

SALEM, CITY OF
City of First Class.

Incorporated as a town by a 1924 Act of Assembly.

Granted a charter as a City of the Second Class by order of the Circuit Court 1967.

Town charter, 1924, c. 288; repealed 1968, c. 150.

Charter, 1968, c. 150.

Amended 1971, c. 208 (§ 11.2)

1973, c. 141 (§§ 3.1, 4.1, 4.4, 4.5, 4.6)

1974, c. 144 (§ 2.7 [added])

1975, c. 144 (§§ 5.1, 6.8, 10.1 through 10.8 [repealed])

1980, c. 391 (§§ 2.6, 8.1, 11.2)

1984, c. 112 (§ 4.5)

1985, c. 23 (§ 8.3)

1987, c. 18 (§ 1.2)

1991, c. 14 (§ 1.2)

1993, c. 357 (§§ 2.6, 5.2).

Chapter 1.

Incorporation and Boundaries.

§ 1.1. Incorporation.

The inhabitants of the territory comprised within the limits of the city of Salem, in Roanoke County, as the same now are or may hereafter be established by law, shall continue to be a body politic and corporate under the name of the city of Salem, and as such shall have perpetual succession, may sue and be sued, contract and be contracted with and may have a corporate seal which the city may alter, renew or amend at its pleasure. (1968, c. 150)

§ 1.2. Boundaries.

The boundaries of the city of Salem shall be as set out in § 3, Chapter 288, of the Virginia Acts of Assembly of 1924, and as added to in the following Annexation Order of the Circuit Court of Roanoke County;

(1) G. W. Akers, et al. v. Town of Salem, et al., entered November 13, 1952, recorded in Common Law Order Book 20, at page 294, in the office of the Clerk of the Circuit Court of Roanoke County.

(2) Town of Salem v. County of Roanoke, entered October 31, 1959, recorded in Common Law Order Book 22, at page 48, in the office of the Clerk of the Circuit Court of Roanoke County.

(3) Town of Salem v. County of Roanoke et al., entered August 17, 1966, in Common Law Order Book 24, at page 159, in the office of the Clerk of the Circuit Court of Roanoke County.

(4) James K. Washenberger, et al. v. City of Salem, et al., entered December 20, 1983, in Common Law Order Book 37, at page 1348, in the office of the Clerk of the Circuit Court of Roanoke County.

(5) Voluntary Settlement Agreement of Roanoke County and the City of Salem entered December 18, 1987, in Chancery Order Book 112, at page 360, in the office of

the Clerk of the Circuit Court of Roanoke County. (1968, c. 150; 1987, c. 18; 1991, c. 14)

Chapter 2. Powers Generally.

§ 2.1. General grant of powers.

The city shall have and may exercise all powers which are now or may hereafter be conferred upon or delegated to cities under the Constitution and laws of the Commonwealth and all other powers pertinent to the conduct of a city government, the exercise of which is not expressly prohibited by the said Constitution and laws, and which in the opinion of the city council are necessary or desirable to promote the general welfare of the city and the safety, health, peace, good order, comfort, convenience and morals of its inhabitants, as fully and completely as though such powers were specifically enumerated in this charter, and no enumeration of particular powers in this charter shall be held to be exclusive, but shall be held to be in addition to this general grant of powers. (1968, c. 150)

§ 2.2. Adoption of certain provisions of Code of Virginia.

The powers set forth in §§ 15.1-837 through 15.1-915 of Chapter 18 of Title 15.1 of the Code of Virginia, as in force January 1, 1968, and any act amendatory thereof or supplementary thereto, are hereby conferred on and vested in the city of Salem. (1968, c. 150)

§ 2.3. Contractual relationships.

The city may enter into contractual relationships with the Commonwealth and/or its departments, bureaus, boards and agencies, with neighboring political subdivisions, with authorities, including regional authorities, and with private agencies on such terms and for such periods as the city council may determine to be in the public interest in order to promote the education, health, safety, and general welfare of its residents. Such contracts may include, but shall not be limited to, schools, libraries, sewage collection and disposal, water supply, police and fire protection, mass or rapid transit, parks, playgrounds and open spaces. (1968, c. 150)

§ 2.4. Eminent domain.

The powers of eminent domain set forth in Title 15.1 Title 25, Chapter 1.1 and Title 33, Chapter 1, of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, mutatis mutandis, are hereby conferred upon the city of Salem.

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

(b) Certificates issued pursuant to §§ 33-70.3 to 33-70.11, inclusive, Code of Virginia, as amended, and acts amendatory thereof and supplemental thereto, may be issued by the city council, signed by the mayor and countersigned by the city treasurer. Such certificate shall have the same effect as certificates issued by the State Highway Commissioner, under the aforesaid laws, and may be issued in any case in which the city proposes to acquire property of any kind by the exercise of its powers of eminent domain

for any lawful public purpose, whether within or without the city; provided, that the provisions of § 33-70.1, Code of Virginia, as amended, shall not be used for the acquisition of lands, easements or related interests in property located outside of the city, except for the acquisition of said interests necessary for streets, water, sewer or utility pipes or lines or related facilities.

(c) In addition to the powers conferred by the aforesaid laws, such certificates may be amended or cancelled by the court having jurisdiction of the proceedings, upon petition of the city, at any time after the filing thereof; provided, that the court shall have jurisdiction to make such order for the payment of costs and damages, if any, or the refund or any excessive sums theretofore paid pursuant to such certificate as shall, upon due notice and hearing, appear just. The court shall have jurisdiction to require refunding bonds, for good cause shown by the city or any other person or party in interest, prior to authorizing any distribution of funds pursuant to any certificate issued or deposit made by the city. (1968, c. 150)

§ 2.5. Acquisition and disposal of property for certain purposes.

