

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 2.01, §§ 2.04 and 3.01, as severally amended, §§ 3.02 through 3.05, §§ 3.07 and 3.08, as severally amended, §§ 3.09, 3.10, and 4.01, § 4.02, as amended, §§ 4.03 and 5.01, § 5.02, as amended, and § 9.02 of Chapter 99 of the Acts of Assembly of 1994, which provided a charter for the Town of Dumfries in Prince William County, and to amend Chapter 99 of the Acts of Assembly of 1994 by adding sections numbered 3.04:1 and 4.04, relating to town powers, town council, mayor, town officers, town departments, ordinances, and violation of ordinances.

[H 2352]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 2.01, §§ 2.04 and 3.01, as severally amended, §§ 3.02 through 3.05, §§ 3.07 and 3.08, as severally amended, §§ 3.09, 3.10, and 4.01, § 4.02, as amended, §§ 4.03 and 5.01, § 5.02, as amended, and § 9.02 of Chapter 99 of the Acts of Assembly of 1994 are amended and reenacted and that Chapter 99 of the Acts of Assembly of 1994 is amended by adding sections numbered 3.04:1 and 4.04 as follows:

§ 2.01. General grant of powers.

The Town of Dumfries shall have and may exercise all powers which are now or may hereafter be conferred upon or delegated to towns under the Constitution and general laws of the Commonwealth of Virginia and all powers necessary or pertinent to the general welfare, safety, health, peace, good order, comfort, convenience, and morals of Town inhabitants, in the conduct of a town government, the exercise of which is not expressly prohibited by the Constitution and general laws of the Commonwealth of Virginia. It is intended that the town shall possess all powers which, under the Constitution, it would be competent for this charter to enumerate specifically, and no enumeration of particular powers shall be held to be exclusive, but in addition to this general grant.

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

The powers of eminent domain as set forth in Title 15.2 and Title 25 of the Code of Virginia are hereby conferred upon the town, including the power to issue certificates pursuant to §§ 33.1-119 through 33.1-132 of the Code of Virginia are hereby conferred upon the Town of Dumfries which shall, in the exercise thereof, utilize the procedures prescribed by general law.

§ 3.01. Election, qualification and term of office.

(a) The Town of Dumfries shall be governed by a town council elected at large and composed of a mayor and six other members, all of whom shall be qualified voters of the town. Candidates for town offices shall not be identified on the ballot by political affiliation. In order to have their names placed on the ballot, all candidates shall be nominated only by petition as provided by general law pursuant to § 24.2-506 of the Code of Virginia (1950), as amended.

(b) On the Tuesday after the first Monday in November 2022, and every four years thereafter, there shall be elected by the qualified voters of the town a mayor and three council members from the town at large. On the Tuesday after the first Monday in November 2020, and every four years thereafter, there shall be elected three council members from the town at large.

(c) The persons receiving the most votes shall be elected and shall take office on January 1 succeeding their election and remain in office until their successors have qualified and taken office. In the event two persons receive the same number of votes, and notwithstanding the provisions of § 24.2-674 of the Code of Virginia, a runoff election shall be held in accordance with the provisions of general law (Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2 of the Code of Virginia) on the first Tuesday in December between the two persons, and the person then receiving the most votes shall be elected and take office.

(d) The mayor or any other member of council who are convicted of certain specified crimes by a court of competent jurisdiction may be removed from office pursuant to the provisions of general law (Article 7 (§ 24.2-230 et seq.) of Chapter 2 of Title 24.2 of the Code of Virginia).

(e) Neither the mayor nor any other member of council shall, prior to the expiration of the term for which that member was elected and for one calendar year thereafter, hold a position of employment or a contract with the Town.

§ 3.02. Powers of council.

