At the meeting prescribed in § 5 of Chapter 2 of this Charter, or as soon thereafter as may be practicable, the council shall elect a clerk, city attorney and such other officers as may come within their jurisdiction, each of whom shall serve at the pleasure of the council. The municipal officers of the City of Martinsville, other than those above mentioned and unless provided for herein, shall, from the date this charter becomes effective and thereafter consist of five councilmen as provided for in this charter; a sheriff; a commissioner of the revenue; a treasurer; a commonwealth's attorney; and a clerk of the circuit court or for any other court of record that may be or hereafter be established by law for the City; and such additional officers as are provided for or may be provided for by the council.

The mayor of the City shall be elected by the council from their number as provided in this charter. The present commissioner of the revenue, treasurer, commonwealth's attorney and clerk of the circuit court shall continue in office until the expiration of the terms for which they were respectively elected. Upon the completion of their present term of office, elections shall be held at the time, in the manner and for the term provided by law. (1950, c. 193; 1975, c. 416; 2011, cc. 328, 598)

§ 4. Commonwealth's Attorney.

The commonwealth's attorney for the City of Martinsville shall be the commonwealth's attorney for the Circuit Court of said City and such other courts in said City as may be established by the General Assembly. The duties of the commonwealth's attorney shall be those defined and set out by law and in addition thereto, it shall be his duty to prosecute persons charged with misdemeanors, traffic infractions, and violations of City criminal ordinances in the district courts of the City and juveniles alleged to be delinquent or in need of services in the Juvenile and Domestic Relations District Court of the City, and all such cases appealed from the district courts to the circuit court of the City. Any duly appointed assistant commonwealth's attorney may exercise any of the powers and duties of the commonwealth's attorney, subject to his control and supervision. The City Council may in its discretion allow additional compensation or salary to the commonwealth's attorney and any employee of his office. (1950, c. 193; 1982, c. 193)

§ 5. Clerk of the Court.

The Clerk of the Circuit Court of said City shall have and possess all and singular the authority, power and privileges, and be subject to the limitations, and shall discharge all and singular the duties provided by law for clerks of circuit courts in cities of the first class in this Commonwealth. The Clerk shall be elected at such times and for such terms as provided by general law. (1950, c. 193; 1982, c. 193)

§ 6. Sheriff.

The sheriff shall attend the terms of the Circuit Court serving such City and shall act as an officer of such Court and shall have the authority, powers and jurisdiction which is granted to sheriffs by general law. He shall receive such compensation and emoluments allowed by law to sheriffs. He shall perform such other duties as may be prescribed and ordained by the City council. But the sheriff shall have no authority or custody over prisoners held in jail or on the city farm except such as may be required and necessary in serving the Court or Courts of said City. But nothing herein shall be construed to prevent the council from conferring additional authority or custody of prisoners on said sheriff by special authority enacted by the council.

The sheriff, as well as policemen and other officers and conservators of the peace, shall in the matter of criminal offenses have jurisdiction for one mile beyond the City limits in enforcing the criminal laws of the State.

The City council may in its discretion allow additional compensation or salary to the sheriff. (1950, c. 193; 1975, c. 416)

§ 7. Commissioner of the Revenue.

The commissioner of the revenue shall perform all the duties in relation to the assessment of property for the purpose of levying taxes that may be ordered by the City council, and such other duties as the council may prescribe or direct. He shall keep his office in some convenient place in the City, and shall keep therein such books, schedules and records, and in such manner as the City council may direct and prescribe, which books, records, and other papers shall be subject to the inspection and examination of the members of the City council, or any committee thereof, and of the collector of city taxes. He shall receive for his services the compensation allowed by law. The commissioner of revenue, in ascertaining the value of real property taxable in said City, shall assess the same as required by law. (1950, c. 193)

§ 8. Jailer.

The jailer of the City of Martinsville, or the person in charge of the prison or prison farm of the said City is authorized to receive into jail, prison, or prison farm in the manner provided by law all persons apprehended by the sheriff or any police officer of said City for violation of the rules, regulations, bylaws, or ordinances, or for disturbing the peace of the said City, and shall be authorized to retain such persons in his custody until ten o'clock the following morning, at which time they shall be discharged unless regularly committed to his custody by a mittimus or warrant. (1950, c. 193; 1975, c. 416)

§ 9. City Treasurer.