The city is authorized to acquire, in any lawful manner, for the purpose of encouraging commerce, manufacture, education and the building of homes, lands within and without the city, not exceeding at any one time 1,000 acres in the aggregate, and from time to time, to sell, dispose of, lease or donate the same or any part thereof for commercial, industrial, educational or residential uses and purposes, including any land now owned by the city. The city may also donate any land now or hereafter owned by the city for hospital purposes. (1968, c. 150)

§ 2.6. Property assessments.

(a) The city council may provide for the annual assessment and reassessment of real estate for taxation. The city manager shall appoint an assessor of real estate to assess all real estate within the city for taxation. The city manager shall prescribe the duties and terms of his office, may remove him for cause, shall fix his compensation, which shall be payable out of the treasury of the city, and may provide for such technical and clerical assistance as may be necessary or advisable and for the payment of any other expenses that may be properly incident to the function of his office.

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

(c) The assessor shall prepare the land books and extend the taxes thereon and perform all the duties required by law to be performed in respect to real estate assessments. The clerk of the circuit court shall furnish to the assessor the list of real estate transfers within the city.

(d) Notwithstanding the provisions of § 58.1-3370 of the Code of Virginia, the Circuit Court of Salem, or the judge thereof in vacation, shall appoint for the city a board of equalization of real estate assessments, to be composed of five members, who shall be freeholders of the city, and who shall be selected by the court or judge from the citizens of the city to serve staggered terms. Members shall be appointed for terms of three years with no more than two terms expiring in any one year. Initial terms may be for less than three years. All terms shall run from December 1 in the year of appointment until November 30 in the year of expiration, the terms of the members first appointed shall begin on the day of appointment. Members shall hold over until a successor is appointed

and qualifies. Such court or judge thereof in vacation may reappoint any member upon the expiration of his term and shall fill any vacancy upon the board for the unexpired term. The members of the board shall receive per diem compensation for the time actually engaged in the duties of the board, to be fixed by the city council, and paid out of the treasury of the city; provided, the city council may limit the per diem compensation to such number of days as in its opinion is sufficient for the completion of the work of the board. Such board of equalization shall have and may exercise the power to revise, correct and amend any assessment of real estate made by the assessor in the calendar year in which they serve and to that end shall have all the powers conferred upon boards of equalization by Chapter 32 of Title 58.1 of the Code of Virginia, and any acts amendatory thereof and supplemental thereto. Notwithstanding such chapter, however, the board of equalization may adopt any regulations providing for the oral presentation, without formal petitions or other pleading or requests for review, and looking to the further facilitation and simplification of proceedings before the board.

(e) The city of Salem and any person aggrieved by any correction or assessment made by the assessor or the board of equalization may apply for relief in the manner provided by §§ 58.1-3382, 58.1-3982 and 58.1-3984 of the Code of Virginia and any acts amendatory thereof and supplemental thereto.

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

(g) All provisions of law relating to the assessment of real estate in cities not in conflict with the provisions of this section shall apply to the assessment made pursuant thereto. (1968, c. 150; 1980, c. 391; 1993, c. 357)

§ 2.7. Differences in rate of taxation--taxing districts pursuant to Article X, Section 1 of the Constitution of Virginia.

The city council may, from time to time, provide for differences in the rate of taxation to be imposed upon real estate by the city within all or parts of areas added to its territorial limits. Such differences in the rate of taxation shall bear a reasonable relationship to differences between nonrevenue producing governmental services giving land urban character which are furnished in one or several areas in contrast to the services furnished in other areas of the city. In so doing the city council may, from time to time, establish such taxing districts as may be necessary to reasonably differentiate between those areas added to the territorial limits of the city receiving contrasting services as hereinabove provided, and having once established such taxing districts, the city council may, from time to time thereafter, alter, amend or abolish the same as the character or extent of such services are changed. (1974, c. 144)

Chapter 3.

Elections.

§ 3.1. Election of councilmen.

On the first Tuesday in May 1974, and on the first Tuesday in May every two years thereafter, there shall be held a general municipal election, at which the members of the city council shall be elected. All other municipal elections that may be held shall be known as special municipal elections. (1968, c. 150; 1973, c. 141)

§ 3.2. General law to control registration, nominations and elections.

Unless otherwise provided in this charter, registration, nominations and elections held under this charter shall be in accordance with the general laws of the Commonwealth. (1968, c. 150)

§ 3.3. How regular municipal election for election of councilmen conducted.

The candidates in any regular municipal election for the election of councilmen, equal in number to the places to be filled, who shall receive the highest number of votes at such election, shall be declared elected.

In any such election, each elector shall be entitled to a vote for as many persons as there are vacancies to be filled, and no more. No elector shall in such election cast more than one vote for the same person.

In counting the vote, any ballot found to contain a greater number of names for the office of councilmen than the number of vacancies in the council to be filled shall be void, but no ballot shall be void for containing a less number of names than is permitted hereby. (1968, c. 150)

§ 3.4. Election of other city officers; filling of vacancies.

All other city officers required by the Constitution and general laws of the Commonwealth to be elected by the qualified voters of the city shall be elected on the first Tuesday following the first Monday in November preceding the expiration of the terms of office of their respective predecessors, for such terms as are prescribed by law. All such elective officers shall be nominated and elected as provided in the general laws of the Commonwealth. The officers so elected or appointed shall qualify in the mode prescribed by law and shall continue in office until their successors are elected and qualified. (1968, c. 150)

§ 3.5. Advisory referendum.

