

ACTS

AND

JOINT RESOLUTIONS

PASSED BY THE

GENERAL ASSEMBLY

OF THE

STATE OF VIRGINIA

DURING THE

SESSION OF 1881-82

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RICHMOND:  
R. F. WALKER, SUPERINTENDENT PUBLIC PRINTING.  
1882.

shall receive the same per centum for collecting road taxes as the county treasurer receives for collecting the state revenue. He shall pay said road taxes received and collected by him upon warrants issued by his road commissioner.

Bridges

26. Any person or persons causing water to be diverted from its natural course and conveyed across a public highway, or who, by the erection of waste-gates, or any other means, shall cause water to flow or to be conducted over such public highway, shall place and keep in good repair bridges over the same, at his or her expense; and if the commissioner or overseer of roads shall notify such person or persons that his or their bridges are unsafe, and such person or persons shall fail to make the necessary repairs, he or they shall be held responsible for all damages, to be recovered by warrant before a justice of the peace, or court of competent jurisdiction, that may result from such failure. Within ten days after such failure, the commissioner or overseer may make said repairs, and require such party or parties to pay all costs thereby incurred; which costs may be recovered before a justice of the peace, or court of competent jurisdiction.

Penalty for failure

27. The general road laws of this state, except so far as the same is in conflict with this act, shall be in force in the counties of Bedford and Frederick.

Commencem't

28. This act shall be in force from and after its adoption and ratification by a majority of supervisors elected for each of said counties.

CHAP. 269.—An ACT to provide a new charter for the city of Portsmouth, and to repeal all acts in conflict therewith.

Approved March 6, 1882.

## CHAPTER I.

### *Elections, &c.*

Limits

1. Be it enacted by the general assembly, That the territory contained within the limits of the city of Portsmouth, prescribed by the sundry acts of the general assembly heretofore passed, shall be deemed and taken as the city of Portsmouth; and all the inhabitants within the said limits, and their successors, shall be and they are hereby made a body politic and corporate, by the name and style of The City of Portsmouth; and as such, and by that name, may contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, and may purchase, take, receive, hold, and use goods and chattels, land and tenements, and choses in action, or any interest, right, or estate therein, either for the proper use of said city, or in trust for the benefit of any persons or associations therein; and the

same may grant, sell, convey, transfer, and assign, let, pledge, mortgage, charge, and encumber in any case, and in any manner, in which it would be lawful for an individual to do, and may have and use a common seal, and alter and renew the same at pleasure, and generally shall have all the rights, franchises, capacities, and powers appertaining to municipal corporations in this commonwealth. Said city and its inhabitants shall be exempt from all assessments of levies in the way of taxes imposed by the board of supervisors of Norfolk county, or any other authorities whatever in said county, for any purpose whatever, except upon property in the said county of Norfolk, owned by the inhabitants of said city; nor shall said inhabitants be liable to serve upon juries in said county. Officers

2. The administration and government of said city shall be vested in one principal officer, to be styled the mayor; one board, to be called the council of the city of Portsmouth, and in such other boards and officers as are hereinafter provided for.

3. The election of members of the council shall be held on the fourth Thursday of May, eighteen hundred and eighty-three, and every two years thereafter. The election of mayor shall be held on the fourth Thursday in May, eighteen hundred and eighty-two, and every two years thereafter. The election of city treasurer shall be held on the fourth Thursday in May, eighteen hundred and eighty-two, and every three years thereafter. The election of the commissioner of the revenue shall be held on the fourth Thursday in May, eighteen hundred and eighty-four, and every four years thereafter. The election of city surveyor shall be held on the fourth Thursday in May, eighteen hundred and eighty-four, and every six years thereafter. The election of city auditor shall be held on the fourth Thursday in May, eighteen hundred and eighty-five, and every three years thereafter. And the election of all other municipal or city officers hereinafter mentioned, shall take place on the fourth Thursday in May, eighteen hundred and eighty-three, and every two years thereafter; and the officers so elected shall enter upon the discharge of their duties upon the first day of July succeeding their election; and whenever two or more persons are to be elected to the same office, the several persons, to the number required to be chosen, having the highest number of votes, shall be declared elected. Elections  
Times of holding

4. If it shall appear, by said election returns, that any municipal officer shall refuse to accept the office to which he has been elected, or that any municipal officer has not been elected, the city council shall issue warrants for a new election to fill such offices; and the same proceedings shall be had as are hereinbefore provided for a general election, and repeated from time to time, until all of said officers shall be elected. If it shall appear that any such officers shall not have been elected by reason of two or more candidates having received an equal number of votes, the commissioners of election shall proceed to determine by lot, in the presence of Result

the candidates, or their proxies, if desired, which of the candidates shall be elected.

Voters

5. At all elections which shall be held under the authority and direction of this charter, all persons qualified to vote for members of the general assembly shall be entitled to vote, and the said elections shall be conducted under the provisions of the general election laws of this state.

Oath

6. The mayor and the members of the city council, before entering upon the duties of their respective offices, shall be respectively sworn in, in accordance with the laws of this state. Such oaths may be administered to the mayor elect by any judge of a court of record, commissioned to hold any such court within the said city, either in term or in vacation; and the members of the city council by the mayor, being himself first sworn as aforesaid, or by any judge of any court of record as aforesaid; and a certificate of such oaths having been respectively taken, shall be filed with the city clerk and entered upon the journal of the city council. Every other person elected or appointed to any office under this act, or any law or ordinance of the city council, shall, before he enters upon the duties of said office, take and subscribe said oath, and such other oaths as may be required by law or ordinance, before the mayor or city clerk, the said clerk having himself been first sworn by said mayor, or a judge of a court of record as aforesaid; and a certificate of the same shall be filed in the office of said city clerk. If any person elected or appointed to any office in said city shall neglect to take such oath for thirty days, after receiving notice of his election or appointment, or shall neglect, for the like space of time, to give bond with securities as may be required of him by this act, or by the city council, as hereinafter provided, or as may be hereafter required by any law or ordinance, he shall be considered as having declined such office, and the same shall be deemed vacant; and whenever such vacancy shall occur, another election shall be ordered, or another appointment made, according to the directions of this act.