(a) The city treasurer shall, before entering upon the duties of his office, give bond with sufficient surety to be approved by the council, in the penalty of such amount as may be fixed by the council from time to time, payable to the City of Martinsville, conditioned for the true and faithful performance of the duties of his office. The treasurer shall be responsible for the collection of all taxes, licenses and levies except charges for services furnished by the public utilities of the City. He shall be personally responsible to

the City for the conduct of his office. He shall have sole authority to appoint or employ and to remove or discharge such deputies, employees and assistants as he may deem necessary to carry on the work in his department and he may fix their duties, terms of office and compensation, except such as are fixed by general law. Delinquent taxes and levies shall be transferred from the treasurer's hands into the hands of the city collector for the collection of any taxes, licenses and other levies at any time before they become delinquent, if in the discretion of the council it shall be proper so to do.

(b) The city treasurer shall receive all moneys belonging to the City which it is his duty to collect from persons owing the same to the City, or which it is the duty of other officers of the City to collect and pay over to him, and pay the same out as the ordinances of the City may prescribe; to keep such moneys safely and account therefor, and to pay all drafts or orders made on him in conformity with the ordinances of the City.

(c) The funds of the City shall be deposited by the treasurer in such bank or banks or savings and loan associations as the council may direct, and such bank or banks or savings and loan associations shall give bond in such sum or sums as the council shall fix. He shall keep books showing accurately the state of his accounts and the money of the City shall be kept distinct and separate from his own money and he is hereby expressly prohibited from using directly or indirectly the City's money, checks or warrants in his custody and keeping for his own use and benefit, or that of any person or persons whomsoever, and any violation of this provision shall subject him to immediate removal from office.

(d) The books and accounts of the city treasurer and all papers relating to the accounts and transactions of the City, shall be at all times subject to the inspection of the mayor, the City council, and such other persons as the council may appoint, to examine the same, and all such books and accounts, together with any balance or moneys on hand, shall be transferred by the treasurer to his successor at every new appointment, or delivered up as the council may at any time require.

(e) Repealed 1982, c. 193.

(f) Repealed 1982, c. 193.

(g) All taxes, levies, or other sums of money of whatever nature received by the city treasurer belonging to the City of Martinsville, shall be credited by the treasurer on his books to the City of Martinsville.

(h) All moneys received on all special assessments shall be held by the treasurer as a special fund, to be applied to the payment of the matter for which the assessment was made, and said moneys shall be used for no other purpose.

(i) The treasurer shall perform such additional duties as may be required of him by the council not inconsistent with the laws of the State.

(j) The city treasurer shall receive for his services the compensation allowed by law. (1950, c. 193; 1982, c. 193)

§ 10. City Collector.

The council may direct the city manager to appoint a city collector, and may define his powers, duties and compensation and may require such bond to the City, with security to be approved by the council, conditioned to secure the faithful discharge of his duties to the City, in such penalty as the council shall deem proper.

Subject to the consent of the city manager, the city collector may appoint such deputies and such other employees and assistants as may be necessary to carry on the

work in his department in all of its details in an economical and satisfactory manner. The salaries of such deputies, employees and assistants shall be fixed by the City council.

The city collector, his deputies, employees and assistants shall be at all times subject to removal by the city manager. (1950, c. 193)

§ 11. The City council may combine offices where not expressly prohibited, excepting that the assessing and collecting officers shall not be the same person.

All officers hereafter elected under this act, shall be elected at the times and for the terms, as hereinbefore provided, and shall enter upon the discharge of their duties, in accordance with the provisions of the general laws of this State concerning City officers.

The City of Martinsville and the officers thereof, elected or appointed in accordance with the provisions of this act, shall be clothed with all the powers, and be subject to all the provisions of law not in express conflict with the provisions of this act. (1950, c. 193)

CHAPTER 7

Department of Law

§ 1. There shall be a department of law which shall consist of the city attorney and such assistant city attorneys and other employees as may be provided by ordinance. (1950, c. 193)

§ 2. Qualifications and appointment of City Attorney.