The city council, by majority vote of the entire council, may submit to the qualified voters of the city for advisory purposes, any question or group of questions relating to the affairs of the city. Any such advisory referendum shall be conducted in the manner provided for bond elections, but the results thereof shall not be binding upon the city council. There shall be no right of appeal from or recount of the results of an advisory referendum. (1968, c. 150)

Chapter 4.

City Council.

§ 4.1. Composition of council; staggered terms and term of office of councilmen.

The city council shall consist of five members. At the general municipal election held in May 1974, and every four years thereafter, two members shall be elected for terms of four years. At the general municipal election held in May 1976, and every four years thereafter, three members of council shall be elected for terms of four years. All members of the city council shall serve until their successors have been elected and have qualified. (1968, c. 150; 1973, c. 141)

§ 4.2. Eligibility for office of councilman.

Any person qualified to vote in the city shall be eligible to the office of councilman. (1968, c. 150)

§ 4.3. Filling of vacancies on council.

Vacancies in the city council shall be filled within thirty days, for the unexpired term, by a majority vote of the remaining members. Should, however, the remaining members cast a tie vote, or otherwise be unable to agree, the clerk of council shall, after

the expiration of thirty days, certify this fact to the Circuit Court of Salem, and the court, or the judge thereof, shall proceed to enter an order appointing a qualified person or persons to fill such vacancy or vacancies. (1968, c. 150)

§ 4.4. Election, term of office and duties of mayor.

At the first meeting of the city council in July of each even-numbered year, the city council shall elect from its members a mayor, who shall serve for a term of two years. The mayor shall preside at meetings of the city council and perform such other duties consistent with his office as may be imposed by the city council. He shall have a vote and voice in the proceedings of the city council, but shall have no power of veto. He shall be the official head of the city and he shall be clothed with all the powers and authority in civil and criminal matters as may be prescribed by the laws of the Commonwealth. 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 city council. He shall authenticate by his signature such instruments as the city council, this charter or the laws of the Commonwealth shall require. (1968, c. 150; 1973, c. 141)

§ 4.5. Salaries of mayor and council.

The city council shall fix the salaries of the councilmen and the mayor. Salaries of councilmen and mayor shall be determined in the manner and within the amounts provided for in § 14.1-47.2 of the Code of Virginia. The salaries of the mayor and councilmen shall not be decreased during the term for which they were elected. (1968, c. 150; 1973, c. 141; 1984, c. 112)

§ 4.6. Meetings; quorum.

(a) On the first day of July following a regular municipal election, or if such day is a Sunday, then on the day following, the city council shall meet at nine o'clock a.m. at the usual place for holding the meetings of the city council, 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 city council shall meet at such times as may be prescribed by ordinance or resolution; except, that they shall regularly meet not less than once each month.

(b) The mayor, any member of the city council or the city manager may call special meetings of the city council at any time upon giving at least twelve hours written notice thereof, with the purpose of such 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 city council attend. No business other than that mentioned in the call shall be considered at such meeting, unless all members of the city council are present and first give their unanimous consent to the consideration of such business.

(c) All meetings of the city council shall be public, and any citizen may have access to the minutes and records thereof at all reasonable times.

(d) A majority of all members of the city council shall constitute a quorum to do business, but a smaller number may adjourn from time to time, and compel the attendance of absentees. (1968, c. 150; 1973, c. 141)

§ 4.7. Votes to be recorded.

All votes and elections by the city council shall be viva voce and the vote shall be recorded in the journal of the council. (1968, c. 150)

§ 4.8. Rules of procedure; journal of proceedings.

The city council may determine its own rules of procedure and may punish its own members for misconduct. It shall keep a journal of its proceedings. (1968, c. 150)

§ 4.9. Council members to deal with administrative service through city manager.

Except for the purpose of inquiry, the city council and its members shall deal with the administrative service solely through the city manager, and neither the city council nor any member thereof, shall give orders to any of the subordinates of the city manager, either publicly or privately. Any such orders or other interference on the part of the city council or any of its members with subordinates or appointees of the city manager, instead of dealing or communicating direct with the city manager, is prohibited. (1968, c. 150)

§ 4.10. Interest of councilmen in contracts, sales, etc.

No member of the city council or other officer shall be interested, directly or indirectly, in the profits of any contract or work, or to 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 city council or any other officer of the city offending against the provisions of this section shall upon conviction thereof, be fined not more than \$500 or be imprisoned not more than ninety days, or both, in the discretion of the court, and shall forfeit his office. (1968, c. 150)

§ 4.11. Effect of conviction of councilman of felony.

Any member of the city council who shall be convicted of a felony while in office shall thereby forfeit his office. (1968, c. 150)

§ 4.12. Council a continuing body.

The city council shall be a continuing body, and no measures pending before such body, or any contract or obligation incurred, shall abate or be discontinued by reason of the expiration of the term of office or removal of any of its members. (1968, c. 150)

Chapter 5.

City Manager.

§ 5.1. Administrative and executive head of government; appointment; term of office; absence or disability.

The city manager shall be the administrative and executive head of the city government. He shall be appointed by the city council solely on the basis of his executive and administrative qualifications. The choice shall not be limited to inhabitants of the city or Commonwealth. He shall be appointed for an indefinite period and shall serve at the will of the city council. An assistant city manager may also be appointed by the city council for an indefinite period, who shall likewise serve at the will of the city council. He shall be responsible to the city manager for the administration of all city affairs placed in his charge by the city manager or under this charter. During the absence or disability of the city manager and the assistant city manager, the city council shall designate some properly qualified person to perform the duties of the office. (1968, c. 150; 1975, c. 144)

§ 5.2. Powers and duties generally.