All powers of the town shall be vested in the council, unless otherwise conferred or vested by this charter or the general laws of the Commonwealth of Virginia. The council along with the mayor shall make such rules as are necessary for the orderly conduct of their business not inconsistent with the laws of the Commonwealth of Virginia; and shall have the power in their discretion to appoint a town manager and a town attorney. In making appointments and removals, the council shall act only by affirmative vote of the

majority of its members. The person so appointed shall have such duties and shall serve for such terms and at such compensation as the council may determine. One person may be appointed to more than one office.

§ 3.03. Mayor.

The mayor shall preside at all meetings of the council and ~~shall be recognized as head of the town government for ceremonial purposes and by the governor for the purposes of military law.~~ He shall have the same powers and duties as other members of the council with a vote, but no veto powers. ~~The mayor shall be recognized as head of the town government for ceremonial purposes and by the governor for the purposes of military law. In the event of a disaster or an emergency condition, and the council cannot convene due to the disaster or emergency condition, the mayor may, in the absence of the director of emergency management, declare the existence of a local emergency. Such declaration shall expire in 72 hours by operation of law unless otherwise extended by a majority vote of the council.~~

§ 3.04. Vice mayor.

At its first meeting in ~~July~~ January of every ~~even-numbered~~ odd-numbered year, the council, including the mayor, shall select from its membership one member to serve as a vice mayor. The vice mayor shall preside over meetings of council in the absence of the mayor. ~~If a vacancy occurs in the office of mayor, the vice mayor shall act as mayor until such time as the vacancy can be filled in accordance with § 24.2-228 of the Code of Virginia.~~

§ 3.04:1. Chair pro tem.

At its first meeting in January of every odd-numbered year, the council, including the mayor, shall elect from its membership one member to serve as chair pro tem to preside over meetings of council in the absence or disability of the mayor and vice mayor. ~~If a vacancy occurs in the office of the vice mayor, the chair pro tem shall ascend to the office of vice mayor and the council shall vote to fill the vacancy for the unexpired term of the chair pro tem by majority vote of the remaining members.~~

§ 3.05. Vacancies in the office of council.

Vacancies on the council and in the office of mayor and vice mayor, ~~for whatever the cause,~~ shall be filled by a majority vote of the members of council until the vacancy is filled in accordance with the provisions of ~~Title 24-2~~ § 24.2-228 of the Code of Virginia.

§ 3.07. Ordinances.

(a) Action requiring an ordinance. In addition to ~~other acts~~ actions required by law ~~the Constitution or general laws of the Commonwealth or by specific provision of this charter to be done by ordinance, those acts~~ the following actions of the town council shall be by ordinance ~~which~~:

(1) Adopt or amend an ordinance, Town Code, or administrative code ~~or establish~~;

(2) Establish, alter, or abolish any town department, office ~~or~~, agency, or position and classification of employment;

(3) Fix the pay grade and compensation range for a position and classification of employment;

~~(2)~~ (4) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

~~(3)~~ (5) Levy ~~taxes~~ a tax, except as otherwise provided in Article VI with respect to the real property tax levied by adoption of the budget;

~~(4)~~ (6) Grant, renew or extend a franchise;

~~(5)~~ (7) Regulate the rate charged for its services by the town;

~~(6)~~ (8) Authorize the borrowing of money;

~~(7)~~ (9) Convey or lease or authorize the conveyance or lease of any lands of the town.

~~Acts other than those referred to in the preceding sentence~~ All other acts may be done either by ordinance or, by resolution, or by motion if not in conflict with otherwise prohibited by law.

(b) Form. Every proposed ordinance shall be introduced in writing ~~and in the or printed form required for adoption and confined to a single subject, which shall be clearly expressed in its title.~~ The enacting clause shall be "Be it ordained by the Council of the Town of Dumfries . . ."