The head of the department of law shall be the city attorney. He shall be an attorney at law licensed to practice under the laws of the Commonwealth and shall have actively practiced his profession therein for at least five (5) years immediately preceding his appointment. He shall be appointed by the council for an indefinite term. (1950, c. 193)

§ 3. Powers and duties of City Attorney.

The city attorney shall:

(a) Be the legal advisor of the council, the city manager and of all departments, boards, commissions and agencies of the City, including the school board, in all matters affecting the interest of the City and shall upon request furnish a written opinion on any question of law involving their respective official powers and duties.

(b) At the request of the city manager or any member of the council prepare ordinances for introduction and at the request of the council or any member thereof shall examine any ordinance after introduction and render his opinion as to the form and legality thereof.

(c) Draw or approve all bonds, deeds, leases, contracts or other instruments to which the City is a party or in which it has an interest.

(d) Have the management and control of all the law business of the City and the departments, boards, commissions and agencies thereof or in which the City has an interest, and represent the City as counsel in any civil case in which it is interested and in criminal cases in which the constitutionality or validity of any ordinance is brought in issue.

(e) Institute and prosecute all legal proceedings he shall deem necessary or proper to protect the interest of the City.

(f) Attend in person or assign one of his assistants to attend all meetings of the council.

(g) Appoint and remove such assistant city attorneys and other employees as shall be authorized by the council, and authorize the assistant city attorneys or any of them or special counsel to perform any of the duties imposed upon him in this charter.

(h) Have such other powers and duties as may be assigned to him by ordinance. (1950, c. 193)

CHAPTER 8

City Planning

§ 1. The City council shall have authority to continue in force the City plan heretofore adopted showing the streets, highways, and parks heretofore laid out, adopted, and established. Such City plan shall be final with respect to the location, length, and width of such streets and highways, and the location and dimensions of such parks. Such City plan is hereby declared to be established for the promotion of the health, safety, and general welfare. Upon the adoption of any amendments thereto, a certificate to that effect, together with a plat, shall be filed immediately with the clerk of every county affected by such City plan or amendment. (1950, c. 193)

§ 2. The City Planning Commissioners shall continue in office for the remainder of their terms and until their successors are appointed by the council. The City Planning Commission shall continue to exercise such duties, powers, and functions as it now has under the existing charter and ordinances, or as may be delegated to or required of said commission by the council by proper ordinances and resolutions. The City Planning Commission shall be constituted, perform the duties and functions, and otherwise be controlled by Chapter Eighty-eight of the Acts of the General Assembly of Nineteen Hundred and Thirty-four (1934), and amendments thereto, except in so far as said chapter and amendments thereto are in conflict with this charter or the express ordinances of the City now in force or hereafter enacted. (1950, c. 193)

§ 3. City Planning.

The council may at any time, after a public hearing, amend the City plan, by widening, relocating, or closing existing streets and highways, and by altering any existing park or by laying out new streets and highways and establishing new parks. Before amending the City plan, the council shall refer the proposed amendment to the City Planning Commission for a report thereon, and shall not act on such amendment until a report has been received from said commission, unless a period of sixty (60) days has elapsed after the date of reference to the commission unless such time shall be extended by council. Failure by the commission to act within such time period on such amendment shall be tantamount to approval. Any amendment of the City plan, upon its adoption by the council, shall be final unless changed as herein provided as to the location, length, and width of any street and highway, and the location and dimensions of any park. Any widening, relocating, closing, or laying out of streets and highways proposed under the provisions of law other than those contained in this article shall be deemed an amendment of the City plan, and shall be subject in all respects to the provisions of this chapter. (1950, c. 193; 1975, c. 416)

§ 4. The City Planning Commission shall have such other authority and powers as may now or hereafter be granted by the council of the City of Martinsville or to municipal planning commissions by the general law. (1950, c. 193)

CHAPTER 9

Zoning

§ 1. For the purpose stated in Article 1 of Chapter 24 of Title 15 of the Code of Virginia, the City council is hereby empowered to pass zoning ordinances in conformity with the said act, as amended, subject, however, to the following modifications thereto:

(a) For any or all of the aforesaid purposes, the council may divide the City.