The city manager shall be responsible to the city 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 city council. He shall have power and it shall be his duty:

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

(b) To appoint and remove such city officers and employees as the city council shall determine are necessary for the proper administration of the city, except those in the legal and judicial departments, and the clerical and other attendants of the city council. The city manager shall report each appointment and removal to the city council at the next meeting thereof following any such appointment or removal.

(c) 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, and upon knowledge of any violation thereof, to call the attention of the same to the city council, whose duty it shall be forthwith to direct such steps as are necessary to protect and enforce the same.

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

(e) To attend all meetings of the city council, with the right to take part in the discussion, but having no vote.

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

(g) To prepare the annual budget and keep the city council fully advised as to financial conditions and needs of the city.

(h) 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 city council or under continuing contracts or loans authorized under the provisions of this charter, or pursuant to resolution or ordinance of the city council.

(i) Unless and until otherwise provided by the city council, to act as city purchasing agent.

(j) To perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the city council. (1968, c. 150; 1993, c. 357)

§ 5.3. Temporary transfer of employees to other departments, etc.

The city manager may whenever the interests of the city require, irrespective of any other provisions of this charter, assign employees of any department, bureau, office or agency to the temporary performance of duties in another department, bureau, office or agency. (1968, c. 150)

§ 5.4. Council not to interfere in appointments or removals.

Neither the city council nor any of its members shall direct or request the appointment of any person to or his removal from any office or employment by the city manager or by any of his subordinates or in any way take part in the appointment of or removal of officers and employees of the city, except as specifically provided in this charter. (1968, c. 150)

§ 5.5. Relations with boards, commissions and agencies.

The city manager shall have the right to attend and participate in the proceedings of, but not to vote in, the meetings of all boards, commission or agencies created by this

charter or by ordinance and any other board or commission the city council may designate. (1968, c. 150)

Chapter 6.

City Officers and Employees Generally.

§ 6.1. Appointment and term of office of appointive officers.

The city council may appoint a city clerk, a city attorney and such other officers for the city as they may deem necessary. Unless otherwise provided by this charter or by ordinance, such officers shall serve at the pleasure of the city council. (1968, c. 150)

§ 6.2. Deputies and assistants.

Unless otherwise provided by this charter or by general law, the city council may appoint such deputies and assistants to city officers as they may deem necessary. (1968, c. 150)

§ 6.3. Appointment of one person to more than one office.

The city council may appoint the same person to more than one appointive office, at the discretion of the city council. (1968, c. 150)

§ 6.4. Appointment of members of boards and commissions.

The city council shall appoint the members of such boards and commissions as are provided for in this charter, unless otherwise provided. The city council may appoint all such other boards and commissions as may be deemed proper, and prescribe the powers and duties thereof. (1968, c. 150)

§ 6.5. Filling of vacancies in offices.

Unless otherwise provided herein, 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. (1968, c. 150)

§ 6.6. Compensation.

Unless otherwise provided by law, the city council shall fix the compensation of all city officers and employees. (1968, c. 150)

§ 6.7. Oaths of office and official bonds.

Except as otherwise provided by general law or by this charter, all elected or appointed officers of the city 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 city council and file the same with the city clerk before entering upon the discharge of their duties. If the requirements of this section have not been complied with by any officer within thirty days after the term of office shall have begun or after his appointment to fill a vacancy, then such office shall be considered vacant. (1968, c. 150)

§ 6.8. Residence of city officers and officials.

Every officer appointed by the city council, except the city manager or assistant city manager, and every appointed member of any board or commission shall, at the time of his appointment, be a qualified voter in the city. If any officer or appointee moves from the city, his office shall thereupon be deemed vacant. (1968, c. 150; 1975, c. 144)

§ 6.9. Failure of officers to perform duties.

If any officer of the city, whether elected by vote of the people or appointed by the city council or the city manager, shall fail or refuse to perform any of the duties required of him by this charter or by ordinance or resolutions of the city council, he shall be fined not less than five dollars nor more than \$100 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. (1968, c. 150)

§ 6.10. Officers to hold over until their successors are appointed and qualified.

Whenever, except as otherwise provided in this charter, any officer of the city, judge or member of any board or commission is elected or appointed for a fixed term, such officer, judge or member shall continue to hold office until his successor is appointed and qualified. (1968, c. 150)

§ 6.11. City clerk.

(a) The city clerk shall be the clerk of the city council, shall attend all meetings thereof and shall keep a permanent record of its proceedings. He shall keep all papers, documents and records pertaining to the city of Salem, Virginia, the custody of which is not otherwise provided for.

(b) He shall be custodian of the city seal, shall affix it to all documents and instruments requiring the seal and shall attest the same. He shall give to the proper department or officials ample notice of the expiration or termination of any franchise, contract or agreement.

(c) He shall, upon final passage, transmit to the proper departments or officials copies of all ordinances or resolutions of the city council relating in any way to such departments or to the duties of such officials.

(d) He shall perform such other duties as are required by this charter or by the city council by ordinance or resolution. (1968, c. 150)

§ 6.12. City attorney.

(a) The city attorney shall have the management, charge and entire control of all the legal affairs of the city and shall be the legal advisor of, and the attorney and counsel for, the city and all its officers in matters relating to their official duty. He shall give written opinions to any officer or department or official board or commission of the city, when requested to do so, and shall file a copy of the same with the city clerk.

