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HOUSE BILL NO. 1149

Offered January 14, 2014

A BILL to amend and reenact §§ 1-1 and 1-2, § 2-1, as amended, § 2-420, § 3-2, as amended, § 3-401, § 3-5, as amended, and §§ 3-9, 4-11, 6-1, 6-11, 6-12, 6-131, 6-133, 6-14, 6-15, 6-23, 6-231, 6-234, and 7-6 of Chapter 358 of the Acts of Assembly of 1958, which provided a charter for the Town of Tazewell, and to repeal §§ 3-94, 3-95, 5-1, and 5-11, § 5-12, as amended, and §§ 5-13 through 5-31 of Chapter 358 of the Acts of Assembly of 1958, relating to town boundaries, powers, council, elections, board of zoning appeals, and comprehensive plan.

Patron—Morefield

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 1-1 and 1-2, § 2-1, as amended, § 2-420, § 3-2, as amended, § 3-401, § 3-5, as amended, and §§ 3-9, 4-11, 6-1, 6-11, 6-12, 6-131, 6-133, 6-14, 6-15, 6-23, 6-231, 6-234, and 7-6 of Chapter 358 of the Acts of Assembly of 1958 are amended and reenacted as follows:

§ 1-1. Incorporation.

The inhabitants of the territory embraced within the present limits of the Town of Tazewell as hereinafter defined, or as the same hereafter may be altered or established by law, shall constitute and continue to be a body politic and corporate, to be known and designated as the Town of Tazewell *(hereinafter "Town")*, and as such have perpetual succession, may sue and be sued, contract and be contracted with, and may have a corporate seal which it may alter, renew, or amend at its pleasure, and shall have and exercise all the powers conferred by, and be subject to all the laws of the State of Virginia for the government of towns of the State of Virginia.

§ 1-2. Form of government.

The municipal government provided by this charter shall be known as the "Town Manager *Comprehensive* Plan." Pursuant to its provisions, and subject to the constitution and general laws of the Commonwealth, all powers of the town shall be vested in an elected council hereinafter referred to as the "Council," which shall enact local legislation, adopt budgets, determine policies and appoint the town manager, who shall execute the laws and administer the government of the town.

§ 1-3. Boundaries.

The boundaries of the town shall be as established by Chapter 78 of the Acts of Assembly of 1916~~, approved February 29, 1916, as follows:~~

~~"Beginning at a station one, the northwest corner of Mistress R. B. Gillespie's old seminary lot; thence crossing the turnpike east of the town of Tazewell to a station two, on the north side of said turnpike, southwest corner of T. G. Witten's land, and also corner of the Tazewell Courthouse Improvement Company's plat of lots; thence with said company's lines north thirty-three degrees three minutes west, four hundred and seven and four-tenths feet, to station three; north fifty-eight degrees twenty-seven minutes east, thirty-six feet, to station four; north seventy-eight degrees east, four hundred twenty-four and nine-tenths feet, to station five; north thirteen degrees west one thousand eight hundred and seventeen feet, to station six; north eighty-four degrees west seven hundred and fifty feet, to station seven; north thirteen degrees forty-two minutes west fifty-three feet, to station eight; thence north eighty-five degrees fifty-two minutes west, one hundred and ninety-one feet, to station nine, southwest corner of lot seven, section thirty-three on said plat of lots; thence south four degrees forty-eight minutes west, seventy-five feet, to station ten, thence north eighty-five degrees fifty-two minutes west, one thousand two hundred and seventy-five feet, to station eleven, the northwest corner of lot one, section seven, of said plat of lots; thence north nine degrees fourteen minutes west, one thousand one hundred and forty-two feet, to station twelve in a former line of the corporate limits of said town; thence with said old line north fifty-eight degrees west, three hundred feet, to station thirteen on the east side of the old road leading to Tazewell station, and with the east side of same south thirty-three degrees west, ten poles and nine links, to station fourteen; south eighty-seven degrees west, eighteen poles and seven links, to station fifteen; south seventy-seven degrees west, three poles and sixteen links, to station sixteen; south forty-nine degrees thirty minutes west, five poles to station seventeen; south twenty-two degrees forty-five minutes west, five poles and eight links, to station eighteen, south thirteen degrees and thirty minutes east, ten poles and sixteen links, to station nineteen; thence north eighty-two degrees thirty minutes west, twenty-eight poles, crossing said road to station twenty; thence south eleven degrees east, forty-eight poles and ten links, to station twenty-one; thence south fifty-four degrees and thirty minutes east, thirty-seven poles, to station twenty-two on the west side of said old road, eight feet~~

