

Re: Annulment Town of Hurt's Charter

From: John Eller, Town Attorney

Mayor, Council and Citizens of Hurt:

At the March 19 work session, Council requested further information on how to terminate Hurt's existence as a town.

The process is complicated with many steps, all of which are set forth in Chapter 37 of Title 15.2 of the Va Code which provides a step by step process for a town to annul its charter thus terminating its existence. A copy of Chapter 37 together with a summary of the steps is attached for your review.

As can be seen, in Sec 15.2-3701 the threshold action to be accomplished is for the town and Pittsylvania County to enter into an agreement for the transfer of all of the town's property, revenue, debt, obligations and services to the county and for the county to assume the town's debt. This step would likely be the most difficult and time consuming one and if the county did not agree to take ownership of the town's property and obligations the annulment process could not move any further.

If agreement is reached as to all of the above stated matters except the assumption of the town's debt, Section 15.2-3709 provides for the creation of a "special debt district" which would be all of the land within the Town's boundary. A special tax would be levied on the real estate in the Town to retire the debt in a period not to exceed 20 years. Thus, as long as the town debt is outstanding, the Town would not be free of real estate taxes.

The Town's debt resulting from the consent order as to the water system would be approximately \$680,000.00. Mayor Hodnett is holding a town forum tonight (April 11) at 5: 30 p.m. to discuss the consent order and answer questions about it.

Due to the complicated nature of the charter annulment process I cannot handle it as a part of my monthly fee. My hourly rate for this work would be \$200.00 and I estimate a bare minimum of 30 hours of work would be required and it could be more depending on the issues that may arise.

I am sure that the agreement with the county would be complicated because of the various projects in which the town is involved, i.e. the Staunton Plaza, solar farm, water system and debt related thereto and town owned real estate, town obligations such as solid waste pickup, street lights, snow removal and police department. I am sure that other issues will be raised in the negotiations.

If agreement can be reached with the county then the procedure set forth in Chapter 37 would be followed. The Circuit Court of Pittsylvania County would order a referendum to be held and if a majority of those voting vote "yes" then the process moves forward to

annulment. If the referendum fails to result in a majority in favor of annulment the matter would end there and the agreement with the county would not go into effect.

So to get the process started Council would have to vote by a majority of council members, that is 4 votes, to hire me (or other attorney if desired) to handle the process beginning with negotiations with the Pittsylvania County Board of Supervisors.

I talked to Tim Dudley, Hurt's representative on the Pittsylvania County Board of Supervisors, and he said if council votes to move forward he would assist in setting up a meeting to start the process.

John Eller
Town Attorney

Code of Virginia

Title 15.2. Counties, Cities and Towns

Subtitle III. Boundary Adjustments and Changes of Status of Counties, Cities and Towns

Chapter 37. Annulment of Town Charters

Chapter 37. Annulment of Town Charters.

§ 15.2-3700. Towns may annul charters.

A town may annul its charter in accordance with the provisions of this chapter.

1992, c. 453, § 15.1-965.28; 1997, c. 587.

§ 15.2-3701. Agreement required.

Before initiating proceedings pursuant to this chapter, a town council shall enter into an agreement with the board of supervisors of the county or counties within which the town is located. The agreement shall provide for the transfer to the county or counties of all of the revenues the town receives, the services it performs, its facilities, including real and personal property, and other assets, including all debts due to the town, and for the assumption by the county or counties of all of the town's indebtedness, bonded and otherwise.

The agreement required by this section may be an agreement between the governing body of the town and the governing bodies of two or more counties or cities, in one or more of which the town is located, which are parties to a consolidation agreement under Chapter 35 (§ 15.2-3500 et seq.) of this title and may provide that the agreement shall be binding on the consolidated jurisdiction upon the effective date of consolidation.

1992, c. 453, § 15.1-965.29; 1997, c. 587.

§ 15.2-3702. Ordinance required.

After the agreement required by § 15.2-3701 has been reached, the town council may, by ordinance passed by a recorded majority vote of all the members thereof, petition the circuit court for the county or counties in which the town is located for an order requiring a referendum on the question of whether the town charter shall be annulled and repealed.

1992, c. 453, § 15.1-965.30; 1997, c. 587.

