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**SENATE BILL NO. 871**

Offered January 18, 2018

*A BILL to amend and reenact § 1, as amended, of Article III of Chapter 397 of the Acts of Assembly of 1950, which provided a charter for the Town of Amherst, relating to council elections.*

Patron—Peake

Referred to Committee on Local Government

**Be it enacted by the General Assembly of Virginia:**

**1. That § 1, as amended of Article III, of Chapter 397 of the Acts of Assembly of 1950 is amended and reenacted as follows:**

§ 1. (1) Mayor and councilmen as of July 1, 2010 2018.

The present mayor and councilmen of the town of Amherst shall continue in office and exercise all the powers conferred by this charter and the general laws of the State until January 1, 2014 2019.

(2) *Biennial Staggered* elections; ~~composition of town council;~~ acts and terms of office of mayor and councilmen; ~~composition of town council.~~

On the day specified by general law for the holding of municipal elections in every even-numbered year, there shall be elected for two year terms by the qualified voters of the town, one elector of the town, who shall be denominated mayor, and five other electors, who shall be denominated councilmen, and the mayor and councilmen shall constitute the town council. They shall enter upon the duties of their offices on the first day of January next succeeding their election, and shall continue in office until their successors are duly elected and qualified. Every person so elected shall take an oath faithfully to execute and discharge the duties of his office to the best of his judgment, and the mayor shall take the oath prescribed by law for State officers. The failure of any person elected or appointed under the provisions of this charter to qualify or to take the oath required, within the time prescribed for entering upon the discharge of the duties of the office to which he is elected or appointed, shall vacate the said office, and the council shall proceed and is hereby vested with power to fill such vacancy in the manner herein prescribed.

On the Tuesday following the first Monday in November 2018, there shall be elected by the qualified voters of the town of Amherst one elector who shall be denominated the mayor and five electors who shall be denominated the councilmen of the town. The mayor and the two town councilmen candidates receiving the greatest number of votes shall be elected for terms of four years, and the three town councilmen candidates receiving the next greatest number of votes shall be elected for terms of two years. An election shall be held for the three council seats first expiring on the Tuesday following the first Monday in November 2020, and the three town councilmen so elected shall serve four-year terms. Elections thereafter shall be held on the Tuesday following the first Monday in November in even-numbered years, for terms of four years.

The term of each person elected under this section shall enter upon the duties of his office on the first day of January next succeeding his election and shall continue in office until his successor is duly elected and qualified. Every person so elected shall take an oath faithfully to execute and discharge the duties of his office to the best of his judgment as prescribed by law for State officers. The failure of any person elected or appointed under the provisions of this charter to qualify or to take the oath required, within the time prescribed for entering upon the discharge of the duties of the office to which he is elected or appointed, shall vacate the said office, and the council shall proceed and is hereby vested with power to fill such vacancy in the manner prescribed in the Code of Virginia.

The mayor and five town councilmen shall constitute the council of the town.

(3) Registrar and election officials; electorate.

There shall be appointed for the town a registrar and officers of election in the manner provided for by general law of Virginia, and all elections held in said town shall be conducted in accordance with said general law; the electorate shall be that prescribed by general law.

(4) Council as judge of qualifications and returns of members; power to fine and expel council members, and to fill vacancies in council.

The council shall judge of the election, qualification, and returns of its members; may fine them for disorderly conduct, and, with the concurrence of two-thirds, expel a member. If any person returned be adjudged disqualified, or be expelled, a new election to fill the vacancy shall be held on such day as the council may prescribe. Any vacancy occurring otherwise during the term for which such person was elected shall be filled by the council by the appointment of any one eligible to such office. A vacancy in the office of mayor shall be filled by the council from the electors of the town, and any member of

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59 the council may be eligible to fill such vacancy.

60 (5) Quorum of council.

61 A majority of the members of the council shall constitute a quorum for the transaction of business.

62 (6) Salaries of councilmen and mayor; mayor's salary is in lieu of fees.

63 Each member of the council may receive a salary to be fixed by the council, payable at such times  
64 and in such manner as the council may direct. The mayor may receive a salary to be fixed by the  
65 council, payable in such manner and at such times as the council may direct.

66 (7) Powers and duties of mayor generally.

67 The mayor shall preside at the meetings of the council and perform such other duties as are  
68 prescribed by this charter and by the general law, and such as may be imposed by the council consistent  
69 with his office. The mayor shall have no right to vote in the council, except in case of a tie he shall  
70 have the right to break the same by his vote; but he shall have the right to veto.

71 (8) Approval or veto of ordinances, and resolutions having the effect of ordinances; reconsideration  
72 and passage over veto.

73 Every ordinance, or resolution having the effect of an ordinance, shall, before it becomes operative  
74 be presented to the mayor. If he approves, he shall sign it, but if not, he may return it, with his  
75 objections in writing, to the town manager who shall enter the mayor's objections at length on the  
76 minute book of the council. The council shall thereupon proceed to reconsider such ordinance or  
77 resolution. If, after such consideration, two-thirds of all the members elected to the council shall agree to  
78 pass the ordinance or resolution, it shall become operative notwithstanding the objection of the mayor.  
79 In all such cases the votes of members of the council upon such reconsideration and the names of the  
80 members voting for and against the ordinance or resolution shall be entered on the minute book of the  
81 council. If any ordinance or resolution shall not be returned by the mayor within five days (Sunday  
82 excepted) after it shall have been presented to him, it shall become operative in like manner as if he had  
83 signed it, unless his term of office or that of the council, shall expire within said five days.