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~~west of J. S. and A. P. Gillespie's gate post; thence south sixty-one degrees fifty-three minutes west, thirty poles and seven links, to station twenty-three; thence north eighty-two degrees fifteen minutes west, thirty-six poles and twenty-one links, to station twenty-four, at a gateway on said Gillespie's private road; thence south sixty-seven degrees west, thirty-six poles and three links, to station twenty-five; thence south thirty-eight degrees east, thirty poles and fifteen links, to station twenty-six on the north edge of the turnpike west, of the said town; thence with north side of same, south sixty-six degrees thirty minutes west, six poles and twenty-three links to station twenty-seven; south fifty-seven degrees forty-five minutes west, twenty-six poles and eleven links, to station twenty-eight; south sixty-eight degrees thirty minutes west, twenty poles and six links, to station twenty nine on H. G. Peery's line; thence crossing said turnpike south thirty degrees fifteen minutes east, seventy-three poles, to station thirty; thence south seven degrees, east one hundred poles to station thirty-one; south eighty-five degrees east, twenty-six poles to station thirty-two; thence south seventy-four degrees fifteen minutes east, twenty poles, to station thirty-three; thence south seventy-six degrees thirty minutes east, thirty-seven poles and fifteen links, to station thirty-four; north thirty-six degrees forty-five minutes east, thirty poles, to station thirty-five; thence south twenty-one degrees east, twenty-seven poles, to station thirty-six; thence south one degree thirty minutes west, twenty-one poles, to station thirty-seven; thence north eighty degrees thirty minutes east, one hundred and twenty-nine poles, to station thirty-eight, in line between A. J. May and S. D. May; thence north seventy degrees east, one hundred and thirty-eight poles, to station thirty-nine, in line between S. D. May and A. J. May, junior; thence north thirty-five degrees west, seventy-seven poles to station forty, on south edge of W. O. Whitman's road; thence with south side of said road south seventy-seven degrees forty-five minutes west, fifty-three poles and three links, to station forty-one, opposite Amy Smith's southwest corner; thence north eleven degrees and thirty minutes west, thirteen poles and five links, to station forty-two; thence north seventy-five degrees thirty minutes east, sixteen poles and thirteen links, to station forty-three; thence north forty degrees thirty minutes west, nineteen poles, to station forty-four; thence north sixty-six degrees thirty minutes east, thirty-seven poles and seven links, to station forty-five; thence north seventy-one degrees east, sixty-eight poles, to station forty-six, in W. O. Whitman's line; thence north twenty-two degrees forty-five minutes west, forty-three poles, to station forty-seven; south fifty-seven degrees west, thirty-two poles, to station forty-eight; thence north thirty-four degrees west, one hundred and six poles, to station forty-nine, on the south side of the turnpike east, of said town; thence with south side of said turnpike south sixty-three degrees fifteen minutes west, eight poles to station fifty; thence south forty-nine degrees west, seven poles to the beginning."~~ *and as subsequently amended and recorded in the records of the Circuit Court of Tazewell County.*

§ 2-1. General grant of powers.

The powers set forth in §§ ~~15.1-837~~ *15.2-1100* through ~~15.1-915~~ *15.2-1133*, inclusive, of Chapter ~~18~~ *11* of Title ~~15.1~~ *15.2* of the Code of Virginia ~~as in force on January 1, 1966~~, *as amended*, are hereby conferred on and vested in the Town of Tazewell, Virginia, together with all other powers which are now or may hereafter be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth, and all other powers pertinent to the town government the exercise of which is not in conflict with the said Constitution and the laws of the Commonwealth of Virginia, and which, in the opinion of the council are necessary or desirable to promote the general welfare of the town and the safety, health, peace, good order, comfort, convenience, and morals of its inhabitants as fully and completely as though such powers were specifically enumerated in this charter, and no enumeration of particular powers in this charter shall be held to be exclusive but shall be held to be in addition to this general grant of powers.