(b) He shall conduct for the city all cases in court whenever the city is a party thereto, and upon request of the mayor or city manager, he shall appear before the municipal court to represent the city for violations of city ordinances.

(c) He shall prepare or officially pass upon all contracts, bonds and instruments in writing in which the city is concerned, and shall certify before execution as to the legality and correctness thereof.

(d) He shall perform such other duties as may be prescribed by this charter or by the city council. (1968, c. 150)

Chapter 7.

Ordinances and Resolutions.

§ 7.1. Council to act only by ordinance or resolution; confinement to one subject.

Except in dealing with parliamentary procedure, the city council shall act only by ordinance or resolution, and with the exception of ordinances making appropriations, authorizing the contracting of indebtedness or codifying ordinances, shall be confined to one general subject. (1968, c. 150)

§ 7.2. Introduction; enacting clause of ordinances.

Each proposed ordinance or resolution shall be introduced in a written or printed form. The enacting clause of all ordinances passed by the city council shall substantially be: "Be it ordained by the council of the city of Salem, Virginia." (1968, c. 150)

§ 7.3. Procedure for adoption.

No ordinance, or resolution having the effect of an ordinance, or resolution suspending an ordinance, unless it is an emergency measure, shall be passed until it has been read at two meetings not less than five days apart; provided, that the requirement of a second reading, by the affirmative vote of three members of the city council, may be confined to the reading of the title only. Any ordinance or resolution read at one such meeting may be amended and passed as amended at the next such meeting, provided the amendment does not materially change the purpose and character of the proposed ordinance. The ayes and noes shall be taken and recorded upon the final passage of all ordinances or resolutions and entered upon the journal of the proceedings of the city council. Except as otherwise provided in this charter, an affirmative vote of a majority of the members elected to the city council shall be necessary to pass any ordinance or resolution. (1968, c. 150)

§ 7.4. When ordinances to take effect; emergency measures.

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

(b) An emergency measure is an ordinance for the immediate preservation of the public peace, property, health or safety, or providing for the immediate and necessary daily operation of a city department. The fact that an emergency exists shall be stated in every such measure. Ordinances appropriating money may be passed as emergency measures, but no measure selling or conveying any real estate or making a grant, renewal, extension of a franchise or other special privilege or regulating the rate to be charged for its service by any public utility, shall be so passed. (1968, c. 150)

§ 7.5. Recordation and authentication.

Every ordinance or resolution having the effect of an ordinance, when passed, shall be recorded by the city clerk in a book kept for that purpose and shall be authenticated by the signature of the presiding officer and the city clerk. (1968, c. 150)

§ 7.6. Evidence of passage; use as evidence in courts.

A record or entry made by the city clerk, or a copy of such record or entry duly certified by him, shall be prima facie evidence of the passage of any ordinance or resolution, its due publication and the terms thereof.

All ordinances and resolutions of the city council may be read in evidence in all courts and in all other proceedings in which it may be necessary to refer thereto, either from the original record thereof, from a copy thereof certified by the city clerk, or from any volume of ordinances printed by authority of the city council. (1968, c. 150)

Chapter 8.

Financial Provisions.

§ 8.1. Public works or improvements; contracts for more than \$5,000.

Any public work or improvement costing more than \$5,000 shall be executed by contract, except where a specific work of improvement is authorized by the city council and directed to be done by force account. Such work shall be based on detailed estimates submitted by the department authorized to execute such work or improvement, and approved by the city manager. All contracts for more than \$5,000 shall be awarded to the lowest responsible bidder in such manner and under such bond as may be prescribed by

ordinance and after the city manager shall have made due advertisement for such time as the city council may prescribe, by newspapers or posted notices. But the city manager shall have the power to reject any or all of the bids and advertise again, and all advertisements shall contain a reservation of this right.

In an emergency requiring immediate action, the city manager may proceed to do the work by procuring the required labor and materials without the necessity of advertising. (1968, c. 150; 1980, c. 391)

§ 8.2. Bond issues generally.

(a) The city council may, in the name of and for the use of the city, contract debts and make and issue, or cause to be made and issued, as evidence thereof, bonds, notes or other obligations, upon the credit of the city or solely upon the credit of specific property owned by the city or solely upon the credit or income derived from property used in connection with any public utility owned and operated by the city. But except as provided in subsection (b) of this section, no debt shall hereafter be contracted for a longer period than that of the probable life of the work or object for which the debt is to be contracted, to be determined by the director of public works and certified by him to the city council. No public improvement shall be considered to have a probable life of more than thirty years; except, that the probable life of public buildings other than schools may be forty years, concrete bridges forty years and parks and other real estate fifty years.

(b) Bonds issued for the refunding of previous issues shall in no case be for a greater period of time than thirty years.

(c) The city may issue bonds, hereafter called "serial bonds," payable in annual installments, the first of which shall be payable at any time the city council may prescribe in the ordinance authorizing the issue of such bonds, and the last of which shall be payable within the period of the probable life of the work or object for which the debt evidenced by such bonds was created, ascertained and certified as hereinabove provided.

(d) Pending the issuance and sale of any bonds, notes or other obligations authorized by this section, or in anticipation of the receipt of taxes and revenues of the current fiscal year, it shall be lawful for the city to borrow money temporarily and to issue notes or other evidences of indebtedness therefor, and from time to time to renew such temporary loans, or to use current funds to be ultimately repaid from the proceeds of such bonds, notes or other obligations, or from the city taxes and revenues, as the case may be; provided, that the proceeds of sale of bonds shall not be used, except for the purposes set out in this subsection, or for permanent improvements and utilities or refunding matured issues, unless approved by vote of the people.

