

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 699

An Act to amend and reenact §§ 8, 10, 15, 16 and 17 of Article III and § 1 of Article IX of Chapter 560 of the Acts of Assembly of 1950, which provided a charter for the Town of Montross in Westmoreland County, to amend such chapter by adding sections numbered 15.1 through 15.8 and 17.1 through 17.5 in Article III of such chapter and by repealing §§ 13, 14 and 19 of Article III and § 8 of Article IV of such chapter relating to the powers, duties and appointment of the town manager and other local officers and employees.

[H 1716]

Approved March 21, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 8, 10, 15, 16 and 17 of Article III and § 1 of Article IX of Chapter 560 of the Acts of Assembly of 1950 are amended and reenacted and that such chapter is amended by adding sections numbered 15.1 through 15.8 and 17.1 through 17.5 in Article III as follows:

ARTICLE III

Administration and Government

§ 8. Procedure for adoption of ordinances and resolutions; vetoes; overriding vetoes.

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

§ 10. Meetings of council.

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

§ 15. Place of deposit for town funds.

The council may in its discretion designate the place of deposit of all town funds ~~which shall be kept by the treasurer separate and apart from his personal funds.~~

§ 15.1. Town manager; appointment and qualifications.

There shall be a town manager, who shall be the executive officer of the town and shall be responsible to the town council for the proper administration of the town government. He shall be chosen solely on the basis of his executive and administrative qualifications, with special reference to his actual experience in or knowledge of accepted practice in respect to the duties of his office. At the time of his appointment, he need not be a resident of the town or the Commonwealth, but during his tenure of office, he shall reside within the town, unless specifically authorized by the town council.

It shall be the duty of the town manager to:

- (1) Attend all meetings of the town council, with the right to speak but not to vote.*
- (2) Keep the town council advised of the financial condition and the future needs of the town and of all matters pertaining to its proper administration, and make such recommendations as may seem to him desirable.*
- (3) Prepare and submit the annual budget to the town council and be responsible for its administration after its adoption.*
- (4) Present adequate financial and activity reports as required by the town council.*
- (5) Arrange for an annual audit by a certified public accountant, the selection of whom shall be approved by the town council.*
- (6) Perform such other duties as may be prescribed by this charter or required of him in accordance therewith by the town council or which may be required of the chief executive officer of a town by the general laws of the Commonwealth, other than the duties conferred on the mayor by this charter.*

§ 15.2. Powers as to town officers and employees.

All officers and employees of the town, except those appointed by the town council pursuant to this charter or the general laws of the Commonwealth, shall be appointed and may be removed by the town manager, who shall report each appointment or removal to the town council at the next meeting thereof following any such appointment or removal.

§ 15.3. Temporary transfer of personnel between departments.

The town manager shall have power, whenever the interests of the town require, irrespective of any other provisions of this charter, to assign employees of any department, bureau, office or agency to the temporary performance of duties in another department, bureau, office or agency.

§ 15.4. Council not to interfere in appointments or removals; relationship with council.

Neither the town council nor any of its members shall direct or request the appointment of any person to or his removal from any office or employment by the town manager or by any of his subordinates or in any way take part in the appointment of or removal of officers and employees of the town, except as specifically provided in this charter. Except for the purpose of inquiry, the town council and its members shall deal with the administrative services solely through the town manager, and neither the town council nor any member thereof shall give orders, either publicly or privately, to any subordinate of the town manager. Any councilman violating the provisions of this section or voting for a motion, resolution or ordinance in violation of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to be a councilman.

§ 15.5. Relations with boards, commissions and agencies.

The town manager shall have the right to attend and participate in the proceedings of, but not to vote in, the meetings of all boards, commissions or agencies created by this charter or by ordinance and any other board or commission the town council may designate, except those of which he is a member.

§ 15.6. Acting town manager.