(c) Procedure. An ordinance may be introduced by any member at any regular or special meeting of the council. ~~Each proposed ordinance or resolution shall be introduced in a written or printed form.~~ No ordinance shall be adopted on the same day it is introduced, its first reading, unless an emergency exists and such emergency is stated in the ordinance. ~~Unless required by the Constitution or the general laws of the Commonwealth or by this charter, a public hearing shall not be required on a proposed ordinance. The council may reject any ordinance on its first reading without a public hearing. An ordinance may be read by its title only.~~

(d) Effective date. Except as otherwise provided in this charter, where the Constitution or the general laws of the Commonwealth or this charter must take precedence and provide for a different procedure for enactment, every adopted ordinance shall become effective from its passage or at any ~~later~~ date specified therein.

Provided that where state law provides a different procedure for enactment of an ordinance the state law shall take precedence.

§ 3.08. Emergency ordinances.

To meet a public emergency affecting life, public health, safety, property or the preservation of public peace, the council may adopt ~~one or more~~ an emergency ordinance in the same regular or special meeting of the council at which such ordinance was introduced. Except as provided by subsection (b) of § 6.06 of this charter, ~~but such ordinances may not~~ no emergency ordinances shall levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money ~~except as provided in subsection (b) of § 6.06~~. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After its adoption, the ordinance shall be posted on the public bulletin board located in town hall. It shall become effective upon adoption or at such later time as it may specify. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

§ 3.09. Authentication and recording; codification; printing.

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

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

§ 3.10. Committees, boards and commissions.

Creation and appointment. The council may create committees, boards and commissions to be composed of such numbers of ~~citizens~~ members as the council may deem expedient or as authorized by law. The council shall appoint the members, prescribe the compensation, if any, and the powers and duties of such committees, boards and commissions consistent with the general law. *Any member of a committee, board, or commission appointed by the council for a specified term shall serve at the pleasure of the council and may be removed by the council prior to the expiration of said term for any or no reason, unless removal authority is limited by general law.*

§ 4.01. Appointment of manager; qualifications.

There is hereby created the office of the town manager. The council may appoint a town manager who shall be the chief executive officer and the chief administrative officer of the town government and execute the executive and administrative functions of the position under the direction and supervision of the council. The town manager shall be chosen solely on the basis of executive and administrative qualifications and shall serve at the pleasure of the council. *No person elected to membership on the council shall be eligible for appointment as town manager until one year has elapsed following the expiration of the term for which the member was elected.*

In the event of the death, resignation, or extended absence, including due to incapacity, of the town manager, the council may appoint an acting town manager to serve at the pleasure of the council until the return of the town manager or the appointment of his or her successor.

§ 4.02. Powers and duties of the town manager.

(a) The town manager shall have the administrative and executive powers and duties vested in the town manager by the council. *Except as otherwise specified by general law or this charter, the town manager shall appoint and remove qualified officers and employees of the town, including to head all of the departments of the town, in accordance with the town's personnel regulations, unless otherwise specified by general law or this charter. The town manager may delegate and authorize the head of a department responsible to the town manager to appoint or remove subordinate officers and employees in such department. Department heads appointed by the town manager serve at the pleasure of the town manager. Unless for provisional, temporary, or emergency service, all appointments by or through the town manager shall be without a definite term.*

(b) *Except for the purposes of inquiry and information, no member of the council shall participate in the hiring and removal of administrative department heads. The council shall deal with the administrative services of the town solely through the town manager and shall not interfere with the performance of any employee who is under the direct or indirect supervision of the town manager. Neither the mayor nor a council member shall give orders either publically or privately to any subordinate of the town manager. This*

section shall not prohibit the council from discussing with the town manager its views concerning a personnel action and the internal administration of town government.

(c) The town manager shall be authorized to designate any officer or employee within an administrative department under the town manager's control to temporarily perform the duties of any office or position that is vacant due to the absence or disability of the incumbent.

(d) The town manager, or designee, shall attend all meetings of the council with the right to speak but not to vote, including closed meetings unless council determines that the inclusion of the town manager would be detrimental to the purposes of the council discussion and deliberations in the closed meeting.

(e) The town manager shall have the right to attend and to speak, but not to vote, in the meetings of the authorities, boards, and commissions created by the council.