(b) The zoning ordinances and set back lines as they now exist shall continue to be in full force and operation until amended or repealed by the City Council.

(c) Any zoning ordinances, regulations, restrictions, and boundaries of districts may be changed from time to time by the council, either upon its own motion or upon petition, under such conditions as the council may prescribe, after a public hearing, and adequate notice to all owners and parties affected, as required by § 15-822 of the Code of Virginia. If a protest or protests be filed with the council, signed by the owners of twenty per centum or more of the area of the land included in the proposed change, or by the owners of twenty per centum or more of the area of the land immediately adjacent to the land included in the proposed change, within a distance of one hundred feet therefrom, or by the owners of twenty per centum or more of the area of the land directly opposite across any street or streets from the land included in the proposed change, within a distance of one hundred feet from the street lines directly opposite, then no such change shall be made except by the majority vote of all of the members of the council. No change shall be made by the council in any zoning ordinance or map until such change has been referred to the city planning commission for a report thereon, and no action shall be taken by the council until a report has been received from the commission, unless a period of thirty (30) days has elapsed after the date of reference to the commission.

(d) The Board of Zoning Appeals as now constituted shall continue in office for the remainder of their terms and until their successors are appointed by the council. The Board of Zoning Appeals shall consist of five (5) members appointed by the City council for a term of three (3) years, and in so far as not inconsistent with this charter and the existing ordinances now in effect or hereinafter enacted, the powers, duties, authority and procedure of Article 1 of Chapter 24 of Title 15 of the Code of Virginia shall govern.

(e) The Board of Zoning Appeals shall elect a secretary who shall keep a written record of proceedings at its meetings. All official orders, decisions and permits issued by the Board shall be in writing and a copy thereof shall be delivered to the office of the building inspector of the City within five (5) days after such order, decision, or permit is arrived at or issued.

(f) The council may remove any member of the board for cause, after a public hearing. If a vacancy occurs otherwise than by the expiration of the term of the different members, it shall be filled by the council for the unexpired term.

(g) Unless the council designates some member of the board as chairman, the board shall select a chairman and secretary from among its own members. The board may employ such persons as the council may approve, and may expend such sums as are appropriated by the council for its work. (1950, c. 193)

CHAPTER 10

The supervision of the public schools in the City shall be vested in a school board composed of not less than three (3) nor more than five (5) qualified voters of the City appointed by the council. Vacancies on the said board shall be filled by the council. (1950, c. 193)

CHAPTER 11

Bond Issue

§ 1. Purposes for which bonds may be issued.

The council may issue bonds of the City of Martinsville for any municipal purpose provided for in this act or in any general law now or hereafter in effect. (1950, c. 193; 1981, c. 201)

§ 2. Election on question of the issuance of bonds.

Except as otherwise provided in this chapter, no bonds of the City of Martinsville shall be issued until the question of issuing these shall have first been submitted to the qualified voters of the city at a general or special election and shall have been approved by a majority of such voters voting on the question of such issue. The question or propositions submitted to the voters as aforesaid shall state in general terms the purpose or purposes of the proposed bond issue and the actual or maximum amount of the bond issue. All other details of the bond issue shall be left to be determined by ordinance adopted by the council of the City of Martinsville. Any election held pursuant to this chapter shall be conducted in accordance with, and the form of ballot used in such election shall be in such form as prescribed by, general law now or hereafter in effect. No question as to the validity of such an election, or as to the determination of the result thereof shall be raised in any court except in an action or proceeding commenced in the Circuit Court of the City of Martinsville within ten days (10) days after the determination of the result of said election. No election shall be required with respect to any indebtedness described in Article VII, Section 10 (a) (1) of the Constitution of Virginia of nineteen hundred seventy-one (1971). (1950, c. 193; 1981, c. 201)

§ 3. When Bonds to be made Payable.