The town council may designate by ordinance a person to act as town manager in case of the absence, incapacity, death or resignation of the town manager, until his return to duty or the appointment of his successor.

§ 15.7. Appointment of officers.

The town council may appoint such officers of the town as it deems necessary. Such officers may include, but shall not be limited to, a town manager, a town clerk, a town attorney, a town treasurer, a town sergeant, a chief of police and justices of the peace. The enumeration of officers in this section shall not be construed to require the appointment of any such officers herein named. Officers appointed by the town council shall perform such duties as may be specified in this charter or by the town council.

§ 15.8. Treasurer; appointment; term; salary; bond.

There may be appointed by the council a treasurer, who shall hold office for a term of two years. The council may provide a salary for the treasurer. He shall give such bond, with surety and in such penalty as the council prescribes.

The treasurer shall make such reports at such time as the council may prescribe. All books and accounts of the town shall be examined and audited at least once during the term for which he is elected by a competent accountant selected by the council, such examination and audit to be reported to the council.

§ 16. Clerk of the council.

There shall may be appointed by the council, at its first regular meeting in September after its election, a clerk of the council, who shall hold office at the pleasure of the council. He shall attend the meetings of the council and keep its minutes and records and have charge of the corporate seal and shall attest the same. He shall keep all papers required to be kept by the council, shall publish such reports and ordinances as are required to be published, and shall perform such other duties as the council may from time to time require. His compensation shall be fixed by the council. Any vacancy in this office shall be filled by the council.

§ 17. Town sergeant.

There shall may be appointed by the council at its first regular meeting in September or as soon as practicable thereafter, a town sergeant, who shall also be chief of police; and shall hold office at the pleasure of the council. His duties shall be such as the council prescribed prescribes. He shall be vested with the powers of a conservator of the peace. His compensation shall be fixed by the council.

§ 17.1. Chief of police.

There may be appointed by the council a chief of police who shall hold office at the pleasure of the council. His duties shall be such as council prescribes. He shall be vested with the powers of a conservator of the peace. His compensation shall be fixed by council.

§ 17.2. Deputies and assistants.

The town council may appoint such deputies and assistants to appointive offices as the town council may deem necessary.

§ 17.3. Term of office.

Officers and deputy and assistant officers appointed by the town council shall be appointed for terms of two years, to coincide with the term of the appointing council, unless otherwise provided by this

charter or by ordinance of the town council. Such terms shall begin on the first day in July in each even-numbered year.

§ 17.4. Vacancies in office.

The town council shall fill any vacancy in any appointive office for the remainder of the unexpired term.

§ 17.5. Appointment of one person to more than one office.

The town council may appoint the same person to more than one appointive office, at the discretion of the town council, subject to the provisions of Section 6 of Article VIII of the Constitution of Virginia.

ARTICLE IX

Additional Powers

§ 1. Enumerated.

In addition to powers elsewhere mentioned in this charter and the powers conferred by general law and the Constitution, the town shall have the following powers:

(1) To compel the abatement and removal of all nuisances within the town or upon property owned by the town without its limits at the expense of the person or persons causing the same or of the owner or occupant of the ground or premises wherein the same may be, and to collect said expense by suit or motion or by distress and sale; to require all lands, lots and other premises within the town to be kept clean and sanitary and free from stagnant water, weeds, filth, and unsightly deposits, or to make them so at the expense of the owners or occupants thereof, and to collect said expense by suit or motion or by distress and sale; to regulate or prevent noisome or offensive business within the said town, or the exercise of any dangerous or unwholesome business, trade, or employment therein; to regulate the transportation of all articles through the streets of said town; to compel the abatement of smoke and dust, and prevent unnecessary noise; to regulate the location of stables and the manner in which the same shall be constructed and kept; to regulate the location, construction, operation, and maintenance of billboards and signs; and generally to define, prohibit, abate, suppress, and prevent all things detrimental to the health, morals, aesthetics, safety, convenience and welfare of the inhabitants of the town; and to require all owners or occupants of property having public sidewalks adjacent thereto to keep the same clean and sanitary, free from weeds, filth, unsightly deposits, ice and snow, and any obstruction.