## CHAPTER II.

### *Mayor.*

Term

7. The mayor shall be elected by the qualified voters of the city of Portsmouth, for the term of two years, and until his successor shall be elected and qualified; and no person shall be qualified to hold the office of mayor, except such as shall be qualified to hold office under the constitution of this state.

Powers

8. He shall, by virtue of his office, possess all the powers and authority, in civil and criminal cases, of a justice of the peace of the said city, in addition to the powers hereby given to him by virtue of this act, or that may hereafter be given to him by virtue of any other act of assembly; but he shall receive no fees for his services as such justice of the peace.

9. It shall be his duty, when required by the city council, <sup>Duty</sup> to report to the said council, a statement of the situation and condition of the city, in relation to its government, and all matters coming under his control. He shall see that the ordinances of the city council are faithfully executed, and that all offenders or violators of such ordinances are punished as directed by said ordinances.

10. He shall exercise a constant supervision over, and shall see that the duties of the various city officers are faithfully performed. He shall have power to investigate their acts, have access to all books and documents in their offices, and may examine them and their subordinates on oath; the evidence given by persons so examined, shall not be used against them in any criminal proceedings. He shall also have power <sup>Power to suspend or remove officers</sup> to suspend or remove such officers, whether they be elected or appointed, for misconduct in office, or neglect of duty, to be specified in the order of suspension or removal; but no such removal shall be made without reasonable notice to the officer complained of, and an opportunity afforded him to be heard in his defence. On the removal or suspension of such officer or officers, the mayor shall report the same, with the reasons therefor, to the city council, at their stated meeting.

11. The mayor shall have power, in case of his temporary absence or inability to perform the duties of his office, to appoint one of the justices of the peace of the city, who shall have the same power, and discharge the municipal duties of the mayor, during such temporary absence or disability. <sup>Vacancy</sup> In case a vacancy shall occur in the office of mayor, the city council shall elect a qualified person to supply the vacancy until his successor shall be elected and qualified, which shall be at the next general election held in the city.

CHAPTER III.

*City Council.*

12. The council of the city of Portsmouth shall be composed of fifteen members, to be elected from the different <sup>City council; how composed</sup> wards, as follows: Four from the first ward, four from the second ward, three from the third ward, and four from the fourth ward. The councilmen chosen shall, at the time of election, and during their continuance in office, be residents of the ward for which they are chosen. They shall be elected by the voters qualified to vote for councilmen, as hereinbefore provided, who are residents of the respective wards for which such councilmen are chosen. The qualifications of any person or persons elected as councilmen, shall be adjudged of by the whole number of councilmen elected, or a majority of them.

13. In the case of any vacancy happening in the city <sup>Vacancy in city council</sup> council, by death, removal from the city, resignation, or otherwise, the city council shall elect a qualified person to supply the vacancy for the unexpired term.

President, of  
council . . .

14. The council shall elect one of its members to act as president, who shall preside at its meetings, and continue in office for the time for which said council was elected; and when, from any cause, he shall be absent, they may appoint a president pro tempore, who shall preside during the absence of the president. The president, or the president pro tempore, who shall preside when the proceedings of a previous meeting are read, shall sign the same. The president shall have power at any time to call a meeting of the council, and in case of his absence, sickness, disability, or refusal, the council may be convened by the order, in writing, of any three members of the council.

Rules, &c

15. The council shall have the authority to adopt such rules as they may deem proper for the regulation of their proceedings and for the convenient transaction of business; to compel the attendance of absent members, to punish members for disorderly behavior, and, by a vote of three-fourths of all the members of the council, to expel a member for malfeasance, misfeasance, or gross neglect of official duty. They shall keep a journal of their proceedings, which shall, at all times, be open to the inspection of any voter of said city; and their meetings shall be open to the public, except when the public welfare shall require secrecy.

Quorum

16. A majority of the members of the council shall constitute a quorum for the transaction of business, but on all ordinances or resolutions appropriating money exceeding the sum of five hundred dollars, imposing taxes, or authorizing the borrowing or loaning of money, the yeas and nays shall be entered on the journal. No vote shall be reconsidered or rescinded at a special meeting unless at such special meeting there be present as large a number of members as were present when such vote was taken.

Ordinances

17. The council shall have, subject to the provisions herein contained, the control and management of the fiscal and municipal affairs of the city, and of all property, real and personal, belonging exclusively to said city, as now provided by law, and may make such ordinances, orders, and by-laws relating to the same, as it shall deem proper and necessary; but shall rent, sell, lease, or otherwise dispose of, no property or franchise of the city without advertising the same, for at least thirty days, in some newspaper of said city, or of the city of Norfolk. They shall likewise have the power to make such ordinances, by-laws, orders, and regulations, as they may deem desirable to carry out the following powers, which are hereby invested in them:

#### *Markets.*

I. To regulate the markets in and for said city; to prescribe the times and places for holding the same; keep in order suitable buildings therefor; to adopt and enforce such rules and ordinances respecting said markets as, in their opinion, the convenience or interest of the inhabitants of said

city shall require, and to adopt such rules and ordinances as may be necessary to regulate or prevent huckstering, fore-stalling, and regrating.

*Workhouse, Poorhouse, &c.*

II. To erect or provide, in or near the city, suitable work-houses, houses of correction or reformation, and houses for the reception and maintenance of the poor and destitute. They shall possess and exercise exclusive authority over all persons within the limits of the said city, receiving or entitled to the benefits of the poor laws, and to regulate pauperism within the city; and the council, through the agencies appointed for the direction and management of the poor of the city, shall exercise the powers and perform the duties vested by law in overseers of the poor.

*Public Buildings.*

III. To erect and keep in order all public buildings necessary or proper for said city.

*City Prison.*

IV. To provide, within said city, a city prison; and said prison may contain such apartments as shall be necessary or proper for the safekeeping of all persons confined therein.

*Wharves and Docks.*

V. To establish, contract, and keep in order, alter or remove, landings, wharves, and docks, on lands belonging exclusively to, or which may hereafter belong exclusively to, said city, and to lay and collect a reasonable duty on vessels coming to and using the same; to prevent and remove all obstructions in and upon such landings, wharves, and docks; to preserve peace and good order upon the same, and upon all other wharves and landings in said city.

*Streets and Alleys.*

VI. To close or extend, widen or narrow, lay out and grade, pave, and otherwise improve streets and public alleys in the city, and have them properly lighted and kept in good order; and they shall have over any street or alley in the city, which has been or may be ceded to the city, like authority as over other streets or alleys, to construct sewers, build bridges in, and culverts under said streets, and may prevent or remove any structure, obstruction, or encroachment over or under, or in a street or alley, or any sidewalk thereof, and may have shade trees planted along the said streets, and generally to ordain and enforce such regulations respecting the same, or any of them, as shall be proper for the health, inter-

est, or convenience of the inhabitants of said city. In the meantime, no order shall be made, and no injunction shall be awarded, by any court or judge, to stay the proceedings of the city in the prosecution of their work, unless it be manifest that they, their officers, agents, or servants, are transcending the authority given them by this act, and that the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages.

VII. To prevent the cumbering of streets, avenues, walks, public squares, lanes, alleys, or bridges, in any manner whatever.

VIII. To regulate and prescribe the breadth of tires upon the wheels, or wagons, carts, and vehicles of heavy draught, used upon the streets of said city: provided, however, that this section shall not apply to vehicles coming into and not owned in said city.

#### *Inspection.*

IX. To provide for the gauging and inspection of oil, molasses, vinegar, and spirits of turpentine, and for the proper weighing or admeasurement of hay, fodder, oats, shucks, or other long forage, and for the measuring of corn, oats, grain, coal, stone, wood, lumber, boards, potatoes, and other articles for sale or barter in the city: provided no hay or other commodity once weighed within the state shall not be required to be weighed or re-inspected.

X. To require every merchant, retailer, trader, and dealer in merchandise, or property of any description, which is sold by measure or weight, to cause their weights or measures to be sealed by the city sealer, and to be subject to his inspection, and may impose penalties for any violation of any such ordinances.

#### *Contagious Diseases.*

XI. To secure the inhabitants from contagious, infectious, or other dangerous diseases; to establish, erect and regulate hospitals or pest-houses in or near said city; to provide for and force the removal of patients to said hospitals or pest-houses.

#### *Board of Health.*

XII. To appoint and organize a board of health for said city, with authority for its government and support, and for the prompt and efficient performance of its duties.

#### *Burial Grounds.*

XIII. To provide, in or near said city, lands to be appropriated, improved, and kept in order as places for the burial of the dead, and may charge for the use of ground in said place of burial, and may regulate the same; may regulate the burial of the dead in the burial grounds within the city, or prevent the same entirely.

*Quarantine.*

XIV. To adopt and enforce such regulations as may be necessary, under the usual system of quarantine, to prevent vessels or boats, or persons infected with contagious or infective diseases, from entering any port of the harbor appertaining to said city.

*Nuisances.*

XV. To require and compel the abatement and removal of all nuisances within said city at the expense of the person or persons causing the same, or the owner or owners of the ground whereon the same shall be. To regulate and prevent slaughter-houses, soap and candle factories, or the prosecution of any dangerous, offensive, or unhealthy business, trade, or employment therein, which may be injurious to the health of the inhabitants of said city.

XVI. If any ground in the said city shall be subject to be covered by stagnant water, or if the owner or owners, occupier or occupiers thereof, shall permit any offensive or unwholesome substance to remain or accumulate therein, the council may cause such ground to be filled up, raised or drained, or may cause such substance to be covered or removed therefrom, and may collect the expense of so doing from the said owner or owners, occupier or occupiers, or any of them, by distress and sale, in the same manner in which taxes levied upon real estate for the benefit of said city are authorized to be collected: provided that reasonable notice shall be first given to the said owners or their agents. In case of non-resident owners, who have no agent in said city, such notice may be given by publication for not less than two weeks in any newspaper published in said city, or, where there is none, in some published in the city of Norfolk.

XVII. To direct the location of all buildings for storing gunpowder, or other combustible substances, and to regulate the sale and use of gunpowder, or fire-crackers, or fireworks prepared therefrom, kerosine oil, nitro-glycerine, camphene, burning-fluid, or other combustible material; to regulate or prevent the exhibition of fireworks, the discharge of firearms, the use of candles or lights in barns, stables, and other buildings, and to restrain the making of bonfires in streets and yards.

XVIII. To prevent hogs, dogs, and other animals from running at-large in the city, and may subject the same to such confiscations, regulations, and taxes as they may deem proper; and the council may prohibit the raising or keeping of hogs in the city.

XIX. To prevent the riding or driving of horses, or other animals, at an improper speed; to prevent the running of steam engines at an improper speed within the limits of said city, and to wholly exclude the said engines, if they please;

to prevent the flying of kites, throwing stones, or the engaging in any employment or sports in the streets or public alleys dangerous or annoying to the people; and to prohibit and punish the abuse of animals.

XX. To restrain and punish drunkards, vagrants, mendicants and street beggars.

XXI. To prevent vice and immorality; to make such regulations as may be necessary to secure the inhabitants of said city against thieves, robbers and burglars; to preserve the public peace and good order of the city; to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill-fame and gaming-houses; to prevent, suppress and punish lewd, disorderly and indecent conduct or exhibitions in the city, and to expel therefrom persons guilty of such conduct who shall not have resided therein as much as one year.

