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HOUSE BILL NO. 1440

Offered January 9, 2013

Prefiled December 20, 2012

A BILL to provide a new charter for the Town of Monterey in Highland County and to repeal Chapter 709 of the Acts of Assembly of 1952, as amended, which provided a charter for the Town of Monterey.

Patron—Bell, Richard P.

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1.

CHARTER
FOR THE
TOWN OF MONTEREY.

§ 1. The Town of Monterey, in the County of Highland, as it has been or may hereafter be laid off into lots, streets, and alleys, and as its limits are or may hereafter be established by law, is and shall continue to be a body politic and corporate by the name of Monterey, and as such shall have and may exercise all powers that are now or hereafter may be conferred upon or delegated to towns under the Constitution of Virginia and the laws of the Commonwealth, as fully and completely as though the powers were specifically enumerated in this charter. No enumeration of particular powers by this charter shall be held to be exclusive, and the town shall have, exercise, and enjoy all the rights, immunities, and obligations now appertaining to and incumbent on the town as a municipal corporation. The Town of Monterey shall have perpetual succession and may sue and be sued, implead and be impleaded, contract and be contracted with, and have a corporate seal that it may alter, renew, or amend at its pleasure by proper ordinance.

§ 2. The boundaries of the town are as set out in § 2 of Chapter 709 of the Acts of Assembly of 1952, as amended, notwithstanding the subsequent repeal of Chapter 709 of the Acts of Assembly of 1952.

§ 3. There shall be elected at the May general election of 2014, and every four years thereafter, from the qualified voters of the town, one elector of the town who shall be designated the mayor and six electors who shall be designated the councilmen. They shall qualify by taking the oath prescribed by law before entering upon the duties of their offices on the first day of July after their election. They shall hold said offices for the term of four years until their successors are elected and qualified, unless sooner removed. The mayor and councilmen holding office as of the effective date of this charter shall continue in office until their successors enter upon the duties of their offices as herein specified.

§ 4. The mayor and councilmen shall be the council of the town. The council shall be vested with the corporate powers of the town. A quorum for the transaction of business shall be four council members.

§ 5. The municipal officers shall, in addition to the mayor, consist of a clerk of the council (hereinafter referred to as the "town clerk") and such officers as are provided by the town council. The council may appoint committees of the council and create boards and departments of town government and administration, with such powers and duties and subject to such regulations as it may see fit, consistent with the provisions of this charter and the general laws of the Commonwealth. The council shall appoint each of the municipal officers other than the mayor for a term not exceeding four years. All officers shall serve until their successors have been appointed and qualified.

§ 6. The duties and compensation of all municipal officers, except as defined or provided for in this charter or by the general laws of the Commonwealth, shall be determined by the council.

§ 7. The council may enter into agreements with police officers, the Highland County Sheriff, or other individuals to provide law-enforcement services to the town. The agreements may prescribe the officers' duties, fix their compensation, and require and take from them such bond or bonds with good security and in such penalty as they may deem proper as a condition of the faithful discharge of the duties of their offices.

§ 8. Subject to the provisions of the general laws of the Commonwealth applicable to towns, the council shall have control and management of the fiscal affairs of the town, and all property, real and personal, belonging to it, and may make such ordinances, orders, and by-laws and regulations as it may deem necessary to enforce and carry out the powers vested in the council. However, no ordinance passed by the council for the violation of which any penalty is imposed shall take effect until it has been published two successive weeks in a newspaper of general circulation. The council shall also have the

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power to:

a. Prevent and remove any structure, encroachment, or obstruction in any sidewalk, street, or alley.

b. Acquire, establish, maintain, operate, lease, extend, or enlarge any public utility within or without the limits of the town; contract or agree with the owners of any land for the use and purchase thereof, or have the land condemned according to law within or without the town.

c. Regulate the operation of motor vehicles within the town and adopt ordinances for that purpose not in conflict with state law regulating the use, ownership, and operation of motor vehicles; prescribe punishment for the violation of such ordinances; and require every owner of motor vehicles residing in the town to register annually such motor vehicles and pay an annual license fee to be fixed by the council.

d. Require and compel the abatement and removal of all nuisances, including the removal of snow or ice from the sidewalks in front of private properties, or anything that, in the opinion of a majority of the council or in the opinion of the mayor under any ordinance vesting in him such discretion, is a nuisance within the town, at the expense of the person or persons causing the nuisance or the owner or owners of the ground where the nuisance may be situated, such expense to be collected in the same manner as fines; provide for the drainage of lots by proper drains or ditches in the town; and prevent or regulate slaughterhouses or the exercise of any dangerous, offensive, or unhealthy business, trade, or employment within the town.

e. Regulate or prohibit the sale and use of fireworks within the town.

f. Require and compel the owners of houses or businesses located in the town to connect to the town water system and to connect their toilets to the sewer of the town, or to the sewers of any corporation or company within the town.

g. Prevent animals from running at large in the town and trespassing upon public property and to subject their owners to such levies, taxes, and regulations as the council may think proper.

h. Purchase, hold, sell, and convey all real and personal property for the purposes of the town; and, within the limits of the Constitution of Virginia and in accordance with the provisions of the general laws of the Commonwealth, in the name of and for the use of the town, contract loans or cause to be issued certificates of indebtedness, notes, or bonds. The council shall not contract any loan or issue bonds therefor unless the same be approved or authorized by a two-thirds vote of the council, endorsed by a majority of those voting of the qualified voters. All proceedings for the purpose of authorizing the issuance of bonds or other evidence of indebtedness by the town shall conform to the provisions of the Public Finance Act of 1991 with respect to the issuance of bonds by towns, so far as they are applicable.

i. Acquire land by condemnation or otherwise without the corporate limits of the town for public purposes.

j. Adopt any rule, regulation, or ordinance authorized by general laws of the Commonwealth to be adopted by towns.