84 (9) Vice mayor.

85 The council shall, as soon as practicable after qualification, and biennially thereafter following the  
86 regular municipal election, appoint one of its members as vice-mayor. The vice-mayor, during the  
87 absence or disability of the mayor, shall perform the duties and be vested with all the powers, authority,  
88 and jurisdiction, of the mayor; and in the event of a vacancy for any reason in the office of mayor, he  
89 shall act as mayor until a mayor is duly appointed by the town council or is elected. The member of the  
90 council who shall be chosen vice-mayor shall continue to have all the rights, privileges, powers, duties  
91 and obligations of councilman even when performing the duties of mayor during the absence or  
92 disability of the mayor of the town.

93 (10) Regular and special meetings of council.

94 The council shall, by ordinance, fix the time for their regular meetings, which shall be held at least  
95 once a month. Special meetings may be called by the town manager at the instance of the mayor or any  
96 two members of the council in writing; and no other business shall be transacted at a special meeting  
97 except that stated in the call, unless all members be present and consent to the transaction of such other  
98 business. The meetings of the council shall be open to the public except when in the judgment of the  
99 council the public welfare shall require executive meetings.

100 (11) Council minute book.

101 The council shall keep a minute book, in which the town manager shall note the proceedings of the  
102 council, and shall record proceedings at large on the minute book and keep the same properly indexed.

103 (12) Council rules or procedures; certain matters may be adopted only by vote of majority of all  
104 members elected to council.

105 The council may adopt rules for regulating its proceedings, but no tax shall be levied, corporate debt  
106 contracted, or appropriation of money exceeding the sum of one hundred dollars be made, except by a  
107 recorded affirmative vote of a majority of all the members elected to the council.

108 (13) [Repealed.]

109 (14) [Repealed.]

110 (15) Town treasurer; town depository; commingling of funds.

111 The council may in its discretion designate the place of deposit of all town funds.

112 (16) [Repealed.]

113 (17) [Repealed.]

114 (18) [Repealed.]

115 (19) [Repealed.]

116 (20) Effective date of ordinances, resolutions and by-laws.

117 All ordinances, resolutions and bylaws passed by the council shall take effect at the time indicated in  
118 such ordinances, resolutions or bylaws, but in event no effective date shall be set forth in any such  
119 ordinances, resolutions or bylaws passed by the council, the same shall become effective thirty days  
120 from its passage.

(21) Creation of office, appointment, compensation, and removal of town manager.

The office of town manager is hereby created. The town manager shall be appointed by majority vote of the town council for an indefinite term. The manager shall be chosen by the council solely on the basis of executive and administrative qualifications, with special reference to actual experience in or knowledge of accepted practice in respect to the duties of the office hereinafter set forth. At the time of this appointment, the appointee need not be a resident of the town or state, but during the manager's tenure of office, shall reside within the town. No council member shall receive such appointment during the term for which the council member shall have been elected nor within one year after the expiration of the council member's term. The town manager shall receive such compensation as the council shall fix from time to time by ordinance or resolution. The town council may remove the town manager at any time by a majority vote of its members.

(22) Powers and duties of the town manager.

The town manager shall be the chief executive officer of the town, responsible to the council for the management of all town affairs placed in the manager's charge by or under this charter. The town manager shall:

(a) Appoint and suspend or remove all town employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. The town manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;

(b) Direct and supervise the administration of all departments, offices, and agencies of the town, except as otherwise provided by this charter or by law;

(c) Attend all town council meetings. The town manager shall have the right to take part in discussion but shall not vote;

(d) See that all laws, provisions of this charter, and acts of the town council subject to enforcement by the town manager or by officers subject to the manager's direction and supervision are faithfully executed;

(e) Prepare and submit the annual budget and capital program to the town council and implement the final budget approved by council to achieve the goals of the town;

(f) Submit to the town council and make available to the public a complete report on the finances and administrative activities of the town as of the end of each fiscal year;

(g) Make such other reports as the town council may require concerning operations;

(h) Keep the town council fully advised as to the financial condition and future needs of the town;

(i) Make recommendations to the town council concerning the affairs of the town and facilitate the work of the town council in developing policy;

(j) Provide staff support services for the mayor and council members;

(k) Assist the council in developing long-term goals for the town and strategies to implement these goals;

(l) Encourage and provide staff support for regional and intergovernmental cooperation;

(m) Promote partnerships among council, staff, and citizens in developing public policy and building a sense of community; and

(n) Perform such other duties as are specified in this charter or may be required by the town council.

(23) Council not to interfere with appointments or removals.

Neither the council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the town manager or any of the manager's subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative services of the town. Except for the purpose of inquiry, the council and its members shall deal with the administration solely through the town manager, and neither the council nor any member thereof shall give orders to any subordinates of the town manager, either publicly or privately.

(24) Emergencies. In case of accident, disaster, or other circumstance creating a public emergency, the town manager may award contracts and make purchases for the purpose of meeting said emergency, but the manager shall file promptly with council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures.