

HOUSE BILL NO. 1442

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Counties, Cities and Towns

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Davis)

A BILL to provide a new charter for the Town of Rocky Mount in Franklin County and to repeal Chapter 952 of the Acts of Assembly of 2000, which provided a charter for the Town of Rocky Mount.

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

1.

CHARTER

FOR THE

TOWN OF ROCKY MOUNT.

Article 1. Incorporation and Boundaries.

§ 1.1. Incorporation.

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

§ 1.2. Boundaries.

The corporate limits or boundaries of the town, unless and until changed in the manner prescribed by law, shall be the same as set forth in the order entered December 19, 1961, which order is recorded in the Clerk's Office of the Circuit Court of Franklin County, Virginia, in Common Law Order Book 38, page 579, and as enlarged and set forth in the order entered February 8, 1999, which order is recorded in the Clerk's Office of the Circuit Court of Franklin County, Virginia, in Chancery Order Book 74, page 641, and Deed Book 643, page 371, and as enlarged and set forth in the order entered June 3, 2002, which

27 order is recorded in the Clerk's Office of the Circuit Court of Franklin County, Virginia, in Chancery  
28 Order Book 80, page 1358, and Deed Book 743, page 1662.

29 Article 2. Powers.

30 § 2.1. General grant of powers.

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

36 § 2.2. Construction.

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

40 § 2.3. Adoption of certain sections of the Code of Virginia.

41 The powers set forth in Chapter 11 (§ 15.2-1100 et seq.) of Title 15.2 of the Code of Virginia  
42 (1950), as amended, and all acts amendatory thereof or supplemental thereto, are hereby conferred on and  
43 vested in the town.

44 § 2.4. Eminent domain.

45 The town is hereby empowered to acquire by condemnation, gift, lease, purchase, or bequest  
46 property, real or personal, or any interest or estate therein, either within or without its corporate limits, for  
47 any of its proper purposes and may sell, lease, manage, and control such property as its interests require,  
48 and in such manner as the council deems expedient.

49 The town shall also have all powers of eminent domain that are now or may be granted to a  
50 municipal corporation under the laws of the Commonwealth of Virginia.

51 Article 3. The Council.

52 § 3.1. Definitions.

53 As used in this charter, the term "officer" refers to council members and persons appointed by and  
54 responsible to the council, such as the town clerk, the town manager, and the town attorney; "officials"  
55 refers to administrative department heads; and all other persons employed by the town are designated  
56 "employees."

57 § 3.2. General powers and duties of the council.

58 The government of the town shall be vested in the council which shall have the power to enact and  
59 enforce ordinances to carry into effect all powers granted by this charter and by law. The council shall be  
60 responsible for the determination of all matters of policy for the town and for ensuring the implementation  
61 thereof by the town administration.

62 § 3.3. Composition and qualifications.

63 The council shall be composed of seven council members, one of whom shall be the mayor, to be  
64 elected from the town at large. The council members shall be qualified voters of the town.

65 § 3.4. Election and term of office.

66 The council shall be elected in the manner provided by Virginia elections laws. A mayor and three  
67 council members shall be elected on the November general election date of the year 2022 and every four  
68 years thereafter. Three council members shall be elected on the November general election date of the  
69 year 2024 and every four years thereafter.

70 The term of office for the mayor and all council members shall begin on the first day of January  
71 next following their election, and each shall serve for a term of four years or until a successor shall have  
72 been elected and qualified. The mayor and council members may succeed themselves as the voters may  
73 choose, except no person shall be eligible to be elected to serve in the same office more than three  
74 consecutive terms. Service for a partial term shall not preclude serving the allowed number of full terms.  
75 These limits shall apply to terms of service beginning on and after January 1, 2025.

76 § 3.5. Voters of the town.

77 The voters of the town shall be the actual residents of the town who are qualified to vote for  
78 members of the General Assembly.

79 § 3.6. Compensation; expenses.