(e) The credit of the city shall not, directly or indirectly, under any device or pretense whatsoever, be granted to or in aid of any person, association or corporation. The city council shall not issue any bonds, notes or other obligations of the city, or increase the indebtedness thereof, to an amount greater than eighteen percent of the assessed valuation of the real estate in the city subject to taxation; provided, 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 Section 127 of the Constitution of Virginia.

(f) Bonds based solely upon the credit of specific property owned by the city or solely upon the credit of income derived from property used in connection with any public utility owned or operated by the city shall be issued subject to this charter and any

law applicable thereto. Any specific undertaking from which the city may derive revenue may be combined with any other undertaking from which the city may derive revenue for the purpose of financing any of such undertakings and said combined undertaking shall be a specific undertaking from which the city may derive revenue.

(g) Every ordinance authorizing the issuance of bonds shall specify the purpose or purposes for which they are to be issued, the aggregate amount of the bonds, the term for which they shall be issued, and the maximum rate of interest to be paid thereon. Any such ordinance may be amended by ordinance at any time before the bonds to be affected by such amendment have been sold. All other matters relating to such bonds may be determined by resolution within the limitations prescribed by such ordinances or by this charter.

(h) However, if there shall be omitted from this charter any provision essential to the valid authorization, sale, execution and issuance of any of the bonds of the city, the provisions of the general law with reference to similar bonds shall supply such omission.

(i) Any bonds issued by the city under this charter shall be signed by the mayor and attested by the clerk under the seal of the city, and shall be made payable at the office of the city treasurer or such other place, in or out of the Commonwealth, as the city council may provide. Such bonds shall be advertised by the city manager and sold by the city treasurer, under supervision of the mayor, city manager and city clerk, and the sale reported to and approved by the city council, and the proceeds from such sale shall be paid to the city treasurer. (1968, c. 150)

§ 8.3. Submission of budget; annual tax levy and appropriation ordinance.

The city manager shall, not less than thirty days before the last regular meeting of the city council in the month of May of each year, submit to the city council for its information, a budget for the ensuing fiscal year, and before the end of each fiscal year, the city council shall lay its levy for the ensuing fiscal year, on all property, real and personal, subject to taxation for city purposes. The city council shall, not later than July 1 following of each year, adopt its annual budget and pass its annual appropriation ordinance. (1968, c. 150; 1985, c. 23)

§ 8.4. Preparation of budgets.

It shall be the duty of the head of each department, each board of commission and each other office or agency supported in whole or in part by the city, including the commissioner of revenue and the city sergeant, to file with the city manager, at such time as the city manager may prescribe, estimates of revenue and expenditure for that department, board, commission, office or agency for the ensuing fiscal year. (1968, c. 150)

§ 8.5. School budget.

It shall be the duty of the school board to file its budget estimates with the city manager. The action of the city council on the school budget shall relate to its total only, and the school board shall have authority to expend in its discretion the sum appropriated for its use; provided, that if it receives an appropriation greater or less than its original request, it shall forthwith revise its estimates of expenditure and adopt appropriations in accordance therewith. The school board shall have power to order, during the course of the fiscal year, transfers from one item of appropriation to another; provided, that nothing in this section shall be construed to be in conflict with the provisions of the general law of the Commonwealth. (1968, c. 150)

§ 8.6. Disposition of unencumbered balance of appropriation; obligations to be in accordance with appropriation, etc.

At the close of each fiscal year, or upon the completion or abandonment at any time within the year of any work, improvement or other object for which a specific appropriation has been made, the unencumbered balance of such appropriation shall revert to the respective fund from which it was appropriated, and shall be subject to further appropriation; provided, that this does not prohibit the city council from giving the city manager permission to authorize such transfer within a department as may be necessary to meet unexpected obligations. No obligations shall be incurred by an officer or employee of the city, except in accordance with the provisions of the appropriation made by the city council or under continuing contracts and loans authorized under the provisions of this charter. (1968, c. 150)

§ 8.7. Certification of availability of funds as prerequisite to expenditure of money.

No contract, agreement or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be passed by the city council or be authorized by an officer of the city unless the city treasurer shall first certify to the city council or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure. No contract, agreement or other obligation involving the expenditure of money payable from the proceeds of bonds of the city shall be entered into until the issuance and sale of such bonds have been duly authorized in accordance with the provisions of this charter in reference to city bonds. (1968, c. 150)

§ 8.8. Contingent fund.

Provision shall be made in the annual budget and annual appropriation ordinance for a reasonable contingent fund for use in any of the affairs of the city. Such contingent fund shall be under the joint control of the city manager and the city council. (1968, c. 150)

§ 8.9. Audit of accounts upon death, etc., of officer; annual audit.

Upon the death, resignation, removal or expiration of the term of any officer of the city, the city manager shall order an audit and investigation to be made of the accounts of such officer and report to the city council.

As soon as practicable after the close of each fiscal year, an annual audit shall be made of all accounts of all city officers. Such audit shall be made by qualified public accountants, selected by the city council, who have no personal interest, direct or indirect, in the financial affairs of the city or any of its officers or employees. The city council may at any time provide for an examination or audit of the accounts of any officer or department of the city government. (1968, c. 150)

Chapter 9.

Public Property and Franchises.

§ 9.1. Transfer of franchises.

No public utility franchise granted by the city shall be transferable except with the approval of the city council expressed by ordinance. Copies of all authorized transfers and mortgages or other documents affecting the title or use of any such public utility shall

be filed with the city clerk within ten days after the execution and delivery thereof. (1968, c. 150)

§ 9.2. Rights reserved to city in grant of franchises.

