

Chapter 41. Transition of City to Town Status.

§ 15.2-4100. City may change to town status.

A city may change to town status in accordance with the provisions of this chapter.

1988, c. 881, § 15.1-965.9; 1997, c. 587.

§ 15.2-4101. Ordinance petitioning court for town status; notice of motion.

A. Any city in this Commonwealth with a population at the time of the latest United States decennial census of less than 50,000 people, after fulfilling the requirements of Chapter 29 (§ 15.2-2900 et seq.), may by ordinance passed by a recorded majority vote of all the members thereof, petition the circuit court for the city, alleging that the city meets the criteria set out in § 15.2-4106 for an order granting town status to the city. The circuit court with which the petition is filed shall notify the Supreme Court, which shall appoint a special court to hear the case as prescribed by Chapter 30 (§ 15.2-3000 et seq.) of this title.

B. Before instituting a proceeding under this chapter for a grant of town status, a city shall serve notice on the county attorney, or if there is none, on the attorney for the Commonwealth, and on the chairman of the board of supervisors of the adjoining county that it will, on a given day, petition the circuit court for a grant of town status. The notice served on each official shall include a certified copy of the ordinance. A copy of the notice and ordinance, or a descriptive summary of the notice and ordinance and a reference to the place within the city or adjoining county where copies of the notice and ordinance may be examined, shall be published at least once a week for four successive weeks in some newspaper having general circulation in the city and adjoining county. The notice and ordinance shall be returned after service to the clerk of the circuit court. Certification by the owner, editor or manager of the newspaper publishing the notice and ordinance shall be proof of publication.

1988, c. 881, §§ 15.1-965.10, 15.1-965.11; 1997, c. 587.

§ 15.2-4102. Citizen petition for town status.

Voters equal in number to fifteen percent or more of the registered voters of the city as of January 1 of the year in which the petition is filed may petition the circuit court for the city, stating that it is desirable that such city make the transition to town status. All of the signatures on the petition shall have been made and filed within a twelve-month period. A copy of the petition shall be served on the city attorney and the county attorney, or if there is none, on the attorney for the Commonwealth for the county and on the mayor of the city and the chairman of the board of supervisors of the adjoining counties. A copy of the petition shall be published at least once a week for four successive weeks in a newspaper having general circulation in the city and the adjoining county. The case shall proceed in all respects as though instituted in the manner prescribed in § 15.2-4101, and the court shall forthwith refer the petition to the Commission on Local Government for review pursuant to Chapter 29 (§ 15.2-2900 et seq.).

1988, c. 881, § 15.1-965.10; 1997, cc. 178, 587.

§ 15.2-4103. Parties.

In any proceedings instituted under the provisions of this chapter, the adjoining county shall be made party to the case. Any qualified voter or property owner of the city or adjoining county may

by petition become party to the proceedings.

1988, c. 881, § 15.1-965.12; 1997, c. 587.

§ 15.2-4104. Time limit for intervenors; publication of order.

The special court shall by order fix a time within which a qualified voter, property owner, political subdivision, or other interested party not served may become a party to proceedings instituted under this chapter, and thereafter no such petition shall be received except for good cause shown. A copy of the order shall be published at least once a week for two successive weeks in a newspaper of general circulation in the city and county.

1988, c. 881, § 15.1-965.13; 1997, c. 587.

§ 15.2-4105. Pretrial conference; matters considered.

The special court shall, prior to hearing any case under this chapter, direct the attorneys for the parties to appear before it or, in its discretion, before a single judge, for a conference to consider:

1. Simplification of the issues;
2. Amendment of pleadings and filing of additional pleadings;
3. Stipulations as to facts, documents, records, photographs, plans and like matters, which will dispense with formal proof thereof, including:
 - a. Assessed values and the ratio of assessed values to true values, as determined by the State Department of Taxation, in the city seeking to become a town and in the county including real property, personal property, machinery and tools, merchants' capital and public service corporation assessment for each year of the five years immediately preceding;
 - b. School population and school enrollment in the city seeking to become a town and in the county, as shown by the records in the office of the division superintendent of schools; and cost of education per pupil in average daily membership, as shown by the last preceding report of the Superintendent of Public Instruction;
 - c. Population and population density of the city seeking to become a town and of the county;
4. Long-term and short-term indebtedness of both the city and the county;
5. Limitation or expansion of pretrial discovery procedures;
6. Limitation of the number of expert witnesses; each expert witness who will testify shall file a statement of his qualifications;
7. Such other matters as may aid in the disposition of the case.

The court, or the judge, as the case may be, shall make an appropriate order which will control the subsequent conduct of the case unless modified for good cause before or during the trial or hearing.

1988, c. 881, § 15.1-965.15; 1997, c. 587; 2010, cc. [386](#), [629](#).