§ 2-420. To provide for the protection of the town's property, real and personal, the prevention of the pollution of the town's water supply, and the regulation of the use of parks, playgrounds, playfields, recreational facilities, cemeteries, airports and other public property, whether located within or without the town. For the purpose of enforcing such regulations all town property wherever located shall be under the police jurisdiction of the town. Any member of the police force of the town, or employee thereof appointed as a special policeman, shall have power to make arrests for violation of any ordinance, rule or regulation adopted pursuant to this section, and the ~~police justice shall have jurisdiction in all cases arising thereunder within the town and the county court of the county wherein the offense occurs shall have jurisdiction of all cases arising thereunder without the town~~ *General District Court shall have jurisdiction in all cases arising thereunder within or without the Town wherein the offense occurs.*

§ 3-2. Nominations and elections.

The mayor and members of council in office on the effective date of this act shall serve until their successors have been elected and qualified. Municipal elections within the Town of Tazewell shall take place on the first Tuesday ~~in May~~ *after the first Monday in the month of November* of each even-numbered year *to coincide with the general election*. At each such regular municipal election, three councilmen shall be elected for terms of four years each, and a mayor shall be elected for a term of two

years. The terms of office for both councilmen and mayor so elected shall commence on the first day of ~~July~~ *January*, immediately following such election, and shall continue until their successors have been elected and qualified. The council shall be a continuing body and no measure pending before such body shall abate or be discontinued by reason of expiration of the term or removal of any of its members.

§ 3-401. Appoint and remove the town manager, the town clerk, the town attorney, ~~the police justice, issuing justices~~ and officers of the volunteer fire department.

§ 3-5. Mayor.

The mayor shall preside over the meetings of the council, have the same right to speak therein as other members and shall vote only in case of a tie but shall have no veto. He shall be recognized as the head of the town government for all ceremonial purposes, the purposes of military law, and the service of civil process. At the regular meeting of the council held in the month of ~~July~~ *January* following a municipal election, the council shall choose, by a majority vote of all the members thereof, one of their number to be vice-mayor for the ensuing two years. The vice-mayor shall in the absence or disability of the mayor perform the duties of mayor, and if a vacancy shall occur in the office of mayor, shall become mayor for the unexpired portion of the term. In the absence or disability of both the mayor and vice-mayor the council shall, by majority vote of those present, choose one of their number to perform the duties of mayor.

§ 3-9. Appointees.

At the first meeting in ~~September~~ *January* following each councilmanic election, or as soon thereafter as practicable, the council shall appoint:

§ 4-11. The fiscal year of the town shall begin on the first day of ~~September~~ *July* and end on the ~~thirty-first~~ *thirtieth* day of ~~August~~ *June* of the succeeding year.

§ 6-1. Power to adopt a ~~master~~ *comprehensive* plan.

In addition to the powers granted elsewhere in this charter the council shall have the power to adopt by ordinance a ~~master~~ *comprehensive* plan for the physical development of the town to promote health, safety, morals, comfort, prosperity, and the general welfare. The master plan may include but shall not be limited to the following:

§ 6-11. Town planning commission. There shall be a town planning commission consisting of ~~seven~~ *eight* members, appointed by the council. One member shall be a member of the council appointed for a term concurrent with his term in the council. One member shall be the town manager, *who shall be a nonvoting member*, appointed for a term concurrent with his term in such capacity. There shall be ~~five~~ *six* citizen members, who shall be qualified voters of the town appointed for a term of four years, one of whom may be a member of the Board of Zoning Appeals and who shall hold office for a term concurrent with his term on said board. *Members may be removed for malfeasance in office, and a member of the commission may be removed from office by the Town without limitation in the event that the commission member is absent from any three consecutive meetings of the commission, or is absent from any four meetings of the commission within any one-month period.* Vacancies on the commission shall be filled by the council. Members of the town planning commission shall serve as such without compensation.

§ 6-12. Organization and expenditures of planning commission. The commission shall elect a chairman and vice-chairman from among the citizen members appointed by the council, for a term of one year, who shall be eligible for re-election, and appoint a secretary. The commission shall hold at least one regular meeting in each month, shall adopt rules for the transaction of its business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. ~~Four~~ *Five voting* members shall constitute a quorum. The commission shall appoint such employees as it may deem necessary for its work and may contract with city planners, engineers, architects and other consultants for services it may require. All expenditures shall not exceed the sums appropriated by the council therefor.