Sale of liquors

XXII. To forbid and prevent the vending or other disposition of liquors and intoxicating drinks to be drunk in any boat, store or other place not duly licensed, and to forbid the selling or giving, to be drunk, any intoxicating liquors to any child or young person without the consent of his or her parent or guardian; and for any violation of any such ordinance may impose fines in addition to those prescribed by the laws of the state.

XXIII. To prevent the coming into the city from beyond the limits of the state of persons who may be dangerous to the peace and safety of the city, or of persons having no ostensible means of support; and for this purpose may require and compel any railroad company, or the captain or master of any steamboat or vessel bringing such persons to the city, to take them back from whence they came, and compel the persons to leave the city, if they have not been in the city more than twenty days before the order is given.

XXIV. To pass all laws, rules and ordinances not repugnant to the constitution and laws of the United States, or of this state, which shall be necessary for the good order and government of such persons as shall from time to time reside within the limits of the city.

Penalties

18. Where by the provisions of this act the city council has authority to pass ordinances on any subject, they may prescribe any penalty, not exceeding five hundred dollars, (except where a penalty is herein otherwise provided for,) for a violation thereof, and may provide that the offender, on failing to pay the penalty recovered, shall be imprisoned in the jail of said city for any term not exceeding six calendar months; which penalties may be prosecuted and recovered with costs in the name of the city of Portsmouth.

19. No ordinance hereafter passed by the city council, for the violation of which any penalty is imposed, shall take effect until the same shall have been published for five days successively, in one or more of the daily newspapers published in said city, or the city of Norfolk, or by posters in said city, to be designated by the said council; a record or

entry made by the clerk of said city, or a copy of such record or entry, duly certified by him, shall be prima facie evidence of the time of such first publication; and all laws, regulations, and ordinances of the city council may be read in evidence in all courts of justice, and in all proceedings before any officer, body, or board in which it shall be necessary to refer thereto, either from a copy thereof, certified by the clerk of said city, or from the volume of ordinances printed by the authority of the city council.

20. The council shall not take or use any private property <sup>Private property</sup> for streets or other public purposes without making to the owner or owners thereof just compensation for the same. But in all cases when the said city cannot, by agreement, obtain title to the ground necessary for such purposes, it shall be lawful for the said city to apply to and obtain from the circuit or county court of the county in which the land shall be situated, or to the proper court of the city having jurisdiction of such matters (if the subject lies within this city), for authority to condemn the same; which shall be applied for and proceeded with as provided by law.

21. In every case where a street in said city has been, or shall be encroached upon by any fence, building, or otherwise, the city council may require the owner or owners, if known, and if unknown, the occupant or occupants of the premises so encroaching, to remove the same. If such removal shall not be made within the time ordered by the council, they may impose a penalty of five dollars for each and every day that it is allowed to continue thereafter, and may cause the encroachment to be removed, and collect from the owner all reasonable charges therefor, with costs, by the same process by which they are hereinafter empowered to collect taxes. No encroachment upon any street, however long continued, shall constitute an adverse possession to, or confer any rights upon the person claiming thereunder, as against said city.

22. Whenever any street, alley, or lane shall have been opened to and used as such by the public for the period of five years, the same shall thereby become a street, alley, or lane for all purposes, and the city shall have the same authority and jurisdiction over, and right and interest therein, as they have by law over the streets, alleys, and lanes laid out by it; and any street or alley reserved in the division or sub-division into lots of any portion of the territory within the corporate limits of the city by a plat or plan of record, shall be deemed and held to be dedicated to the public use; and the council shall have authority, upon the petition of any person interested therein, to open such street or alley, or any portion of the same. No agreement between, or release of interest by the persons owning the land immediately contiguous to any such alley or street, whether the same has been opened and used by the public or not, shall avail or operate to abolish said alley or street, so as to divest the interest of the public therein, or the authority of the council over the same.

23. Whenever any new street shall be laid out, a street graded or paved, or any other public improvement whatsoever made, the city council shall determine what portion, if any, of the expenses thereof ought to be paid from the public treasury: provided, however, that the same be not more than one-third thereof, unless it be for such parts of the streets as adjoin the public improvements or lands belonging to the city, or at the intersections of the public streets one with another, and may determine what portion shall be paid by the owners of real estate benefited by such improvements; or they may order that the whole expense be assessed upon the owners of real estate benefited thereby. But no such public improvement shall be made to be defrayed, in whole or in part, by a local assessment, until first requested by a petition signed by at least a majority of the owners of the property to be assessed for such improvement, or unless at least three-fourths of the whole council shall concur in voting any improvement expedient, or in determining to make the same after allegations have been heard, in which case no petition or request shall be necessary. The council shall have the same powers to collect such local assessments for improvements as are hereinafter vested in them for the collection of taxes.

Salaries

24. The city council shall grant and pay to all city officers, clerks, and assistants elected or appointed under or in pursuance of this act, such salaries or compensation as shall be fixed by this or any other act of assembly hereafter enacted.

25. If any person, having been an officer of said city, shall not, within ten days after he shall have vacated, or been removed from office, and upon notification and request of the city clerk, or within such time thereafter as the city council shall allow or direct, deliver over to his successor in office all the property, books, and papers belonging to the city, or appertaining to such office, in his possession, or under his control, he shall forfeit and pay to the city the sum of five hundred dollars, to be sued for and recovered with cost. And all books, records, and documents used in any such office by virtue of any provision of this act, or of any ordinance or order of the city council, or any superior officer of said city, shall be deemed the property of the said city, and appertain to said office, and the chief officer thereof shall be responsible therefor.

26. No member of the city council shall be allowed to furnish anything whatever to the city for which he receives any consideration in money or otherwise, either directly or indirectly, under penalty of the forfeiture of his office as councilman, as well as forfeiture of the consideration involved; and any voter making, under oath, a charge of this nature before any magistrate, the judge of the corporation or hustings court shall cause the accused councilman to show cause why he should not be removed; and if said charge is sustained, the said judge shall remove him from office at once.