80           The council may determine the annual salary of its members by ordinance or resolution but no  
81 ordinance or resolution increasing such salary shall become effective until the date of commencement of  
82 the terms of council members elected at the next regular election. Council members shall receive their  
83 actual and necessary expenses incurred in the performance of their duties of office.

84           § 3.7. Mayor and vice mayor.

85           The mayor as a member of the council shall have the same powers and duties as other members of  
86 the council, with a vote, but no veto. In addition, the mayor shall preside at meetings of the council, shall  
87 be the head of the town government for all official functions and ceremonial purposes, but shall have no  
88 administrative duties.

89           At the first meeting of the council in January of each odd-numbered year, the council shall elect  
90 from its members a vice mayor who shall serve for a term of two years. The vice mayor shall act as mayor  
91 during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor until the next  
92 regular council election. At that election, a mayor shall be elected to fill the unexpired term.

93           § 3.8. Absence or disability of mayor and vice mayor.

94           If both the mayor and vice mayor are absent or unable to act, the council shall, by a majority vote  
95 of the members present, elect from its members a person to serve as acting mayor until either the mayor  
96 or vice mayor is present and able to act. The person so elected shall possess the powers and discharge the  
97 duties of the mayor during such period of time. Whenever it is necessary to elect an acting mayor pursuant  
98 to this section, in the absence of both the mayor and vice mayor, the town clerk or acting town clerk shall  
99 call the meeting of the council to order and shall preside until an acting mayor is elected. This shall not be  
100 construed to vest in the clerk any of the powers and duties of the mayor, except as expressly stated in this  
101 section.

102           § 3.9. Prohibitions.

103           Except as otherwise authorized by law, a member of the council shall not be eligible during his or  
104 her tenure of office as such member, or for one year thereafter, to any compensated town employment. If  
105 appointed by the council to a board or commission, a member of the council may be compensated as a  
106 member of the board or commission.

107 Neither the council nor any of its members shall in any manner dictate the appointment or removal  
108 of any town administrative officials or employees whom the manager or any of his subordinates are  
109 empowered to appoint, but the council may express its views and fully and freely discuss with the manager  
110 anything pertaining to appointment and removal of such officials and employees.

111 Except for the purpose of discussions, informal reviews, inquiries, and official investigations, the  
112 council or its members shall communicate with town officials and employees who are subject to the  
113 direction and supervision of the manager solely through the manager, and neither the council nor its  
114 members shall give orders to any such official or employee, either publicly or privately.

115 § 3.10. Vacancies.

116 The office of a council member shall become vacant upon his death, resignation, or removal from  
117 office in any manner authorized by law.

118 A vacancy on the council shall be filled within forty-five days, for the unexpired term, by a  
119 majority vote of the remaining members, if the vacancy occurs two years or less before the date of  
120 expiration of such term. If the vacancy occurs more than two years before the expiration of the term, the  
121 vacancy shall be filled by a majority vote of the remaining members of council only until the next council  
122 election, at which election the voters of the town shall elect a person to serve as council member for the  
123 remaining two years of the term.

124 If a vacancy is being filled by voters at the next council election, the candidates receiving the  
125 highest number of votes will be entitled to full terms and the candidate receiving the next highest number  
126 shall be entitled to the unexpired term caused by the vacancy.

127 § 3.11. Town clerk.

128 The council shall appoint a town clerk who shall serve at the pleasure of the council. The clerk  
129 shall give notice of council meetings to its members and the public, keep the records of its proceedings,  
130 keep all papers, documents, and records pertaining to the town, keep and attest the town seal, and perform  
131 such other duties as are assigned to the clerk by this charter or by the council.

132 § 3.12. Independent audit.

133           The council shall provide for an independent annual audit of all town accounts and may provide  
134 for such more frequent audits as it deems necessary. Such audits shall be made by a certified public  
135 accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs  
136 of the town government or any of its officers. The council may, without requiring competitive bids,  
137 designate such accountant or firm annually. If the Commonwealth makes such an audit, the council may  
138 accept it as satisfying the requirements of this section.