All bonds of the City of Martinsville hereafter issued shall be made payable within the probable life of the improvement or undertaking on account of which they are to be issued. The determination of or by the council as to the probable life of any such improvement or undertaking shall be conclusive. The probable life of any improvement or undertaking shall not be deemed to be more than thirty (30) years; provided, however, that the probable life of real property acquired by the City may be deemed to be as long as forty (40) years. In case of a bond issue for a hydroelectric project, the probable life of the improvement or undertaking requiring said bond issue, and of any real property acquired therefor, may be deemed to be as long as fifty (50) years. In case of a bond issue for several different purposes, having different probable periods of usefulness; the council shall determine the average of said period, taking into consideration the amount of bonds to be issued on account of each purpose for which a period is determined and the bonds shall mature within such average period. (1950, c. 193; 1980, c. 7)

§ 4. Bonds to be serial or term.

Bonds of the City of Martinsville may be issued as serial or term bonds, or any combination thereof. Serial bonds shall mature in annual installments commencing not later than five (5) years after the date of the bonds. Term bonds may be redeemed prior to the maturity thereof by mandatory sinking fund redemption. (1950, c. 193; 1954, c. 104; 1981, c. 201)

§ 5. Procedure for issuing bonds.

A. Whenever the council of the City of Martinsville proposes to issue bonds, the council shall adopt an ordinance reciting the expediency of borrowing money by the City of Martinsville and the issuance of bonds therefor, the purpose or purposes, in general

terms, for which bonds are to be issued, the actual or maximum amount of bonds to be issued, or if bonds are to be issued for more than one purpose, the actual or maximum amount to be issued for each purpose and the maximum length of time such bonds will be outstanding.

B. Upon the adoption by the council of the ordinance described in subsection A, a copy thereof, certified by the clerk of the council, shall be filed with the judge of the Circuit Court of the City of Martinsville, Virginia, whereupon the judge of such circuit court shall enter such order as may be required by general law now or hereafter in effect ordering that the question of issuing bonds be submitted to the qualified voters of the City of Martinsville at a regular or special election and may enter such additional orders as may be required by general law now or hereafter in effect.

C. Notice of the proposed bond issue shall be published in a newspaper of general circulation in the City of Martinsville at least once a week for two successive weeks after the adoption of the ordinance described in subsection A. Such notice shall set forth in general terms the purpose or purposes for which the bonds are to be issued, the actual or maximum amount of such bonds or if bonds are to be issued for more than one purpose, the actual or maximum amount of bonds to be issued for each purpose, and the maximum time such bonds will be outstanding.

D. In lieu of the election required by § 2 of this chapter, in any bond issue which does not exceed two percent of the assessed valuation of the real estate of the city subject to taxation, the council may hold a public hearing on the proposed bond issue. In the event that council elects to hold a public hearing in lieu of an election, the notice described in subsection C shall be published in the display advertising of the newspaper and, in addition, shall be broadcast at least once a week for two successive weeks on all radio and television stations whose broadcast facilities are located within the city, and the notice shall specify the time and place of the hearing at which persons may appear and present their views. The hearing shall not be held less than six nor more than twenty-one days after the date the second notice appears in the newspaper.

E. Following approval of the bonds by the qualified voters of the City of Martinsville or, where applicable, following said public hearing, the council may at any time thereafter adopt an ordinance authorizing the issuance of the bonds approved by the voters or any portion thereof. Such ordinance shall set forth the specific terms of the bond issue, including the term thereof and the rate of interest thereon. Any such ordinance may be amended or supplemented from time to time.

F. Any ordinance adopted pursuant to this § 5 may be adopted on the same day it is introduced before the council and may take effect on the date of its adoption. The provisions of this subsection shall not apply to any ordinance enacted for the purpose of authorizing the issuance of bonds after a public hearing.

G. Any ordinance adopted by the council pursuant to this § 5 and any bonds issued pursuant to this chapter may contain such provisions and be in such form as required or permitted by general law, now or hereafter in effect, unless specifically provided or permitted otherwise by this chapter. (1950, c. 193; 1981, c. 201; 1992, c. 31)

§ 6. Debt limitation.

The City of Martinsville shall not issue bonds or other interest-bearing obligations to an amount, which including existing indebtedness, shall, at any time, exceed such amount as permitted by law now or hereafter in effect; provided, however, that in

determining this limitation to incur indebtedness, there shall not be included the classes of indebtedness specifically provided for in Article VII, Section 10 (a) (1), (2), (3) and (4) of the Constitution of Virginia of nineteen hundred and seventy-one (1971). (1950, c. 193; 1981, c. 201)

§ 7. Payment of principal and interest.