## CHAPTER IV.

*Finance.*

27. For the execution of its powers and duties, the city council may raise annually, by taxes and assessments on said city, such sums of money as they shall deem necessary to defray the expenses of the same, and in such manner as they shall deem expedient, in accordance with the laws of this state and the United States: provided, however, that they shall impose no tax on the bonds of said city, nor on any capital invested in real estate or employed in manufacture outside of the city limits, although the person or persons engaged in said business or manufacture have a place of business in said city. Neither shall they impose any tax at the same time upon the stock of a corporation, and upon the dividends thereon; nor upon any capital, income, interest or dividends, where a license or other tax is imposed upon the business in which the capital is employed, or upon the principal, money, credit or stock from which the interest, income or dividend is divided. Said taxes shall be equal and uniform upon all property, both real and personal. The capital invested in all business operations shall be assessed and taxed as other property. Assessments upon all stock shall be according to the market value thereof.

28. The city council may grant or refuse licenses, and may require taxes to be paid on such licenses to agents of insurance companies, whose principal office is not located in said city; to auctioneers; to public theatrical, or other performances or shows; to keepers of billiard-tables, ten-pin alleys, and pistol or rifle galleries; to hawkers and peddlers in the city, or to persons to sell goods by sample therein; to agents for the sale or renting of real estate; to commission merchants, and all other business which cannot be reached by the ad valorem system under the preceding section. They may also grant or refuse such license to all sellers of wine or spirituous or fermented liquors, and require taxes to be paid on such license in addition to other taxes imposed.

29. The council may grant or refuse licenses to owners or keepers of wagons, drays, carts, hacks, and other wheeled carriages, kept or employed in the city for hire, and may require the owners or keepers of wagons, drays, and carts, using them in the city, to take out license therefor, and may require taxes to be paid thereon, and subject the same to such regulations as they may deem proper, and prescribe their fees and compensation.

30. The city council may vest in the collector of the city taxes, and of any other assessments which the said council is authorized to make, any or all the powers which are now, or may hereafter be vested in any collector of the state taxes; may prescribe the mode of his proceedings, and the mode of proceeding against him for the failure to perform his duties.

## Taxes

31 All goods and chattels, wheresoever found, may be distrained and sold for taxes assessed and due thereon; and no deed of trust or mortgage upon goods or chattels shall prevent the same from being distrained and sold for taxes assessed against the grantor in such deed, while such goods and chattels remain in the grantor's possession; nor shall any such deed prevent the goods and chattels conveyed from being distrained and sold for taxes assessed thereon, no matter in whose possession they may be found.

32. Any payment of taxes made by a tenant, unless under an express contract contained in his lease, shall be a credit against the person to whom he owes the rent; and when any tax is paid by a fiduciary on the interest or profit of moneys of an estate invested under an order of court or otherwise, the tax shall be refunded out of such estate.

## Lien

33. There shall be a lien on real estate for the city taxes, as assessed thereon from the commencement of the year for which they were assessed. The city council may require real estate in the city delinquent for non-payment of taxes to be sold for said taxes, with interest thereon at the rate of twelve per centum per annum, and such per centum as they may prescribe for charges. Such real estate shall be sold, and may be redeemed under the provisions hereinafter made.

## Collection of taxes

34. The collector of city taxes shall, under the direction of the city council, cause to be published in all the daily newspapers in said city, and when there are no papers published in said city, in two or more of the daily papers published in the city of Norfolk, not more than twenty days nor less than ten days previous to such sale, a list of the several parcels of real estate so to be sold, the time and place of sale, and shall describe therein each parcel of real estate in the same manner as the same is described on the assessment rolls on which the said taxes or assessment is imposed thereon, together with the name of the person to whom each parcel is assessed, and the amount of the tax or assessment thereon.

## Sales

35. If such tax or assessment, and the percentage, interest, and expenses aforesaid, be not paid previous to the day for which sale was advertised, or on some day immediately thereafter, to which said sale may be adjourned, the collector shall proceed to make sale accordingly of the said several parcels of real estate, or so much thereof as may be necessary, to the highest bidder; and the sale may be adjourned from day to day, until it shall be completed. On such sale the collector shall execute to the purchaser a certificate of sale, in which the property purchased shall be described, and the aggregate amount of tax or assessment, with charges and expenses specified; but the collector shall not for himself, directly or indirectly, purchase any real estate so sold. If at any such sale no bid shall be made for any such parcel of land, or such bid shall not be equal to the tax or assessment, with interest and charges, then the same shall be struck off to the city. On such sale the collector shall execute to the city a certificate of sale, in which the property

purchased shall be described, and the aggregate amount of tax or assessment, with charges and expenses specified, and shall deposit such certificate with the auditor, or such other officer as may be designated by the city council.

36. The owner of any real estate so sold, his heirs or assigns, or any person having a right to charge such real estate for a debt, may redeem the same by paying to the purchaser, his heirs or assigns, within two years from the sale thereof, the amount for which the same was sold, and such additional taxes thereon as may have been paid by the purchaser, his heirs or assigns, or, if purchased by the city, with such additional sums as would have accrued for taxes thereon if the same had not been purchased for the city, with interest on the said purchase money and taxes, at the rate of twelve per centum from the time that the same may have been so paid; or the same may be paid within the said two years to the city treasurer in any case in which the purchaser, his heirs or assigns, may refuse to receive the same, or may not reside or cannot be found in the city of Portsmouth.

37. Any infant, married woman, insane person, or person imprisoned, whose real estate may have been so sold, or his heirs, may redeem the same by paying to the purchaser, his heirs, or assigns, within two years after the removal of the disability, the amount for which the same was so sold, and the necessary charges incurred by the purchaser, his heirs or assigns, in obtaining the title under the sale, and such additional taxes on the estate as may have been paid by the purchaser, his heirs or assigns, and the appraised value of any improvement that may have been made thereon, with interest on the same items, at the rate of twelve per centum per annum from the time the same may have been paid. Upon such payment, within two years after the removal of such disability, the purchaser, his heirs or assigns, shall, at the cost of the original owner, his heirs or assigns, convey to him or them, by deed, with special warranty, the real estate so sold.