All grants, renewals, extensions or amendments of public utility franchises, whether so provided in the ordinance or not, shall be subject to the right of the city:

(a) To repeal the same by ordinance at any time for misuse or nonuse or for failure to begin construction within the time prescribed, or otherwise to comply with the terms prescribed.

(b) To require proper and adequate extensions of plant and services and the maintenance of the plant and fixtures at the highest practical standard of efficiency.

(c) To establish reasonable rates and standards of service and quality of products and prevent unjust discrimination in service or rates.

(d) To prescribe the form of accounts and at any time to examine and audit the accounts and other records of such utility, and to require annual and other reports by such public utility; provided, that if forms of account shall have been prescribed by the State Corporation Commission for public utilities throughout the Commonwealth, the forms so prescribed shall be controlling so far as they go, but the city council may prescribe more detailed forms for the utilities within its jurisdiction.

(e) To impose such other regulations as may be conducive to the safety, welfare and convenience of the public. (1968, c. 150)

§ 9.3. Extensions of public utilities.

All extensions of public utilities within the city shall become a part of the aggregate property of such public utility, shall be operated as such and shall be subjected to all the obligations and reserved rights contained in this charter and in any original grant hereafter made. The right to use and maintain such extension shall terminate with the original grant. (1968, c. 150)

§ 9.4. Applicability of state law; conflicts with jurisdiction of State Corporation Commission.

If there shall be omitted from this charter any provision essential to the valid sale or granting, renewing, extending or amending of any franchise, privilege, lease or right of any kind to use any public property in the city, the provisions of the general law with reference to this subject shall supply such omissions; provided, that nothing contained in this charter shall affect any franchise heretofore granted or any contract heretofore made with a public utility corporation, nor shall anything contained in this charter be construed to conflict with the jurisdiction of the State Corporation Commission. (1968, c. 150)

Chapter 10.

Courts and Administration of Justice.

§ 10.1. (1968, c. 150; Repealed, 1975, c. 144)

§ 10.2. (1968, c. 150; Repealed, 1975, c. 144)

§ 10.3. (1968, c. 150; Repealed, 1975, c. 144)

§ 10.4. (1968, c. 150; Repealed, 1975, c. 144)

§ 10.5. (1968, c. 150; Repealed, 1975, c. 144)

§ 10.6. (1968, c. 150; Repealed, 1975, c. 144)

§ 10.7. (1968, c. 150; Repealed, 1975, c. 144)

§ 10.8. (1968, c. 150; Repealed, 1975, c. 144)

Chapter 11.

Public Education.

§ 11.1. School district.

The city of Salem shall constitute a separate school district. (1968, c. 150)

§ 11.2. School board; appointment and term of office of members.

The school board of the city shall consist of five members, who shall be appointed by the city council to serve staggered terms. Of the three members first appointed, one shall serve a term expiring at midnight, December 31, 1968, one shall serve a term expiring at midnight, December 31, 1969, and one shall serve a term expiring at midnight, December 31, 1970. Additional appointees may be initially appointed to less than three-year terms, as council may determine. Upon the expiration of each term of office, their successors shall be appointed for a term of three years.

Provided, however, that if the city becomes a part of a school division composed of the city and one or more other cities or counties, the city council shall appoint the number of members of the division school board at the time and for such terms as may be prescribed by the general laws of the Commonwealth. (1968, c. 150; 1971, c. 208; 1980, c. 391)

§ 11.3. Same--Powers.

Except as otherwise provided in this charter, the school board shall have all the powers and duties relating to the management and control of the public schools of the city provided by the general laws of the Commonwealth, including the right of eminent domain within and without the city. None of the provisions of this charter shall be interpreted to refer to or include the school board unless the intention to do so is expressly stated or is clearly apparent from the context. (1968, c. 150)

§ 11.4. Same--Contracts with other school boards.

The school board, by and with the consent of the city council, shall have the right to contract with the school boards of other political subdivisions of the Commonwealth to provide for the education of city children upon such terms and conditions as the respective school boards may agree, provided the same do not conflict with the Constitution of Virginia. (1968, c. 150)

§ 11.5. Same--Control and title to property.

All recreation facilities and grounds located on property owned by the school board shall be under the exclusive control and supervision of the school board. The title to property and buildings devoted to public school purposes shall be in the school board. (1968, c. 150)

§ 11.6. Same--Borrowing.

The school board may borrow, subject to the approval of the city council, from the Literary Fund of Virginia or from such other sources as may be available to it by general law. (1968, c. 150)

§ 11.7. Definitions.

The terms "member of the school board" and "school board" shall have the same meaning as "school trustee" and "school trustees" as used in the Code of Virginia. The term "board" or "boards" as used in this charter, shall not include the school board unless the school board is specifically named. (1968, c. 150)

Chapter 12.

Miscellaneous Provisions.

§ 12.1. Investigations as to city affairs.

The city 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 that purpose to subpoena witnesses, administer oaths, and compel the production of books and papers.

Any person refusing or failing to attend, testify or produce such books and papers may, by summons issued by such board or officer, be summoned before the municipal court 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 municipal court not exceeding \$100 or imprisoned not exceeding thirty days, and such person shall have the right to appeal to the Circuit Court of Salem. Any person who shall give false testimony under oath at any such investigation shall be liable to prosecution for perjury. (1968, c. 150)

§ 12.2. Who may administer oaths, etc.

The commissioner of the revenue, city clerk, 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. (1968, c. 150)

§ 12.3. Certain permits from council or manager involving variations from ordinances to be revocable.

