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## HOUSE BILL NO. 866

## FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate Rush  
on January 30, 2014)

(Patron Prior to Substitute—Delegate Rush)

A BILL to amend and reenact §§ 1.02, 2.01, 2.03, and 2.04, as amended, §§ 2.09, 2.10, 2.11 and 2.12, § 2.16, as amended, §§ 2.23, 2.24, 2.25 and 2.27, §§ 2.28, 2.31 and 2.32, as amended, § 3.19, §§ 3.20 and 3.21, as amended, § 4.01, § 4.06, as amended, § 4.10, §§ 6.02 and 7.01, as amended, and §§ 7.03, 7.10, 7.11 and 7.14 of Chapter 240 of the Acts of Assembly of 1954, which provided a charter for the Town of Christiansburg, and to repeal §§ 7.04, 7.06, 7.07, and 7.08 of Chapter 240 of the Acts of Assembly of 1954, relating to boundaries, town council, and town officers and powers.

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

1. That §§ 1.02, 2.01, 2.03, and 2.04, as amended, §§ 2.09, 2.10, 2.11 and 2.12, § 2.16, as amended, §§ 2.23, 2.24, 2.25 and 2.27, §§ 2.28, 2.31 and 2.32, as amended, § 3.19, §§ 3.20 and 3.21, as amended, § 4.01, § 4.06, as amended, § 4.10, §§ 6.02 and 7.01, as amended, and §§ 7.03, 7.10, 7.11 and 7.14 of Chapter 240 of the Acts of Assembly of 1954 are amended and reenacted as follows:

§ 1.02. The boundaries.

The present boundaries of the town are as set forth in ~~annexation orders~~ a voluntary boundary adjustment effective at midnight on the thirtieth day of April, 2009, entered on the ~~ninth~~ tenth day of ~~October, 1974~~ April, 2009, and of record in ~~Chancery Order~~ book No. 39, page 442, et seq. as Order Instrument No. 2009023593 and 2009023717 and Deed Instrument No. 2009003478 of the Clerk's Office of the Circuit Court of Montgomery County, Virginia, and are incorporated herein by reference thereto. *Future annexation orders and voluntary boundary adjustments as appropriately approved and recorded in the Clerk's Office of the Circuit Court of Montgomery County, Virginia, shall act to amend these boundaries of the Town upon their effective dates and times.*

§ 2.01. Vesting of administration and government in council; composition of council; election and term of council members; council to be continuing body; vacancies in council.

The administration and government of the town is vested in the council composed of a mayor and six councilmen, all of whom shall be electors of the town.

(a) The council shall be elected in the manner provided by law. Three council members shall be elected on the November 2011 general election date and every four years thereafter. A mayor and three other council members shall be elected on the November 2013 general election date and every four years thereafter.

Terms of office shall begin on the first day of January next following their election. Each council member and the mayor elected as hereinabove provided shall serve for the term stated or until his successor has 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 term of office or removal of any of its members.

(b) Vacancy in the council or in the office of mayor shall be filled within ~~sixty~~ forty-five days, for the unexpired term, by a majority vote of the remaining members *for the remainder of the unexpired term or until a special election as required by the Code of Virginia; provided, that if the term of office to be filled does not expire for two years or more after the next regular election for council member, following such vacancy and such vacancy occurs in time to permit it, then the council shall fill such vacancy only for the period then remaining until such election, and should a majority of the remaining members of Council fail to agree or act, the appointment may be made by the circuit court until a qualified person shall then be elected by the qualified voters and shall from and after the date of his election and qualification succeed such appointee and serve the unexpired term as required by the Code of Virginia.* The number of candidates for council equal to the number of vacancies to be filled for full terms receiving the highest number of votes shall be entitled to such full terms ~~and the candidate receiving the next highest number of votes shall be entitled to the unexpired term caused by such vacancy.~~

(c) Notwithstanding any provisions of law to the contrary, any person shall be qualified to fill a vacancy on council or as mayor who is a resident of the town and is a qualified elector therein, except that a member of council shall not be qualified to fill a vacancy as mayor.