38. The purchaser of any real estate sold for taxes and not redeemed, shall, after the expiration of two years from the sale, obtain from the city auditor, or such other officer as may be designated by the city council, a deed conveying the same, wherein shall be set forth what appears in his office in relation to the sale. When the purchaser has assigned the benefit of his purchase, the deed may, with his assent, evidenced by his joining therein, or by a writing annexed thereto, be executed to his assignee. If the purchaser shall have died, his heirs or assigns may move the corporation or court of hustings of said city, to order the auditor, or such officer as may be designated by the city council, to execute a deed to such heirs or assigns.

39. When the purchaser of any real estate sold for taxes, his heirs or assigns, shall have obtained a deed therefor, and within sixty days from the date of such deed shall have caused the same to be recorded, and such estate shall stand

vested in the grantee in such deed as was vested in the party assessed with the taxes (on account whereof the sale was made) at the commencement of the year for which the said taxes were assessed, notwithstanding any irregularity in the proceedings under which the said grantee claims title, unless such irregularity appear on the face of the proceedings; and if it be alleged that the taxes for the non-payment of which the sale was made were not in arrears, the party making such allegations must establish the truth thereof by proving that the taxes were paid.

40. In case that any real estate, struck off to the city as hereinbefore provided, shall not be redeemed within the time specified, the city auditor, or such officer as may be designated by the city council, shall, within sixty days after the expiration of two years from the sale, cause to be recorded such certificate of sale, with his oath, that the same has not been redeemed, and thereupon the said corporation, or their assignees, shall require an absolute title to the same in fee. The said certificate may be acknowledged or proved, and recorded in the same manner that deeds are recorded, and the said certificate, or the record thereof, or a copy of said record, duly authenticated, shall, in all courts and places, be presumptive evidence of the facts therein stated, and of the regularity and correctness of such sale, and of all proceedings prior thereto.

## CHAPTER V.

### *Police and Fire Departments.*

Police  
commissioner;  
how appointed

41. The police department of the city of Portsmouth shall be under the general control and management of police commissioners thereof, who shall consist of the mayor and four discreet citizens, qualified voters of said city, who shall be appointed by the judge of the corporation or hustings court of said city, at the January term of said court, for the year eighteen hundred and eighty-three, and every two years thereafter, and shall constitute a board of police commissioners for said city, of which board the mayor shall be president, and shall have a casting vote. Any three of said commissioners shall form a quorum for transacting business, except the appointment or dismissal of members of the police force hereinafter otherwise directed; said board may adopt rules and by-laws for the government thereof, and also may establish, promulgate, and enforce proper rules, regulations, and orders for the good government and discipline of said police force: provided that said rules, regulations, and orders shall not, in any way, conflict with any ordinance of the city council, or any of the provisions of this act, or the constitution and laws of this state or of the United States.

Duty of police  
commissioners

42. The said police commissioners, after taking the oath of office as such commissioners, shall meet at the office of the mayor, or other suitable place, at such time as may be expe-

dient, and as they shall, from time to time, designate, and on special occasions as the mayor may, in writing, appoint. They shall perform the duties of said office without any compensation, reward, or salary therefrom from said city.

43. It shall be the duty of said police commissioners to select from among the electors of said city, and by a vote of at least three-fifths of said board, appoint by warrant of appointment, bearing the signatures of said commissioners, to be immediately filed with the city clerk, so many permanent policemen, officers, and patrolmen, as may be authorized by the city council; and said board shall also appoint one chief of police, through whom said board may promulgate all rules, regulations, and orders to the whole force, and who shall have immediate control and direction of said force, subject, however, at all times to the rules, regulations, and orders of said board and to the orders of the mayor: provided that the orders of the said single commissioner do not conflict with the rules, regulations, or orders of said board then in force; and said chief and each policeman of said police force, appointed in manner as aforesaid, may hold his respective office during the term of good behavior, or until the said board, by the unanimous vote of its members, shall remove him; but in case of misconduct on the part of such chief or any member of said police force, then he may be removed by the decision of a majority of said board as hereinafter provided.

Board shall appoint police

44. In times of exigency the said commissioners, or a majority of them, or any one of them, if the others be absent from the city or unable to act, may appoint temporarily, without authority from the city council, a suitable number of additional policemen for such time as shall appear necessary, not, however, to extend beyond the time of the next meeting of the city council.

Mayor may appoint additional police

45. The mayor at any time, upon charges being preferred, or upon finding such chief or any other member of said police force guilty of misconduct, shall have power to suspend such member from service until the board of commissioners shall convene and take action in the matter: provided, however, that such member shall not remain so suspended for a longer period than thirty days, without having an opportunity of being heard in his defence; and upon hearing the proofs in the case, a majority of said commissioners may discharge or restore said member; and the pay or salary of such member shall cease from the time of suspension to the time of restoration to service, unless otherwise ordered by said board of commissioners in their written decision, which shall be filed with the city clerk; and any violation of the rules, regulations, or orders of said board, or any superior, shall be good cause for dismissal.

Mayor may suspend police

46. The salary of said chief and policemen shall be determined by the city council, and all bills of expense on account of the police department shall be audited by at least three of the said police commissioners.

Salaries

**Appointment** 47. The said chief of police, and every policeman, duly appointed as aforesaid, shall have issued to him a warrant of appointment, signed by the president of the board and countersigned by the city clerk, stating the date of his appointment, which shall be his commission, and he shall take such oath and give such bond as the city council may ordain, and subscribe the same in a book to be kept by the said city clerk for that purpose.