(2) To extinguish and prevent fires, and to establish, regulate, and control a fire department or division; to establish and designate from time to time fire limits, within which limits wooden buildings shall not be constructed, added to, enlarged or repaired, and to direct that any or all future buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick, iron or other fireproof materials; to enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblages, entertainments or amusements.

(3) To direct the location and construction of all buildings for storing explosives or combustible substances; to regulate the sale and use of gunpowder, nitroglycerin, fireworks, kerosene, gasoline, and other like material; to regulate or prevent the exhibition of fireworks, the discharge of firearms, and the making of bonfires within the corporate limits of said town.

(4) To provide for the preservation of the general health of the inhabitants of said town, make regulations to secure the same, inspect all foodstuffs and prevent the introduction and sale in said town of any articles or thing intended for human consumption which is adulterated, impure, or otherwise dangerous to health, and to condemn, seize, and destroy or otherwise dispose of any such article or thing without liability to the owner thereof; to prevent the introduction or spread of contagious or infectious diseases, and prevent and suppress disease generally; to provide and regulate hospitals within or without the town limits, and if necessary to the suppression of disease, to enforce the removal of persons affected with contagious or infectious diseases to hospitals provided for them; to provide for the organization of a department or bureau of health, to have the powers of a board of health for said town, with authority necessary for the prompt and efficient performance of its duties, with the power to invest any or all of the officials or employees of such department of health with such powers as the police officers of the town have, to establish quarantine ground within or without the town, and establish and enforce such quarantine regulations against contagious and infectious diseases as the council may see fit, subject to the laws of the State and the United States.

(5) To provide for the care, support and maintenance of children and of sick, aged, insane, or poor persons and paupers.

(6) To provide and maintain, either within or without the town, charitable, recreative, curative, corrective, detention or penal institutions.

(7) To regulate poultry or other fowl, hogs, dogs or other animals being kept in or running at large in the town, or any thickly populated portion thereof, and to subject the same to such taxes, regulations and penalties as the council may think proper.

(8) To prevent the riding or driving of horses or other animals at an improper speed; to prevent the flying of kites, throwing of stones, the setting off of fireworks or engaging in any sort of employment in the public streets which is dangerous or annoying to passersby, and to prohibit and punish the abuse of animals.

(9) To establish markets in the town and regulate the same and to enforce such regulations in regard

to the keeping and sale of fresh meats, vegetables, eggs, and other green groceries, and the trade of hucksters and junk dealers as may be deemed advisable.

(10) To prevent any person having no visible means of support, paupers, and persons who may be dangerous to the peace and safety of the town from coming to town from without the same; and to expel therefrom any such person who has been in said town less than twelve months.

(11) To exercise full police powers and establish and maintain a department or division of police.

(12) To restrain and punish drunkards, vagrants, and street beggars; to prevent and quell riots, disturbances, and disorderly assemblages; to suppress houses of ill-fame and gambling houses and punish operators and inmates of the same; to prohibit and punish the carrying of concealed weapons within the said town; to prevent and punish lewd, indecent, and disorderly exhibitions in said town. To prohibit and punish gambling and betting, disturbances of the peace, disorderly conduct, and public swearing and cursing, within the said town.

(13) To prohibit and punish mischievous, wanton, or malicious damage to school, church, and public property, as well as to private property.

(14) To prohibit minors from and punish them for frequenting, playing or loitering in any public poolroom, billiard parlor, or bowling alley, and to punish any proprietor or agent thereof for permitting same.