§ 15.2-4106. Hearing and decision by court.

A. The special court shall enter an order granting town status if, after hearing the evidence, the court finds that:

1. The city has a current population of less than 50,000 people;
 2. The adjoining county or counties have been made party defendants to the proceedings;
 3. The proposed change from city to town status will not substantially impair the ability of the adjoining county in which the town will be located to meet the service needs of its population;
 4. The proposed change from city to town status will not result in a substantially inequitable sharing of the resources and liabilities of the town and the county;
 5. The proposed change from city to town status is, in the balance of equities, in the best interests of the city, the county, the Commonwealth, and the people of the county and the city; and
 6. The proposed change from city status to town status is in the best interests of the Commonwealth in promoting strong and viable units of government.
- B. The court shall have authority to impose such terms and conditions as it deems appropriate to:
1. Ensure an orderly transition from city status to town status;
 2. Adjust financial inequities;
 3. Balance the equities between the parties; and
 4. Ensure protection of the best interests of the city, the county, the Commonwealth, and the people of the county and the city.
- C. The court shall render a written opinion in every case brought under the provisions of this chapter.
- D. In the event the court enters an order declaring the city eligible for town status, a copy of the order shall be certified to the Secretary of the Commonwealth.

1988, c. 881, § 15.1-965.16; 1997, c. 587.

§ 15.2-4107. Assistance of state agencies.

The special court may, in its discretion, direct any appropriate state agency, in addition to the Commission on Local Government, to gather and present evidence, including statistical data and exhibits, for the court, to be subject to the usual rules of evidence. The court may determine the actual expense of preparing such evidence and may tax such expense as costs in the case; the costs, if so taxed, shall be paid by the clerk into the general fund of the state treasury, and credited to the agency furnishing the evidence.

1988, c. 881, § 15.1-965.17; 1997, c. 587.

§ 15.2-4108. Appeals.

Appeals may be granted by the Supreme Court of Virginia as provided in §§ [15.2-3221](#) and [15.2-3222](#), which shall apply mutatis mutandis.

1988, c. 881, § 15.1-965.18; 1997, c. 587.

§ 15.2-4109. Declining a grant of town status.

In any proceedings brought under the provisions of this chapter, the governing body of the city,

may, by ordinance or resolution, decline to accept eligibility for town status on the terms and conditions imposed by the special court at any time prior to twenty-one days after entry of an order granting eligibility for town status, or within twenty-one days after denial of a petition for appeal or within twenty-one days after the entry of the mandate in an appeal which has been granted.

1988, c. 881, § 15.1-965.19; 1997, c. 587.

§ 15.2-4110. Proceedings final for five years.

In the event the special court determines the city to be ineligible for town status or in the event that town status is declined under the provisions of § 15.2-4109, no subsequent proceedings shall be brought under the provisions of this chapter within five years of the date of the final order.

1988, c. 881, § 15.1-965.20; 1997, c. 587.

§ 15.2-4111. Effective date of transition.

The special court in its order granting town status shall specify the effective date of transition from city status to town status, but in no event shall such date be sooner than six months from the date of the court order.

1988, c. 881, § 15.1-965.21; 1997, c. 587.

§ 15.2-4112. Charter for resulting town.

A. If a proposed charter for the resulting town has been approved by the General Assembly for adoption pending order of the special court pursuant to this chapter, such proposed charter shall be the charter of the town upon approval of the transition from city to town status.

B. If no such proposed charter for the resulting town has been approved by the General Assembly, the court shall enter an order conforming the city charter to a town charter, which shall be the charter of the town until a new charter is granted by the General Assembly.

1988, c. 881, § 15.1-965.22; 1997, c. 587.

§ 15.2-4113. Restriction on subsequent change in status.

Notwithstanding any contrary provision of law, general or special, a town created under this chapter shall not return to its previous independent city status.

1996, cc. 337, 349, § 15.1-965.22:1; 1997, c. 587.

§ 15.2-4114. Liabilities and assets of such city.

Unless otherwise provided by agreement of the governing bodies of the city and county, or by order of the special court pursuant to § 15.2-4106, a town created under this chapter shall remain liable for all of the bonded indebtedness, current debts, obligations, and liabilities if incurred as a city. Unless otherwise provided by agreement of the governing bodies of the city and county, or by order of the court pursuant to § 15.2-4106, the title to all of the real and personal property of the former city and all of its rights and privileges under any contract, and all of its books, records, papers and other things of value, shall vest in and become the property of the town.

1988, c. 881, § 15.1-965.23; 1997, c. 587.

§ 15.2-4115. Effect when city becomes town; officers.