§ 6-131. To make and adopt a ~~master~~ *comprehensive* plan which with accompanying maps, plats, charts and descriptive matter shall show the commission's recommendations for the development of the territory covered by the plan. In the preparation of such plan the commission shall make careful and comprehensive surveys and studies of existing conditions and future growth. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town and its environs which will, in accordance with existing and future needs, best promote health, safety, morals, comfort, prosperity and general welfare, as well as efficiency and economy in the process of development.

§ 6-133. To promote public interest in and understanding of the ~~master~~ *comprehensive* plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine.

§ 6-14. Adoption of ~~master~~ *comprehensive* plan by the Commission. The Commission may adopt the plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the

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plan, said parts corresponding to ~~mayor~~ *major* geographical or topographical divisions of the town, or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension or addition, the commission shall hold at least one public hearing thereon, at least fifteen days' notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the town. The adoption of the plan or of any such part, amendment, extension or addition shall be by resolution of the commission carried by the affirmative vote of not less than a majority of the entire membership of the commission. The resolution shall refer expressly to the maps and descriptive matter and other matter intended by the commission to form the whole or part of the plan adopted, which resolution shall be signed by the chairman of the commission and attested by its secretary. An attested copy of the resolution, accompanied by a copy of so much of the plan in whole or in part as was adopted thereby, and each amendment, alteration, extension or addition thereto adopted thereby, shall be certified to the council, and to the Clerk of the Circuit Court of Tazewell County who shall file the same in his office.

§ 6-15. Legal status of ~~master~~ *comprehensive* plan. Whenever the commission shall have adopted a ~~master~~ *comprehensive* plan for the town or one or more parts thereof, geographical, topographical or functional, and the ~~master~~ *comprehensive* plan or such part or parts thereof shall have been approved by the council and it has been certified and filed as provided in the preceding section, then and thereafter no street, square, park or other public way, ground, open space, public building or structure shall be constructed or authorized in the town or in the planned section or division thereof until and unless the general location, character and extent thereof has been submitted to and approved by the commission; and no public utility, whether publicly or privately owned, shall be constructed or authorized in the town or in the planned section or division thereof until and unless its general location, but not its character and extent, has been submitted to and approved by the commission, but such submission and approval shall not be necessary in the case of pipes or conduits in any existing street or proposed street, square, park or other public way, ground or open space, the location of which has been approved by the commission; and no ordinance giving effect to or amending the comprehensive zoning plan as provided in § 6-2 shall be adopted until it has been submitted to and approved by the commission. In case of disapproval in any of the instances enumerated above, the commission shall communicate its reason to the council, which shall have the power to overrule such action by a recorded vote of not less than two-thirds of its entire membership. The failure of the commission to act within sixty days from the date of the official submission to it shall be deemed approval. The widening, extension, narrowing, enlargement, vacation or change in the use of streets and other public ways, grounds and places within the town as well as the acquisition by the town of any land within or without the town for public purposes, or the sale of any land then held by the town shall be subject to similar approval and in case the same is disapproved such disapproval may be similarly overruled. The foregoing provisions of this section shall not be deemed to apply to the pavement, repavement, reconstruction, improvement, drainage or other work in or upon any existing street or other existing public way.

§ 6-23. Board of Zoning Appeals. The council may ~~appoint~~ *establish* a Board of Zoning Appeals, ~~and in~~ the *members of which shall be appointed by the judge of the Circuit Court of Tazewell County. The* regulations and restrictions adopted pursuant to the authority of this act~~,~~ may provide that the board of zoning appeals may, in appropriate cases and subject to appropriate conditions and safeguards, vary the application of the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

§ 6-231. The board of zoning appeals shall consist of five members, *one of whom may be a member of the Planning Commission,* each *of whom is* to be appointed for a term of two years, and *subject to* removal for cause by the council, upon written charges and after public hearing. Vacancies shall be filled by the council for the unexpired term of any member.

§ 6-234. The board of zoning appeals shall fix a reasonable time *and a reasonable appeal fee* for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

§ 7-6. Citation of act.

This act may for all purposes be referred to or cited as the Town of Tazewell Charter of 1958, *as amended by the Acts of Assembly of 2014*.

2. That §§ 3-94, 3-95, 5-1, and 5-11, § 5-12, as amended, and §§ 5-13 through 5-31 of Chapter 358 of the Acts of Assembly of 1958 are repealed.