139           § 3.13. Procedure.

140           The council shall meet regularly at least once in every month, at such times and places as the  
141 council may prescribe by ordinance. Special meetings may be held on the call of the mayor or of any two  
142 or more members upon no less than twenty-four hours' notice to each member, except in cases of extreme  
143 emergency when the time limit may be waived. No business shall be transacted by the council in such  
144 special meeting which has not been stated in the notice unless all members of the council are present and  
145 give their unanimous consent to the consideration of such business, and such business is an emergency or  
146 of an unusual nature.

147           No vote shall be reconsidered or rescinded at any special meeting unless at such special meeting  
148 there are present as large a number of members as were present when such vote was taken.

149           The council shall determine its own rules and order of business and shall provide for keeping  
150 records of its proceedings.

151           On final vote on any ordinance or resolution, the name of each member of the council voting and  
152 how he voted shall be recorded. The council may adopt an ordinance or resolution by a recorded voice  
153 vote unless otherwise provided by law, or any member calls for a roll call vote. Four members of the  
154 council shall constitute a quorum, but a smaller number may adjourn from time to time. No action of the  
155 council, except as provided in the preceding sentence, shall be valid or binding unless adopted by the  
156 affirmative vote of four or more members of the council.

157           An affirmative recorded vote of five of the members is required for the adoption of any ordinance  
158 or resolution having for its object the levying of taxes or contracting a debt.

159           § 3.14. Town attorney.

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

163 § 3.15. Committees, boards, and commissions.

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

168 All members of committees, boards, and commissions appointed by the town council may be  
169 removed by the council unless otherwise provided by the general law.

170 Article 4. The Town Manager.

171 § 4.1. Appointment, qualifications, and compensation.

172 A town manager shall be appointed by and serve at the pleasure of the council. The amount of  
173 compensation shall be fixed by the council. The manager shall be appointed solely on the basis of  
174 executive and administrative qualifications in the profession of public management and administration.  
175 The manager need not be a resident of the town or the Commonwealth of Virginia at the time of  
176 appointment but may reside outside the town while in office only with the approval of the council.

177 § 4.2. Powers and duties of the town manager.

178 The town manager shall be the chief administrative officer of the town. The manager shall be  
179 responsible to the council for the proper management and administration of all town affairs placed in his  
180 charge by or under this charter. The manager shall have the following powers and duties:

- 181 1. The manager shall appoint and, when deemed necessary for the good of the service, suspend or  
182 remove any town employees and appointive administrative officials provided for by or under this charter,  
183 except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. The  
184 manager may authorize any administrative official who is subject to the manager's direction and  
185 supervision to exercise these powers with respect to subordinates in that official's department, office, or  
186 agency.

187           2. The manager shall direct and supervise the administration of all departments, offices, and  
188 agencies of the town, except as otherwise provided by this charter or by other law.

189           3. The manager shall attend all council meetings and shall have the right to take part in discussion,  
190 but may not vote.

191           4. The manager shall see that all laws, provisions of this charter, and acts of the council, subject to  
192 enforcement by the manager or by officials subject to the manager's direction and supervision, are  
193 faithfully executed.

194           5. The manager shall prepare and submit the annual budget and capital program to the council and  
195 shall be responsible for the execution of the budget.

196           6. The manager shall submit to the council and make available to the public a complete report on  
197 the finance and administrative activities of the town as of the end of each fiscal year.

198           7. The manager shall make such other reports as the council may require concerning the operations  
199 of town departments, offices, and agencies subject to the manager's direction and supervision.

200           8. The manager shall keep the council fully advised as to the financial condition and future needs  
201 of the town and make such recommendations to the council concerning the affairs of the town as the  
202 manager deems desirable.

203           9. The manager shall ensure that adequate and accurate personnel records are maintained on all  
204 employees of the town.