When a city becomes a town under the provisions of this chapter, its ordinances shall become the

ordinances of the town, insofar as they are applicable, and consistent with law, until they are repealed, and the existence of such city as an independent city of the Commonwealth shall terminate, as shall the terms of office and the rights, powers, duties and compensation of its constitutional officers and their deputies and employees. All officers, agents and employees of the city, including the mayor and the members of city council, shall continue to serve as the officers, agents and employees of the town, until their positions or offices are terminated as provided by law, or in the case of the mayor and members of council, until their successors are elected or appointed. The circuit court shall order an election to be held pursuant to § 24.2-682 not less than thirty nor more than 180 days after the date of the special court order granting town status, but at least thirty days before the effective date of the transition from city to town status, at which election the town council and other elected officers of the town shall be selected. The terms of such officers shall commence on the day the transition from city to town status becomes effective and shall continue, unless otherwise removed, until their successors have been elected and assume office. The successors or all such officers whose first election is herein provided for shall thereafter be elected at the time, in the manner and for the terms provided by general law.

1988, c. 881, § 15.1-965.24; 1997, c. 587.

§ 15.2-4116. Library aid continued.

In any transition under the provisions of this chapter, if a regional library system existed between a former city and the county surrounding it, or if the former city continues to operate an independent library, the Commonwealth shall continue state aid to the former regional library system or independent library the same as if no transition had occurred.

1991, c. 189, § 15.1-965.24:1; 1994, c. 775; 1997, c. 587; 2009, c. 483; 2013, c. 363.

§ 15.2-4117. Temporary restriction on annexation.

For a period of two years from the effective date of a court order granting town status to a city making the transition from city status to town status, the town shall not file an annexation notice with the Commission on Local Government pursuant to § 15.2-2907, nor shall it institute an annexation court action against any county. However, the foregoing shall not prohibit the institution of nor require the stay of an annexation proceeding or the filing of an annexation notice for the purpose of implementing an annexation agreement, provided that the extent, terms and conditions of such agreement have been agreed upon by the governing bodies of the county and the town.

1996, cc. 641, 649, § 15.1-965.24:2; 1997, c. 587.

§ 15.2-4118. Effect on pending suits.

If at the time a city becomes a town under the provisions of this chapter there are any pending actions or proceedings by or against the city, or if after a city becomes a town under the provisions of this chapter an action or proceeding out of a cause of action which arose prior to the time the city became a town, which but for said transition would have been by or against the city, is instituted, the resulting town shall be substituted in place of the city and the action or proceeding may be perfected to judgment.

1988, c. 881, § 15.1-965.25; 1997, c. 587.

§ 15.2-4119. Effect on jurisdiction of courts.

Upon the effective date of the transition from city to town status, all criminal prosecutions then

pending therein, whether by indictment, warrant or other complaint, and all suits, actions, motions, warrants, and other proceedings of a civil nature, with all the records of the courts of the city, shall stand ipso facto removed to the courts of concurrent or like jurisdiction of the appropriate county. The circuit and other courts having courthouses and records in and jurisdiction over the city shall, at some convenient time, as closely preceding the period of removal as practicable, by formal orders entered of record, direct the removal of all such causes and proceedings, civil and criminal, to the court or courts of concurrent or like jurisdiction of the county. The clerk of the court or courts to which the causes and proceedings have been removed shall thereupon proceed as in other cases of removal or changes of venue and such matters shall be docketed and handled as though initially filed in such court or courts. At the same time such clerk or clerks shall also deliver to the proper clerk or clerks of the county all the deed books, order or minute books, execution dockets, judgment dockets and other records of his office, of whatever kind or nature. The clerk or clerks of the court or courts to which the records are removed shall take charge of and preserve the records for reference and use in the same manner and with the same effect as though they were original records of his office.

1988, c. 881, § 15.1-965.26; 1997, c. 587; 2005, c. 681.

§ 15.2-4120. Court granting transition to town status to exist for ten years.

A. The special court created pursuant to § 15.2-4101 shall not be dissolved after rendering a decision granting any motion or petition for transition to town status, but shall remain in existence for a period of ten years from the effective date of any transition order entered, or from the date of any decision of the Supreme Court affirming such an order. Vacancies occurring in the court during such ten-year period shall be filled by designation of another judge from the panel provided for in Chapter 30 (§ 15.2-3000 et seq.) of this title.

B. The court may be reconvened at any time during the ten-year period on its own motion, or on motion of the governing body of the county, or of the town, or on petition of not less than fifteen percent of the registered voters of the town.

C. The court shall have power and it shall be its duty, at any time during such period, to enforce the performance of the terms and conditions under which town status was granted, and to issue appropriate process to compel such performance. The court may, in its discretion, award attorneys' fees, court and other reasonable costs to the party or parties on whose motion the court is reconvened.

D. Any such action of the court shall be subject to review by the Supreme Court in the same manner as is provided with respect to the original decision of the court.

1988, c. 881, § 15.1-965.27; 1997, c. 587.