§ 9. Where, by the provisions of law, the council has authority to pass ordinances on any subject, it may prescribe punishment by a fine or imprisonment, or both, for a violation of the ordinance, the fine not to exceed the maximum amount set by the General Assembly for a Class 1 misdemeanor and the punishment not to exceed the maximum jail time set for a Class 1 misdemeanor, either or both. Fines may be recovered, with costs, upon warrants issued in the name of the town. Whenever judgment is rendered against any person for a fine, the officer trying the offender may require immediate payment thereof, and in default of such payment may, within the limits provided by general law, commit the party so in default to jail until such fine and cost are paid. All fines for the violation of an ordinance of the town shall be paid into the treasury of the town and be appropriated as the council shall determine. The convicted person may appeal his conviction to the Circuit Court of Highland County within ten days of the conviction.

§ 10. The mayor shall have full authority to enforce the laws and the ordinances of the town. The council shall have power to name one of the members of the council as vice-mayor with full power to exercise the authority of the mayor in the event of the mayor's absence or disability.

§ 11. All criminal and civil warrants, writs, and process sworn out by the mayor or any member of the council or any law-enforcement officer authorized by the council to provide such services for the town for violations of town ordinances shall run in the name of the "Town of Monterey" and shall be prosecuted by the town attorney. The forms of such warrants and process shall be as issued in the General District Courts of the Commonwealth and shall be tried before the General District Court Judge for Highland County. Appeal is as provided for in § 9.

§ 12. To meet the expenses of the town, the council may annually levy a tax of so much as in its opinion may be necessary upon all taxable real estate, personal property, and merchants' capital, as well as a business license tax within the town pursuant to Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 of the Code of Virginia.

§ 13. The town council shall fix the time of its regular meetings by ordinance.

Special meetings may be called by the mayor or any two members of the council. The call or request shall be made to the town clerk and shall specify the matters to be considered at the meeting. Upon receipt of such call or request, the town clerk, after consultation with the mayor, shall notify each council member and the town attorney, as appropriate, within twenty-four hours in writing delivered in person or to his place of residence or business or, if so requested by the council member, by electronic mail or facsimile, to attend such meeting at the time and place stated in the notice. Such notice shall specify the matters to be considered at the meeting. No matter not specified in the notice shall be considered at such meeting unless all council members are present. The notice may be waived if all council members and the mayor attend the special meeting or sign a waiver.

§ 14. The town clerk may serve as the treasurer, and as such shall receive all moneys belonging to the town and shall perform such other duties as are, or may be, prescribed by the council. He shall keep records of accounts in such manner as the council may prescribe. A computer backup of the records shall be made each day and kept in a separate place from the original. The records shall be subject to inspection of the mayor and the council at any time.

§ 15. The town clerk, or any other person appointed by the council, shall collect all taxes and assessments. The town clerk, or person appointed, shall be vested with power and be subject to the liabilities and penalties now prescribed by law in regard to the county treasurer in the levying and collection of taxes, and the town clerk, or person appointed, shall have full power to levy on property and sell the same for the payment of taxes as the county treasurer is given by law. All sales shall be made upon the notice and in such manner as now prescribed by law in sales of personal property for state taxes or county taxes. All funds belonging to the town shall be deposited by the town clerk in such place or places of deposit as the council shall direct by ordinance.

§ 16. No money shall be paid out by the town clerk except by order of the council, on a check signed by the clerk and the mayor, or in such other manner as may be prescribed by ordinance.

§ 17. The town clerk shall attend all meetings of the council and keep the records of its proceedings. He shall have custody of the corporate seal; keep all papers that, by the provisions or the direction of the council, are required to be filed with or kept by him; and perform such other acts and duties as the council may require.

§ 18. The fiscal year for the town shall be from the first day of July to the thirtieth day of June of each year.

§ 19. All bonds, contracts, deeds, and other papers made on the part of the town shall be executed by the mayor under the direction of the council, and the seal of the corporation shall be affixed and attested by the town clerk.

§ 20. In the event of a vacancy occurring in the council, the council shall make every effort to appoint a person qualified to hold the position to fill the vacancy for the unexpired term within sixty days from the date the vacancy occurs.

§ 21. All the rights, privileges, and properties of the Town of Monterey heretofore acquired and possessed, owned, and enjoyed by any act or acts now in force and not in conflict with this act and charter shall continue undiminished and remain vested in said town under this act and charter; and all laws, ordinances, and resolutions of the town now in force and not inconsistent with this act and charter shall remain in force until repealed by the council of the town.

§ 22. The enumeration of particular powers and authorities in this charter shall not be deemed or held to be exclusive, but in addition to the powers herein enumerated, implied hereby, or appropriate to the exercise thereof. The town shall have and may exercise all other powers that are now or may be hereafter conferred upon or enjoyed by towns under the Constitution of Virginia and general laws of the Commonwealth. Unless specifically mentioned herein, all prior charters and amendments for the Town of Monterey are repealed.

§ 23. If any section or provision of this act or charter shall for any reason be adjudged in any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act or charter.

2. That Chapter 709 of the Acts of Assembly of 1952, as amended, is repealed.