(f) The town manager shall keep the council advised of the financial condition and future needs of the town, and all other matters pertaining to its proper administration and to make such other recommendations thereto as may be required or desirable.

(g) The town manager shall oversee the preparation and submission of the annual budget.

(h) The town manager shall perform all other such duties as may be required by the council, this charter, or conferred on a chief executive or chief administrative officer by the general laws of the Commonwealth.

§ 4.03. Town attorney.

~~An attorney shall be appointed by and serve at the pleasure of the council.~~ There is hereby created the office of the town attorney. The council may appoint a town attorney. The appointed town attorney shall be qualified to practice law in the Commonwealth of Virginia, shall serve as chief legal advisor to the council, and shall also serve as legal advisor to the town administration the town manager, and all of the town's departments and officers in matters affecting the interests of the town and relating to their official duties. The town attorney shall serve at the pleasure of the council and under its general direction and supervision. The town attorney shall perform the particular duties and functions of the office as assigned by the council or as otherwise required by law. The town attorney shall be authorized to appoint and remove assistants or any other employees in his or her office as may be authorized by the council and to authorize any assistant or special counsel to perform any of the duties imposed upon the town attorney by this charter or under general law.

Except for the purposes of inquiry and information, no member of the council shall participate in the hiring and removal of assistants or employees of the town attorney. The council shall deal with the legal and legislative services of the town solely through the town attorney and shall not interfere with the performance of any assistant or employee who is under the direct supervision of the town attorney. Neither the mayor nor a council member shall give orders whether publicly or privately to any subordinate of the town attorney. This section shall not prohibit the council from making requests for emergency legal services to an assistant or employee of the town attorney in the absence or disability of the town attorney or otherwise discussing with the town attorney its views concerning the performance of an assistant or employee in the delivery of legal services.

In the event of the death, resignation, or extended absence, including due to incapacity, of the town attorney, the council may hire or appoint a qualified attorney to perform duties of the town attorney until return of the town attorney or the appointment of his or her successor.

§ 4.04. Town clerk.

There is hereby created the office of the town clerk. The town manager shall appoint the town clerk who shall serve under the town manager's general direction and supervision and serve at the pleasure of the town manager. The town clerk shall be the clerk of the council and keep the journal of its proceedings, file the original draft of all ordinances of the town and shall maintain and index all of such ordinances. The town clerk shall be the custodian of the town seal and shall be the officer authorized to use and authenticate it, and shall have and exercise all such other powers and duties as may be required by this charter, by the general laws of the Commonwealth, or by ordinance. Upon the advice and consent of the town manager, the town clerk shall be authorized to appoint and remove employees in the clerk's office, including a deputy clerk. The deputy clerk shall be authorized to act as the acting town clerk in the absence or disability of the town clerk.

§ 5.01. Creation of departments.

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

§ 5.02. Departments of the town.

Administrative departments shall include, but shall not be limited to, departments concerned with police, finance, public works, planning, zoning and code enforcement, ~~and community service and recreation and civic engagement.~~

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

The town is empowered to make ordinances and ~~bylaws~~ resolutions for the purpose of carrying into effect

243 the enumerated powers conferred upon the town by this Charter, including police powers, and to prescribe
244 suitable punishments for violations thereof, *whether civil or criminal misdemeanor*, provided that no such
245 *criminal misdemeanor* punishment shall exceed the maximum punishment prescribed by general law for a
246 *criminal misdemeanor*; ~~and provided further, that all bylaws and resolutions.~~ *No civil penalty shall exceed a*
247 *fine of \$5,000. A civil penalty for a civil violation shall be in lieu of criminal sanctions. All actions, including*
248 *ordinances, resolutions, and bylaws made and adopted by the council shall become effective thirty days after*
249 ~~their passage on the date of their passage,~~ *unless a different effective date is specified in any such bylaw*
250 *ordinance or resolution, upon which the same shall become effective.*

ENROLLED

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