Irrespective of the provisions of Chapter 1, § 2, paragraph (1) of this charter relating to the tax limit on real and personal property, the full faith and credit of the City of Martinsville shall be deemed to be pledged for the punctual payment of the principal of and interest on every bond and note issued under this act, except the classes of indebtedness specifically provided for in Article VII, Section 10 (a) (1), (2), (3) and (4) of the Constitution of Virginia of nineteen hundred and seventy-one (1971). The council of the City of Martinsville shall have power to annually levy and collect a tax ad valorem upon all taxable property in the city, sufficient to pay the principal and the interest on all bonds issued under this act, as such principal and interest become due; provided, however, that such tax may be reduced by the amount of other moneys appropriated and actually available for said purposes. In the case of bonds pledging the full faith and credit of the City of Martinsville, the council may, if it deems prudent, annually set aside from the resources of the city a sum not less than one (1) per centum of the aggregate bonded indebtedness of the city pledging the full faith and credit thereof, not payable within one year, whether heretofore, or hereafter contracted, except that no sinking fund shall be required for bonds heretofore or hereafter issued in serial form or for revenue bonds or term bonds required to be redeemed by mandatory sinking fund redemption; provided, however, that nothing herein contained shall be construed to authorize the council to discontinue any sinking fund which may be required for bonds issued pursuant to Clause B, Section 127 of the Constitution of Virginia of nineteen hundred and two; provided further, any such amounts required to be set aside for bonds heretofore issued, shall continue to be set aside until such bonds have been paid or provided for. The fund thus set aside shall be called the sinking fund and shall be applied to the payment of the bonded indebtedness of said city, as it shall become due, and if no part be due and payable, the sinking fund may be invested as permitted by law now or hereafter in effect. (1950, c. 193; 1954, c. 104; 1981, c. 201)

§ 8. Sinking Fund Commissioners.

The sinking fund commission for the City shall be composed of the mayor, city commissioner of revenue and the city treasurer, whose duties shall be to take over annually from the treasurer, and invest the sinking fund as herein provided; and shall annually submit a report to the council showing the condition and amount of the sinking fund. A bond with satisfactory surety shall be required of the sinking fund commissioners, the amount of which shall be fixed by ordinance. No fees nor commissions shall be paid to any officer for the handling and control of the sinking fund. (1950, c. 193)

CHAPTER 12

Budget, Accounting and Audit

§ 1. By ordinance, the City council shall not later than July First, Nineteen Hundred and Fifty (1950), provide for a modern budget and accounting system to be maintained on a current modern basis, which shall include a pre-audit, control and approval of all expenditures with appropriate records and reports. The officer in charge of

this activity shall be the city manager or some qualified employee appointed by him. (1950, c. 193)

§ 2. By ordinance, the City council shall not later than July First, Nineteen Hundred and Fifty (1950), provide for a thorough system of post audit of all expenditures, receipts and financial affairs of the City. The council shall cause this work to be done by a Certified Public Accountant of their selection and appointment or the Auditor of Public Accounts of the Commonwealth of Virginia. The council may direct an audit of any or all financial records at any time but they shall cause a complete audit to be made of all accounts, books, records and financial transactions of the City at least once each fiscal year. (1950, c. 193)