§ 15.2-3703. Notice of motion; service and publication; docketing.

Upon adoption of the ordinance required by § 15.2-3702, the town shall serve notice on the attorney for the Commonwealth, or on the county attorney, if there is one, and on the chairman of the governing body of the county or counties in which the town is located that it will, on a given day, not less than thirty days thereafter, move the circuit court for an order as provided by § 15.2-3702. A copy of the notice and ordinance, or a descriptive summary of the notice and ordinance and a reference to the place within the town where copies of the notice and ordinance may be examined, shall be published at least once a week for four successive weeks in a newspaper having general circulation in the town. The proof of service or certificate of service of the notice and ordinance shall be returned after service to the clerk of the circuit court. When the publication of the notice and ordinance is completed, the case shall be docketed for entry of the referendum order. Certification of the owner, editor or manager of the newspaper publishing the notice and ordinance shall be proof of publication.

1992, c. 453, § 15.1-965.31; 1997, c. 587.

§ 15.2-3704. Order for election; conduct of election.

When publication of the notice and ordinance is completed, the circuit court shall by order issued in accordance with § 24.2-684 require the regular election officers of the county or counties in which the town is located to open the polls on the day fixed in the order and take the sense of the qualified voters of the town on the question submitted as provided in this section. The regular election officers, at the time designated in the order, shall open the polls at the various voting places in the town and conduct the election in the manner provided by general law for other elections. The ballots used shall be printed and shall contain the following:

"Shall the charter for the Town of _____ be annulled and repealed?"

Yes

No."

1992, c. 453, §§ 15.1-965.32, 15.1-965.33; 1997, c. 587.

§ 15.2-3705. Results of election.

The ballots shall be counted and returns made and canvassed as in other elections and the results certified by the secretary of the electoral board to the judge of the circuit court. If the report of the secretary of the electoral board shows that a majority of the qualified voters of the town voting on the question submitted are in favor of the annulment, the judge shall enter such fact of record and shall notify the Secretary of the Commonwealth, and the annulment shall be effective on January 1 of the year following the year in which the order entering such fact of record is issued or, in the discretion of the court, on the second January 1 following the year in which issued. However, the court, upon joint petition of the governing bodies of the town and county or counties in which the town is located, may order the annulment effective on any other date or dates.

1992, c. 453, § 15.1-965.34; 1997, c. 587.

§ 15.2-3706. Annulment of surrendered charter.

Upon the effective date of the annulment, the town charter which is surrendered by the ordinance shall be annulled. The terms and conditions of the contract with the county or counties in which the town is located required by § 15.2-3701 shall be a binding and irrevocable contract in favor of the public, compliance with which in all its parts may be enforced, and violation of which may be prevented, by mandamus or injunction from the Supreme Court or from any circuit court at the suit or relation of any citizen or taxpayer.

1992, c. 453, § 15.1-965.35; 1997, c. 587.

§ 15.2-3707. General effect of annulment.

Upon the effective date of annulment, the town shall terminate, as shall the terms of office and the rights, powers, duties and compensation of the officers, agents and employees of the town.

1992, c. 453, § 15.1-965.36; 1997, c. 587.

§ 15.2-3708. Transfer of property and indebtedness.

Upon the effective date of annulment, the title to all property, real and personal, tangible and intangible, of the former town shall be vested in, and the indebtedness become a debt of, the county or counties in which the town was located without any further act or deed.

1992, c. 453, § 15.1-965.37; 1997, c. 587.

§ 15.2-3709. Special debt district.

If so provided in the agreement required by § 15.2-3701, the territory constituting the former town may be a special debt district for the purpose of repaying all or part of the existing indebtedness chargeable to the town before annulment. A special tax on real property within the special debt district shall be levied for a period not exceeding twenty years. The special tax may be different from and in addition to the general tax rate throughout the entire county or counties in which the town was located.

1992, c. 453, § 15.1-965.38; 1997, c. 587.

§ 15.2-3710. Records and documents.

All records and documents of the former town shall pass to and be held by the county or counties in which the town was located which shall be responsible for the preservation, maintenance and custody of these records and documents.

1992, c. 453, § 15.1-965.39; 1997, c. 587.

§ 15.2-3711. Effect on pending suits.