Every permit given or authorized by the city council or city manager to vary from the ordinances of the city establishing fire limits and providing for the character of materials which may be used in the construction of buildings within such fire limits, and every permit authorizing a variance from the ordinances of the city relating to obstruction in, over and under, or encroachments on the streets, alleys, parks and other public grounds and property of the city and every permit authorizing a variance from any other ordinance of the city, shall be deemed to be a license and not a franchise or grant, and shall be revocable at the will of the city council. (1968, c. 150)

§ 12.4. Actions against city for damages, etc.

(a) No action shall be maintained against the 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 any officer, agent or employee thereof, unless a written statement, verified by oath of the claimant, his agent or attorney, or the personal representative of any decedent whose death is a 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 mayor or an attorney appointed by the city council for this purpose, and the city is hereby authorized to appoint such an attorney, within sixty days after such cause of action shall have accrued. Where the claimant is an infant or non compos mentis, or the injured party dies within such sixty days, such statement may be filed within 120 days. No officers, agents or employees of the city shall have authority to waive such conditions precedent or any of them.

(b) 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 such action brought to recover damages for such negligence, and where there is a 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.

(c) If it is 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 corporation or corporations shall have been returned without realizing the full amount of such judgment.

(d) If the city when not primarily liable, shall pay such judgment, in whole or in part, the plaintiff shall, to the extent that such judgment is paid by the city assign the judgment to the city, without recourse on the plaintiff, and the 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 to enforce such judgment, or an action at law, or scire facias to revive such judgment.

(e) No order shall be entered or made, and no injunction shall be awarded by any court or judge to stay proceedings of the city in the prosecution of their works, unless it is manifest that they, their officers, agents or servants are transcending the authority given them in this charter, and that the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages.

(f) The city council is authorized and empowered to compromise any claim for damages or any suit or action brought against the city. (1968, c. 150)

§ 12.5. Delivery of property, books, etc., to successor in office or city clerk.

Any person holding a city office and vacating the same on account of removal or otherwise shall deliver over to his successor in office, or to the city clerk, all property and books and papers belonging to the city or appertaining to such office which may be in his possession or under his control, and in case of his failure to do so within ten days after he shall have vacated the office, or within such time thereafter as the city council shall elect, and upon due notification or request of the city clerk, he shall forfeit and pay to the city a sum not in excess of \$500, to be sued for and recovered with costs, and all books, records and documents used in such office by virtue of any provisions of this act or of any ordinance or resolution of the city council, or by order of any superior officer of the city, shall be deemed the property of the city as appertaining to such office, and the incumbent of such office and his sureties on his bond shall be responsible therefor. (1968, c. 150)

§ 12.6. Settlement of controversies among city officers.

In the event the city manager or other officer elected by the city council, in the administration of their respective duties, shall disagree or have any controversy with any of the officers of the city elected by the voters, such matter in dispute or controversy shall be referred to the city council for review and decision. (1968, c. 150)

§ 12.7. Code references.

All references in this charter to the Code of Virginia are to the Code of Virginia of 1950, as amended. (1968, c. 150)

§ 12.8. Continuation of officers and boards.

The present members of the city council and all other city officials and board and commission members shall continue to hold office until their successors shall have been elected or appointed and shall have qualified as provided by this charter. Any member of the city council shall be eligible for reelection. (1968, c. 150)

§ 12.9. Ordinances, resolutions, rules and regulations continued in effect.

All ordinances and resolutions of the city and the former town of Salem and all rules, regulations and orders legally made by any department, board, commission or officer of the city or of the former town of Salem, in force at the effective date of this charter, insofar as they or any portion thereof are not inconsistent therewith, shall remain in force until amended or repealed in accordance with the provisions of this charter. (1968, c. 150)

§ 12.10. Variation and ratification of bonds, taxes and contracts.

All bonds issued and sold, all contracts, agreements and obligations made at any time prior to the enactment of this charter or any amendment thereto by the council and government of the city and the former town of Salem, not inconsistent with the Constitution of Virginia and general law, all taxes assessed and levied when the city was a town, and when the city was in transition from the status of a town to that of a city of the second class to the effective date of this charter and its amendments, are hereby validated, ratified and confirmed; and all proceedings authorizing the issuance of bonds, notes or other obligations of the city of Salem heretofore had are hereby validated, ratified and confirmed and shall not lapse or terminate or be otherwise affected by reason of any of the provisions contained in this charter, and such bonds, notes or other obligations may be authorized, sold or issued in accordance with the provisions of law in force prior to the effective date of this charter as amended, or in accordance with the provisions of this charter. (1968, c. 150)

§ 12.11. Original appointment of certain officers.

Upon this charter becoming effective, the judge of the 20th Judicial Circuit shall pass an order entered in term time or vacation, appointing a circuit court clerk, a city sergeant, a Commonwealth's attorney, a commissioner of the revenue and a city treasurer for the city, whose terms of office shall extend until the next regular general election for such officers, for respective offices of circuit court clerk, city sergeant, Commonwealth's attorney, commissioner of the revenue or city treasurer, as the case may be. The clerk of the circuit court, city sergeant, Commonwealth's attorney, commissioner of the revenue and city treasurer shall assume their respective duties and take the oath of office prior to the first day of the next succeeding term of court. (1968, c. 150)

§ 12.12. Severance clause.

If any clause, sentence, paragraph or part of this charter shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment, order or decree shall not affect, impair or invalidate the remainder of this charter, but shall be confined in its operation to the clause, paragraph or part thereof directly involved in the controversy in which such judgment, order or decree shall have been rendered. (1968, c. 150)