§ 2.03. Municipal officers.

The municipal officers of said town shall, in addition to the mayor, consist of treasurer, chief of police, clerk of the town council, town manager and town attorney; and the mayor may appoint such committees of the council as he may see fit, and the council may create such boards and departments of town government and administration with such powers and duties and subject to such regulations as it

60 may see fit, consistent with the provisions of this act and the general laws of this State. The said  
61 treasurer and clerk may be one and the same person if the council ~~deem~~ *deems* it more expedient.

62 No employee of the town or either of the officers of treasurer, chief of police, clerk of the town  
63 council, town manager or town attorney shall be required at the time of their employment or  
64 appointment to be a resident of the town.

65 § 2.04. Town manager.

66 The council of the town may, in its discretion appoint a town manager who may also serve as town  
67 engineer. Upon appointment of a town manager, he shall be vested with the administrative and executive  
68 powers of the town and shall hold office during the pleasure of the council. He shall receive such  
69 compensation as may be fixed by the council. He shall see that within the town the laws, ordinances,  
70 resolutions and bylaws of the council are faithfully executed and that the duties of the various other  
71 appointed town officers, members of the police, fire and public works departments and all other  
72 departments of the town government, are faithfully performed. He shall have power to investigate their  
73 acts, have access to all books and documents in their offices and may examine them or their  
74 subordinates on oath, but the evidence given by the persons so examined shall not be used against them  
75 in any criminal proceedings. He shall attend all meetings of the council *as deemed reasonably practical*  
76 *by council* and recommend for adoption such measures as he may deem expedient. He shall make  
77 reports to the council from time to time as to the affairs of the town, keep the council fully advised as  
78 to the town's financial condition and its future financial needs. He shall prepare and submit to the  
79 council a tentative budget for each fiscal year. The town manager shall perform such other duties as  
80 may be prescribed by the council and shall be bonded in such amount as the council may deem  
81 necessary.

82 § 2.09. ~~Oaths of office~~ *Mayor, councilmen and municipal officers to be sworn in before entering upon*  
83 *duties; duration of oath.*

84 The mayor, councilmen and all municipal officers of said town shall, before entering upon the duties  
85 of their respective offices, be sworn in accordance with the laws of the State of Virginia by anyone  
86 authorized to administer oaths under the laws of the State. *Oaths of municipal officers of the town taken*  
87 *upon original appointment shall be considered to remain in effect for the duration of time the municipal*  
88 *officer remains in the respective office and new oaths shall not be required for reappointment of*  
89 *municipal officers to the respective office.*

90 § 2.10. Certificate of oath.

91 When the mayor, councilmen, *town manager*, treasurer, clerk, and ~~sergeant~~ *police chief* take the oaths  
92 required of them, duplicate certificates of the court or person administering the same, stating the fact of  
93 their having been taken, shall be obtained by the person taking the same and be by him delivered for  
94 record as follows: one to the clerk of the circuit court of Montgomery County and one to the clerk of  
95 the town council. When any other municipal officer takes the oath required of him, a certificate as  
96 aforesaid, shall be secured by him and delivered to the clerk of the town council.

97 § 2.11. ~~Neglect of~~ *Effect of neglect to take oath.*

98 If any person elected or appointed to any office in said town shall neglect to take such oath ~~on or~~  
99 ~~before the day on~~ *within thirty days of taking office or appointment of* which he is to enter upon the  
100 discharge of the duties of his office, ~~or shall, for twenty days after the beginning of his term of office,~~  
101 ~~fail to give such bond with such security as may be required of him by the council of said town,~~ he  
102 shall be considered as having declined said office, and the same shall be deemed vacant, and such  
103 vacancy shall be filled as prescribed in this ~~act~~ *Charter* or by the general laws of this State.