If at the time of annulment there are any pending actions or proceedings by or against the town, or if after the effective date of annulment an action or proceeding out of a cause of action which arose prior to the time of annulment, which but for the annulment would have been by or against the town, is instituted, the county or counties in which the town was located shall be substituted in place thereof and the proceeding may be perfected to judgment. The agreement required by § 15.2-3701 may provide that if judgment against the county or counties results from the proceeding, the liability shall be paid by the special debt district as provided in § 15.2-3709.


1992, c. 453, § 15.1-965.40; 1997, c. 587.


§ 15.2-3712. Repeal of charter.

After a town charter has been annulled in accordance with this chapter, the local governing body of the county or counties in which the town was located shall make a request to a state legislator representing that county that the General Assembly repeal the town charter at the next legislative session.

1992, c. 453, § 15.1-965.41; 1997, c. 587.

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[Virginia Register of Regulations](#)
[U.S. Constitution](#)

 For Developers

The Virginia Law website data is available via a web service. 



ANNULMENT OF TOWN CHARTER
CHAPTER 37, TITLE 15.2

I. Eligibility

This chapter authorizes any town to surrender its charter and revert to unincorporated status.

II. Procedure for Initiating Action

(Sec. 15.2-3701, Code of Va.)

- A. Prior to petitioning the local circuit court for the annulment of a town charter, the town governing body must enter into an agreement with the county or counties within which the town is located.
- B. The agreement must include provisions with respect to the following actions:
 - 1. Transfer to the county of all town revenues, services, real and personal property, and other assets.
 - 2. Assumption by the county of all existing town indebtedness.

III. Action by Town Governing Body

(Secs. 15.2-3702 and 15.2-3703, Code of Va.)

- A. After the adoption of an agreement proposing the annulment of a town charter by the town and the affected county governing bodies, the town council must petition the local circuit court for an order calling for a referendum on the question of the repeal and annulment of the town charter.
- B. The town must also serve the appropriate county officials with notice of its intended action, and it must publish the notice and ordinance as required by Section 15.2-3703, Code of Virginia.

IV. Order of Election and Referenda

(Secs. 15.2-3704 and 15.2-3705, Code of Va.)

- A. Following the completion of the publication requirement, the circuit court shall enter an order establishing a date for a referendum on the question of the annulment of the town charter.
- B. If the annulment of the municipal charter is approved by a majority of the voters in the

town, the judge of the circuit court shall enter an order recording that fact. The annulment shall become effective on January 1 of the year following the year in which the order entering such fact of record is issued or, in the discretion of the court, on the second January 1 following the year in which issued, unless the town and county petition the court to order the annulment on any other mutually agreed date.

V. Effect of Annulment

A. Town Charter

(Secs. 15.2-3706 and 15.2-3712, Code of Va.)

Upon the effective date of the annulment, the corporate body of the town is dissolved, and the charter of the town is surrendered. At the session of the General Assembly following the annulment, the affected county shall request that body to repeal the charter of the town.

B. Town Officials

(Sec. 15.2-3707, Code of Va.)

Upon the effective date of annulment, the terms of office and the rights, powers, duties, and compensation of the officers, agents, and employees of the town are terminated.

C. Transfer of Property and Indebtedness

(Sec. 15.2-3708, Code of Va.)

Upon the effective date of the annulment, the title of all real and personal property and responsibility for the indebtedness of the former town shall pass to the affected county.

D. Special Debt Retirement District

(Sec. 15.2-3709, Code of Va.)

If provided for in the agreement between the town and the county, the territory constituting the former town may be a special debt district for the purpose of repaying all or part of the existing indebtedness chargeable to the town before annulment. A special tax on real property within the special debt district shall be levied for a period not exceeding twenty years. The special tax may be different from and in addition to the general tax rate throughout the entire county or counties in which the town was located.

E. Pending Legal Proceedings
(Sec. 15.2-3711, Code of Va.)

1. Any judicial proceedings pending against the former town at the time of the annulment may be perfected to judgment against the parent county.
2. If provided for in the agreement between the town and the county, a judgment against the county resulting from a pending judicial proceeding may be paid by the special debt district created pursuant to Section 15.2-3709, Code of Virginia.