205           10. The manager shall provide a system for handling complaints from citizens.

206           11. The manager shall perform such other duties as are specified in this charter or may be  
207 prescribed by the council.

208           § 4.3. Acting town manager.

209           The council may designate a qualified town administrative official to exercise the powers and  
210 perform the duties of manager in case of the absence, disability, suspension, death, or resignation of the  
211 manager, until the manager's return to duty or the appointment of his successor.

212           § 4.4. Removal.



213           The council may remove the manager at any time at the pleasure of the council. The action of the  
214 council in suspending or removing the manager shall be final, it being the intention of this charter to vest  
215 all authority and fix all responsibility for any such suspension or removal in the council.

216                           Article 5. Administrative Departments.

217           § 5.1. Creation of departments.

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

222           Administrative departments shall include but shall not be limited to departments concerned with  
223 public safety, finance, public works, and planning.

224           § 5.2. Direction by manager.

225           All departments, offices, and agencies except as otherwise provided by this charter or by general  
226 law shall be under the direction of the town manager and shall be administered by an official appointed  
227 by and subject to the direction and supervision of the manager.

228                           Article 6. Financial Procedures.

229           § 6.1. Fiscal year.

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

231           § 6.2. Procedure as to budget, etc.

232           Not later than the first day of May annually, the town manager shall prepare and submit to the  
233 council a budget presenting a financial plan for conducting the affairs of the town for the ensuing fiscal  
234 year. Such budget shall be made in accordance with the general laws of the Commonwealth of Virginia  
235 and shall include such information as the council by ordinance or resolution shall require. Hearings on the  
236 budget shall be held and notice thereof given and the budget adopted in accordance with the general laws  
237 of the Commonwealth of Virginia, provided that the tax levy for each fiscal year shall be made, and the  
238 budget for each fiscal year shall be adopted prior to the first day of the fiscal year for which made or  
239 adopted.

240 Article 7. General Provisions.

241 § 7.1. Charter amendment.

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

244 § 7.2. Severability.

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

249 § 7.3. Oaths of office and official bonds.

250 All elected or appointed officers and officials of the town shall take the oath of office and give the  
251 bond, if any, required by law, before the Clerk of the Circuit Court of Franklin County before entering  
252 upon the discharge of their duties. If the requirements of this section have not been complied with by any  
253 officer or official within thirty days after the term of office shall have begun or after his appointment to  
254 fill a vacancy, then such office shall be considered vacant unless general law otherwise provides, in which  
255 event general law shall prevail.

256 § 7.4. Books, records, etc.

257 All books, records, and documents used by any elected or appointed town officer, official, or  
258 employee in his office or pertaining to his duties shall be deemed to be the property of the town. Any  
259 person designated by this charter, the general laws of the Commonwealth of Virginia, or the Rocky Mount  
260 Town Code as responsible for the keeping of such books, records, and documents shall, within ten days  
261 after the end of his term of office, or within ten days after the date of his resignation or removal from  
262 office, deliver to the town clerk all such books, records, documents, and town property.

263 Article 8. Transitional Provisions.

264 § 8.1. Ordinances.

265 All ordinances, resolutions, orders, and regulations of the town not inconsistent with this charter  
266 shall remain in full force and effect until amended or repealed by the town council. Ordinances,

267 resolutions, orders, and regulations which are in force when this charter becomes effective and which are  
268 inconsistent with this charter are repealed.

269 § 8.2. Continuity of terms of officers.

270 The officers of the town who were in office immediately prior to the effective date of this charter  
271 shall remain in office until the expiration of their several terms and their successors have been duly elected  
272 and qualified.

273 § 8.3. Citation of act.

274 This act may for all purposes be referred to or cited as the charter for the Town of Rocky Mount,  
275 Virginia, of the year 2023.

276 **2. That Chapter 952 of the Acts of Assembly of 2000 is repealed.**

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