(15) To compel persons sentenced to confinement in jail for any violation of the laws or ordinances of the town to work on the public streets, parks, or other public works of the town; and on the requisition of the mayor it shall be the duty of the sergeant of the town, *chief of police, town manager* or the sheriff of Westmoreland county to deliver such persons to the duly authorized agent of the town for such purposes from day to day as they may be required. For the purpose of carrying into effect the police regulations of the town, the town shall have the use of the ~~county jail of Westmoreland county~~ *regional jail* for the safekeeping and confinement of all persons who shall be sentenced to imprisonment under the ordinances of said town.

(16) To enjoin and restrain the violation of any town ordinance or ordinances, although a penalty is provided upon the conviction of such violation.

(17) To pass and enforce all by-laws, rules, regulations, and ordinances which it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health, and protection of the citizens and their property, and to do such other things and pass such other laws as may be necessary or proper to carry into full effect all powers, authority, capacity or jurisdiction, which is or shall be granted to or vested in said town, or in the council, court or officers, thereof, or which may be a necessary incident to a municipal corporation.

(18) To do all things whatsoever necessary or expedient and lawful to be done for promoting or maintaining the general welfare, comfort, education, morals, government, peace, health, trade, commerce, or industries of the town, or its inhabitants.

(19) To offer and pay rewards for the apprehension of criminals.

(20) To provide by ordinance for a system of meat and milk inspection, and appoint milk and meat inspectors, agents, or officers to carry the same into effect; to prevent, license, regulate, control, and locate slaughterhouses within or without the corporate limits of the town; and for such services of inspection to make reasonable charges; and to provide reasonable penalties for the violation of such ordinances.

(21) To establish, organize, administer, or contribute to the support of public schools and libraries, subject to the general laws establishing a standard of education for the State.

(22) To inspect, test, measure and weigh any commodity or commodities or articles of consumption for use within the town; and to establish, regulate, license and inspect weights, meters, measures, and scales.

(23) To make and enforce ordinances, insofar as not prohibited by the general laws of this State, to regulate, control, license and/or tax the manufacture, bottling, sale, distribution, transportation, handling, advertising, possession, dispensing, drinking and use of alcohol, brandy, rum, whiskey, gin, wine, beer, lager beer, ale, porter, stout, and all liquids, beverages and articles containing alcohol by distillation, fermentation or otherwise.

(24) To require every owner or operator of motor vehicles residing in the said town, on a date to be designated by the council, to annually register such motor vehicles and to obtain a license to operate the same by making application to the treasurer of the said town, or such other person as may be designated by the council; to issue said license, and to require the said owner to pay the annual license fee therefor to be fixed by the council, provided that the said license fee shall not exceed the amount charged by the State on such machines. The council shall have the right to require the operator of said motor vehicle to attach a proper license plate on a conspicuous part of the said motor vehicle and to keep same thereon in plain view for common observation. The council may prorate such license fee over periods of not less than three months.

(25) Insofar as not prohibited by general law, to control, regulate, limit and restrict the operation of motor vehicles carrying passengers for hire upon the streets or alleys of the town; to regulate the use of

automobiles and other automotive vehicles upon the streets; to regulate the routes in and through the town to be used by motor vehicle carriers operating in and through said town and to prescribe different routes for different carriers; to prohibit the use of certain streets by motor trucks; and generally to prescribe such regulations respecting motor traffic therein as may be necessary for the general welfare and safety.

(26) To make and enforce ordinances, not inconsistent with the laws of this State.

(27) To put into force and effect by ordinances any and all the foregoing powers, and any other powers and authority of the said council given by this charter, or any State law, or any amendments thereto; and to prescribe punishment for the violation of any town ordinance, rule or regulation, or of any provision of this charter, said penalty not to exceed five hundred dollars (\$500.00) fine or twelve months' imprisonment in jail, or both.

(28) The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the town council shall have and may exercise all powers which, under the constitution and laws of this State, it would be competent for this charter specifically to enumerate.

2. That §§ 13, 14 and 19 of Article III and § 8 of Article IV of Chapter 560 of the Acts of Assembly of 1950 are repealed.