§ 3. The City may establish and maintain a municipal trust or equivalent arrangement for the purpose of accumulating and investing proceeds from the sale of assets owned by the City, and such other funds as the council may contribute pursuant to this section. The principal of the trust or equivalent arrangement shall be (i) all of the proceeds of the sale of any asset owned by the City that generates between \$10 million and \$20 million, (ii) one-half of any such proceeds in excess of \$20 million, (iii) such income generated by the trust or equivalent arrangement remaining unexpended at the close of each fiscal year, and (iv) such other funds as the council may by majority vote to contribute to the trust or equivalent arrangement. Deposits to such trust or equivalent arrangement and any earnings on those deposits shall be exempt from state and local taxation and the assets of any such trust or equivalent arrangement shall not be subject to execution, attachment, garnishment, or any other process. Investment of the assets of the trust or equivalent arrangement shall be managed by a competent professional investment entity, as designated by a contract awarded by the council for a three-year term. All assets or funds of the trust or equivalent arrangement shall be invested in accordance with the prudent person standard established by § 51.1-803 of the Code of Virginia and such investments shall not be limited by Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 of the Code of Virginia. The principal of the trust or equivalent arrangement may be expended only after a public hearing that has been advertised for two successive weeks in a newspaper having general circulation in the City and upon the two-thirds vote of the council membership. No more than 25 percent of the principal of the trust or equivalent arrangement may be expended in any fiscal year except by unanimous vote of the council membership. Income generated by the fund in each fiscal year may be appropriated, in whole or in part, for any purpose allowed by law by majority vote of the council. (2008, cc. 435, 607)

CHAPTER 13 General Provisions

§ 1. Vacancies.

Vacancies in any offices provided for in this charter shall be filled by the authority and in the manner provided herein for the original appointment or election of such officers. (1950, c. 193)

§ 2. Oaths of Office and Qualification.

Except as otherwise provided by general law or by this charter, all officers elected or appointed under the provisions of this charter shall take the oath of office and execute such bond as may be required by general law, by this charter, or by ordinance or resolution of the council, and file the same with the circuit court clerk, before entering

upon the discharge of their duties, and if the requirements of this section have not been complied with by any officer within ten (10) days after the term of office shall have begun or after his appointment to fill a vacancy, then such office shall be considered vacant. (1950, c. 193)

§ 3. Officers to Administer Oaths.

The commissioner of the revenue, clerk of council, city treasurer and city manager shall have power to administer oaths and to take and sign affidavits in the discharge of their respective official duties. (1950, c. 193)

§ 4. Bonds.

All officers elected or appointed under the provisions of this charter shall, unless otherwise provided by general law or by this charter, execute such bonds, with such approved corporate surety, as may be required by general law, by this charter or by ordinance or resolution of the council, and file the same with the circuit court clerk before entering upon the discharge of their duties. The City shall pay the premiums on such bonds. (1950, c. 193)

§ 5. Investigations.

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

Any person refusing or failing to attend, or to testify or to produce such books and papers, may by summons issued by such board or officer be summoned before the general district court of the said City by the board or official making such investigation, and upon failure to give satisfactory explanation of such failure or refusal, may be fined by the general district court not exceeding one hundred dollars or imprisonment not exceeding thirty (30) days, and such person shall have the right to appeal to the Circuit Court of the City of Martinsville. Any person who shall give false testimony under oath at any such investigation shall be liable to prosecution for perjury. (1950, c. 193; 1982, c. 193)

§ 6. Working Prisoners.

Subject to the general laws of the State regulating the working of those convicted of offenses against the State, the council shall have the power to provide by ordinance for the employment or the working of prisoners, either within or without the City limits, or within or without any city prison or jail, for the violation of the laws of the State of Virginia, or the ordinances of the City of Martinsville. (1950, c. 193)

§ 7. Penalty for Officers Failing to Perform Duties.

If any officer of the City of Martinsville, whether he be elected by vote of the people or by the council, or appointed by the council, or the city manager, shall fail or refuse to perform any of the duties required of him by this chapter or by ordinance or resolution of the City council, he shall be subject to a fine of not less than five dollars nor more than one hundred dollars for each offense, and he and his sureties on his official bond shall be liable for all damages which may accrue to the City or any other person by reason of such failure or refusal. (1950, c. 193)

CHAPTER 14

§ 1. Nothing in this act shall authorize the adoption of any ordinance in conflict with any of the provisions of the Virginia Alcoholic Beverage Control Act. (1950, c. 193)

§ 2. All valid contracts and obligations heretofore or hereafter made by the council of the City of Martinsville while in office, not inconsistent with this charter, or with the Constitution or general laws of the State of Virginia, shall be and are hereby declared to be valid and legal. (1950, c. 193)

§ 3. All ordinances and resolutions in force in the City of Martinsville immediately before the passage of this Act shall be and remain in force until altered, amended, or repealed by the council of the said City. (1950, c. 193)