**Powers and duties of police** 48. The said chief of police and policemen shall, generally, have power to do whatever may be necessary to preserve the peace and good order of said city, and to secure the inhabitants from personal violence and their property from loss and injury. Such number of the said police force as the board of police commissioners may designate, shall, in criminal cases, have the same powers and duties, and be subject to the same penalties that are now prescribed by law as to constables.

**Uniform** 49. The said board of commissioners may prescribe such uniform and badges for the police force as they may deem proper, and direct in what manner they shall be armed. If any person other than a policeman shall publicly wear such uniform and badges as may be prescribed as aforesaid, he may be subjected to such fine, not exceeding the sum of one hundred dollars, as the city council may ordain.

**Shall vacate office** 50. As soon as said commissioners shall have entered upon the discharge of their duties, and appointments of policemen are made, and the policemen so appointed shall have qualified as aforesaid, then all the policemen who shall be in service previous thereto, shall immediately vacate their offices respectively, unless reappointed as hereinbefore provided.

**Fires; origin, &c** 51. The said board of police commissioners is hereby authorized and required to make an investigation into the origin and cause of every fire occurring in said city of Portsmouth, and for that purpose said commissioners are hereby invested with full power to summon before them any person or persons they may deem proper, to administer oaths to the same, to compel their attendance, and to examine them concerning said fires, and immediately after such inquisition they shall report the facts ascertained to the city council.

**Regulations, &c** 52. The city council shall have power to ordain and enforce such rules and regulations as shall be necessary and proper to prevent accidents by fire within the said city, or to secure the inhabitants thereof and their property from injury thereby, and to provide for the organization, equipment, and government of fire companies in said city, and to purchase and keep in order hand and steam fire engines and other necessary fire apparatus; also, to appoint and pay the necessary engineers, firemen, and drivers for said engines. They may, also, make such ordinances as may be necessary to compel citizens to render assistance to the fire companies in case of need. They may, also, appoint a chief engineer, prescribe his duty, and fix his compensation, not to exceed one hundred dollars per annum.

53. Whenever any building in the said city shall be on fire, it shall be the duty of, and be lawful for, the said chief engineer <sup>Duty of chief engineer</sup> to order and direct such building, or any other buildings, which he may deem hazardous and likely to communicate fire to other buildings, or any part of such buildings, to be pulled down and destroyed, and no action shall be maintained against any person, or against the said city therefor. But any person interested in any such building so destroyed or injured, may, within three months thereafter, apply to the city council to assess and pay the damages he has sustained. At the expiration of the three months, if any such application shall have been made in writing, the city council shall either pay the claimant such sum as shall be agreed upon by them and the said claimant for such damages, or, if no such agreement shall be effected, shall proceed to ascertain the amount of such damages, and shall provide for the appraisal, assessment, collection, and payment of the same, in the same manner as is provided for the ascertainment, assessment, collection, and payment of damages sustained by the taking of land for the purposes of public improvement. <sup>Damages on account of fires</sup>

54. The commissioners appointed to appraise and assess <sup>Assessment of damages</sup> the damages incurred by the said claimant, by the pulling down or the destruction of such building or any part thereof, by the direction of the said officer of the city, as above provided, shall take into account the probability of the same having been destroyed or injured by fire if it had not been so pulled down or destroyed, and may report that no damages should equitably be allowed to such claimant. Whenever a report shall be made, and finally confirmed, in said proceedings for appraising and assessing the damages, a compliance with the terms thereof by the city council, shall be deemed a full satisfaction of all said damages of the said claimant. But any party feeling aggrieved thereby may appeal to the circuit court for the city of Portsmouth, which court, in taking jurisdiction thereof, shall be governed by the laws regulating the assessment of damages to real estate in other cases.

## CHAPTER VI.

### *The Judiciary.*

55. There shall be elected by the qualified voters of the city of Portsmouth, on the fourth Thursday of May, eighteen hundred and eighty-two, and every sixth year thereafter, one clerk of the corporation or hustings court, who shall also be the clerk of the circuit court of said city, who shall serve for six years, and until his successor be elected and qualified, unless sooner removed from office. He shall give bond as clerk of the said corporation or hustings court, with sureties to be approved by the judge thereof, in the penalty of not less than ten thousand dollars, said bond to be filed in the office of the city clerk. He shall receive for his services the <sup>Clerk of hustings court</sup>

fees and emoluments which are now or may be hereafter allowed to clerks of circuit and county courts.

Common-  
wealth's  
attorney

56. There shall be elected on the fourth Thursday of May, eighteen hundred and eighty-two, and every two years thereafter, by the qualified voters of the city of Portsmouth, one commonwealth's attorney for the said corporation, who shall hold his office for the term of two years, and until his successor be elected and qualified. He shall perform such duties, have such powers, and be subject to such penalties as are now or may be hereafter prescribed by law.

City sergeant

57. There shall be elected by the qualified voters of the city of Portsmouth, on the fourth Thursday in May, eighteen hundred and eighty-two, and every second year thereafter, one city sergeant, who shall hold his office for the term of two years, and until his successor be elected and qualified, unless sooner removed from office. He shall give bond, with sureties to be approved by the judge of the corporation or hustings court, in the penalty of not less than thirty thousand dollars, said bond to be filed in the office of the clerk of said court of said city. He shall perform such duties, have such powers, and be liable to such penalties as are now or may be hereafter prescribed by law.

High constable

58. There shall be elected by the qualified voters of the city of Portsmouth, on the fourth Thursday in May, eighteen hundred and eighty-two, and every two years thereafter, one high constable, who shall hold his office for the term of two years, and until his successor is elected and qualified, unless sooner removed from office. He shall give bond, with sureties to be approved by the judge of the corporation or hustings court, in the penalty of not less than five thousand dollars, payable to the commonwealth of Virginia, and conditioned for the faithful performance of his duties; said bond to be filed in the office of the clerk of said court. He shall perform such duties, have such powers, and be subject to such penalties as are now or hereafter may be prescribed by the laws in reference to constables in the various counties and corporations of this commonwealth. Said high constable may appoint one or more deputies to attend to and execute the duties of his office, but the sureties on the bond of said high constable shall be equally liable for the acts of the said deputy or deputies as for those of the principal.

