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HOUSE BILL NO. 1736

House Amendments in [] - February 3, 2009

A BILL to amend and reenact §§ 3.04, as amended, 3.06, 3.07, 3.10, and 3.15, as amended, of Chapter 619 of the Acts of Assembly of 1975, which provided a charter for the Town of Blacksburg, relating to town council elections, town council salaries, town council vacancies, and civil penalties for ordinance violations.

Patron Prior to Engrossment—Delegate Shuler

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.04, as amended, 3.06, 3.07, 3.10, and 3.15, as amended, of Chapter 619 of the Acts of Assembly of 1975 are amended and reenacted as follows:

§ 3.04. Election and Term of Office.—The council shall be elected in the manner provided by Virginia election laws, except insofar as they are amended by this section. Three council members shall be elected ~~on the first Tuesday in May, 1976, on the November 2011 general election date~~ and every four years thereafter. A mayor and three other council members shall be elected on the ~~first Tuesday in May, 1978, November 2009 general election date~~ and every four years thereafter.

The term of office for all council members shall begin on the first day of ~~July~~ January next following their election, and each shall serve for a term of four years or until his or her successor shall have been elected and qualified. The council members may succeed themselves as often as the voters may choose.

Candidates for council shall be nominated only by petition in the manner prescribed by general law. Candidates for town council shall not be identified on the ballot by political affiliation.

§ 3.06. Compensation; Expenses.—The council may determine the annual salary of its members by ordinance or resolution ~~but no ordinance or resolution increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election in accordance with the requirement of state law.~~ Council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

§ 3.07. Mayor and Vice-Mayor.—The mayor as a member of the council shall have the same powers and duties as other members of the council, with a vote, but no veto. In addition, he shall preside at meetings of the council, shall be recognized as head of the town government for all ceremonial purposes, for purposes of military law, and for the service of civil processes, but shall have no administrative duties.

At the first meeting of the council in ~~July of each even-numbered year~~ January next following the date of each November council election, the council shall elect from its members a vice-mayor who shall serve for a term of two years. The vice-mayor shall act as mayor during the absence or disability of the mayor, and, if a vacancy occurs, shall become mayor until the next regular councilmanic council member election. At that election a mayor shall be elected to fill the unexpired term.

§ 3.10. Vacancies; Forfeiture of Office; Suspension and Removal; Filling of Vacancies.—(a) Vacancies. The office of a council member shall become vacant upon his death, resignation, removal from office in any manner authorized by law or this charter or forfeiture of his office.

(b) Forfeiture of Office. A council member shall forfeit his office if he (1) lacks at any time during his term of office any qualification for the office prescribed by this charter or by law, (2) violates any express prohibition of this charter, (3) is convicted of a crime involving moral turpitude, or (4) fails to attend three consecutive regular meetings of the council without being excused by the council.

(c) Suspension and Removal. The council shall suspend or remove elected town officers for misconduct in office or neglect of duty, to be specified in the order of suspension or removal; but no removal shall be made without reasonable notice to the officer complained of and an opportunity afforded him to be heard in his defense. Removal shall require a unanimous vote of the remaining members of the council.

(d) Filling of Vacancies.—(1) A vacancy on the council shall be filled within sixty days, for the unexpired term, by a majority vote of the remaining members, if the vacancy occurs two years or less before the date of expiration of such term.

(2) If the vacancy occurs more than two years before the expiration of the term, the vacancy shall be filled by a majority vote of the remaining members of council only until the next councilmanic council member election, at which election the voters of the town shall elect a person to serve as council member for the remaining two years of the term. ~~The~~ Any such election shall be subject to the

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59 *requirements of § 24.2-226 of the Code of Virginia. When such an election is conducted, the candidates*
60 *receiving the highest number of votes will be entitled to full terms and the candidate receiving the next*
61 *highest number shall be entitled to the unexpired term caused by the vacancy.*

62 Notwithstanding the requirement in § 3.15 (c) hereof that a quorum of the council consists of four
63 members, if at any time the membership of the council is reduced to less than four, the remaining
64 members shall call for a special election to fill the vacancies for the unexpired terms.

65 § 3.15. Ordinances.—(a) Action Requiring an Ordinance. In addition to other acts required by law or
66 by specific provision of this charter to be done by ordinance, those acts of the town council shall be by
67 ordinance which:

68 (1) Adopt or amend an administrative code or establish, alter or abolish any town department, office
69 or agency;

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

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

74 (4) Grant, renew or extend a franchise;

75 (5) Regulate the rate charged for its services by the town; provided, however, that the council may
76 by resolution authorize the rates or fees charged by the Department of Parks and Recreation for use of
77 its facilities or participation in its programs and authorize the rates and fees charged by other
78 departments of the town for sale of maps, reports or other publications or making of copies of printed or
79 recorded matter;

80 (6) Authorize the borrowing of money;

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

82 Acts other than those referred to in the preceding sentence may be done either by ordinance or by
83 resolution if not in conflict with law.

84 (b) Form. Every proposed ordinance shall be introduced in writing and in the form required for
85 adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title.
86 The enacting clause shall be "Be it ordained by the Council of the Town of Blacksburg . . ."

87 (c) Procedure. An ordinance may be introduced by any member at any regular or special meeting of
88 the council. Upon introduction of any ordinance, the town clerk shall distribute a copy to each council
89 member and to the manager, shall file a reasonable number of copies in the office of the town clerk and
90 such other public places as the council may designate, and shall publish the ordinance together with a
91 notice setting out the time and place for a public hearing thereon and for its consideration by the
92 council. The public hearing shall follow the publication by at least twelve days, may be held separately
93 or in connection with a regular or special council meeting and may be adjourned from time to time; all
94 persons interested shall have an opportunity to be heard. After the hearing the council may adopt the
95 ordinance with or without amendment or reject it but, if it is amended so as to materially change the
96 purpose and character of the proposed ordinance, the council may not adopt it until the ordinance or its
97 amended sections have been subjected to all the procedures hereinbefore required for a newly introduced
98 ordinance.

99 To pass an ordinance, the council shall vote on the proposed ordinance two times; on first and
100 second reading. If at any stage in this procedure the proposed ordinance fails to receive the affirmative
101 vote of a majority of the members of the council, the ordinance shall be declared defeated and removed
102 from the calendar of ordinances. Any ordinance which is not passed at the same meeting at which the
103 public hearing is held may not be passed at a subsequent meeting unless the agenda for the meeting
104 indicates that the ordinance will be removed from the calendar of ordinances for consideration at that
105 meeting.

106 (d) Effective Date. Except as otherwise provided in this charter, every adopted ordinance shall
107 become effective from its passage or at any later date specified therein.

108 (e) "Publish" Defined. As used in this section, the term "publish" means to print in one or more
109 newspapers of general circulation in the town: (1) the ordinance or a brief summary thereof, and (2) the
110 places where copies of it have been filed and the times when they are available for public inspection.

111 (f) Penalties. *The town council may prescribe [civil as well as either civil or] criminal penalties*
112 *for violations of ordinances. Any civil penalty shall be paid into the general fund of the town. No civil*
113 *penalty prescribed for an ordinance violation shall be inconsistent with the penalty established for a*
114 *violation of a substantially similar state law. No such civil penalty shall exceed \$1,000 for any*
115 *individual violation.*