Bond

Duties, &c

Justices of the  
peace

59. There shall be elected by the qualified voters of each ward in the city of Portsmouth, on the fourth Thursday in May, eighteen hundred and eighty-three, and every two years thereafter, as many justices of the peace as there are councilmen elected for said ward, who shall be residents of the ward from which elected, and shall hold office for the term of two years, unless sooner removed from office, and until their successors shall be elected and qualified.

CHAPTER VII.

*City Officers.*

60. There shall be one city treasurer, one collector of city taxes, one commissioner of the revenue, one city surveyor, one city auditor, one city clerk, one city attorney, one keeper of the almshouse, one physician of the almshouse (who shall also be health officer), one street inspector, one clerk of the market, one wood measurer (who shall also be weigher of hay and gauger of liquors, and seller of weights and measures), one keeper of the cemeteries, and one sanitary inspector, all of whom shall be elected by the qualified voters of the city of Portsmouth, at such times as herein provided, and in such manner as prescribed by law, or as may hereafter be prescribed by the general assembly.

City officers to be elected

61. The council of the city of Portsmouth may fix, prescribe, and regulate the salaries of the judge of the corporation or hustings court, clerk of said court, city sergeant, the commonwealth's attorney, the high constable, the superintendent of public schools, employees of the fire department, and all other officers and employees of the said city, save and except the police department: provided, however, that the portions paid by the city of the salary or pay of said judge, clerk of the court, city sergeant, commonwealth's attorney, high constable, superintendent of public schools, employees of the fire department, and all other officers and employees of said city, shall not be less than the amounts allowed and paid the same on the first day of January, eighteen hundred and eighty-two, nor more than twenty-five per centum additional thereto.

Salaries

62. The council may take from any of the officers appointed or elected under this act, bonds with sureties, in such penalties as to the council may seem fit, payable to the city by its corporate name, with conditions for the faithful performance of their duties, save when it is otherwise provided for in this act.

Bonds

63. The parties to bonds taken in pursuance of this act, their heirs, devisees, executors, and administrators, shall be subject to the same proceedings on said bonds for enforcing the terms and conditions thereof, by motions or otherwise, before the circuit court for the city of Portsmouth, or the corporation or hustings court of said city, or any other court held in said city, which may succeed to their civil common law jurisdiction, that collectors of the county levy and their sureties are, or shall be, subject to on their bonds for enforcing the payment of the county levies.

Proceedings on bonds

64. The city treasurer shall give bond, with sureties, in the penalty of not less than thirty thousand dollars, said bond to be approved by the city council, and filed in the office of the city clerk.

Bond of treasurer

Bond of city collector

65. The city collector shall give bond, with sureties, to be approved by the city council, in the penalty of not less than thirty thousand dollars, said bond to be filed in the office of the city clerk.

Bond of commissioner of the revenue

66. The commissioner of the revenue shall give bond, with sureties, to be approved by the city council, in the penalty of not less than two thousand dollars, said bond to be filed in the office of the city clerk.

Bond of city auditor

67. The city auditor shall give bond, with surety, to be approved by the judge of the corporation or hustings court of said city, to the amount of not less than ten thousand dollars, said bond to be filed with the clerk of said court. The said auditor shall open and keep, in a neat and methodical manner, a complete set of books, under the direction of the city council, wherein shall be stated, among other things, the appropriation for the year for each distinct object and branch of expenditure, and also the receipts from each and every source of revenue, so far as he can ascertain the same. Said books, and all papers, vouchers, contracts, bonds, receipts, and other things kept in said office, shall be subject to the examination of the mayor, the members of the city council, or any committee therefor. Said auditor shall hold his office in such place as shall be designated and prescribed by the city council.

Power of auditor

68. The said auditor shall have power to examine all accounts, claims, and demands for or against the said city, when required so to do by the city council; and whenever any account, claim, or demand, as above mentioned, shall be found by said auditor to be correct, he shall certify the same to the city council. He shall issue his warrant, and the president shall countersign the same, for all bills approved by the said city council, and certified to him by said clerk of said council.

Warrants

69. All money found to be due and payable by the said auditor to any person, shall be drawn by the said auditor by warrant on the treasurer, countersigned by the president of the council, stating the particular fund and appropriation to which the same is chargeable, and the person to whom payable; and no money shall be drawn from the treasury except upon the warrant as aforesaid.

Duty of auditor

70. In addition to the other duties of said auditor, it is hereby made his duty, on the last day of each and every month, to make out a monthly statement, giving a full and detailed account of all moneys received, from what source, and on what account received, and of all moneys ordered to be paid or drawn for by warrant by him; and on what account the same have been paid; and shall deliver said statement to the said city council, at their meeting, to be filed after the adjournment of said council, by the city clerk, with the papers belonging to his office.

Form of bonds

71. The bonds of all city officers shall be made payable to the city of Portsmouth by its corporate name.

72. The duties of all city and municipal officers shall be the same as prescribed by this act, or when not herein prescribed shall be the same as now prescribed by law and the city ordinances.

73. The act approved March eleventh, eighteen hundred <sup>Repeal</sup> and seventy-three, entitled an act to provide a new charter for the city of Portsmouth, and all acts amendatory thereof and supplemental thereto, and all acts and parts of acts, and city ordinances, in conflict with this act, are hereby repealed; and all acts and parts of acts, and all city ordinances not in conflict with this act, are to remain in full force and effect.

74. This act shall be in force from its passage.

Commencem't



ACTS

AND

JOINT RESOLUTIONS

PASSED BY THE

GENERAL ASSEMBLY

OF THE

STATE OF VIRGINIA

DURING THE

EXTRA SESSION OF 1882.

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