104 § 2.12. ~~Surrender of papers and property~~ *Delivery of town property, books and papers to successor in*  
105 *office.*

106 If any person, having been an officer of said town, shall not within ten days after he shall have  
107 vacated or been removed from office, and upon notification of request of the council within such time  
108 as it may allow, deliver to his successor in office all property, books and papers belonging to the town  
109 or appertaining to such office, in possession or under his control, he shall forfeit and pay to the town a  
110 sum not exceeding five hundred dollars, to be sued for and recovered with costs; and all books, records  
111 and documents used in any office by virtue of any provision of this ~~act~~ *Charter*, or of any ordinances or  
112 order of the town council, or any superior officer of said town, shall be deemed the property of said  
113 town and appertaining to said office, and the chief officer thereof shall be held responsible therefor.

114 § 2.16. Vacancy in office of mayor.

115 In case a vacancy shall occur in the office of the mayor, the vacancy shall be filled by the method  
116 provided in § 2.01 for filling vacancies in *the* council.

117 § 2.23. ~~Replacing of expelled member~~ *Filling vacancy on council when member disqualified or*  
118 *expelled.*

119 If any member of the council shall be adjudged by the council disqualified or be expelled, under the  
120 previous § 2.22, a special election shall be held under the general election laws of the Commonwealth to  
121 fill such vacancy, for the unexpired term.

§ 2.24. ~~Absenteeism~~ *Power of council when member voluntarily absent from meetings consecutively for three months; irregular elections.*

If any member of said council be voluntarily absent from its meetings consecutively for three months, his seat may be declared vacant by the council, and the unexpired term filled by appointment as provided in § 2.01 (b).

Where not otherwise provided for by the laws of this State the town council shall by ordinance provide for any irregular elections not herein or by the State laws provided for, and appoint the necessary officers to conduct the same.

§ 2.25. General powers of council; management of municipal and fiscal affairs and of town property.

The town council shall have, subject to the provisions of this ~~aet~~ *Charter* and the general laws of this State, the management and control of the fiscal and municipal affairs of the town, and of all property, real and personal, belonging to the town.

§ 2.27. Same; *as to ordinances and bylaws, taxes and licenses, appointment of officers, etc..*

For carrying into effect the powers granted by this ~~aet~~ *Charter* and the general laws of this State, the town council may make ordinances and by-laws, and prescribe fines and other punishments for violation thereof, levy taxes and licenses, keep town guard, appoint a collector of taxes and levies, and such other officers as they may deem proper, define their powers, prescribe their duties and compensation, and take from any of them a bond, with surety, in such penalty as the council may deem proper, payable to the town by its corporate name, and with condition for the faithful discharge of the said duties.

§ 2.28. Clerk of the council.

The clerk of the council shall be appointed by ~~it~~ *the town council*, and shall attend the meetings of the council and shall keep permanent records of its proceedings; and also keep such other papers, documents and records pertaining to the town as may be determined by the council; he shall be custodian of the town seal and shall affix it to all documents and instruments requiring the seal, and shall attest the same; he shall give notice to all parties, presenting petitions or communications; he shall give to the proper department or officials ample notice of the expiration or termination of any franchise, contract or ~~agreements~~ *agreement*; he shall publish such records and ordinances as the council is required to publish, and such other records and ordinances as it may direct; he shall upon final passage transmit to the proper departments or officials copies of all ordinances or resolutions of the council relating in any way to such departments or to the duties of such officials, and he shall perform such other acts and duties as the council may, from time to time, allow or require.

§ 2.31. Chief of police.

The town council shall have the power and authority to appoint a chief of police and to provide for the employment of such additional police officers and ~~privates~~ *other support staff* as it may deem necessary or proper, to prescribe rules and regulations for the government thereof, to prescribe their ~~rate~~ *of pay structure*; and in addition thereto the mayor, or in his absence, the vice-mayor, or in the absence of both, any councilman, shall have the power and authority whenever the regular police force of the town is inadequate to meet the needs of the occasion, to appoint and swear in such additional or special policemen as he may deem requisite for a term of service not to exceed ten days and at such compensation as the council may fix for special policemen. The duties and powers of such special policemen shall be the same as that of ~~private~~ *patrol officer* of the regular police force.

§ 2.32. Police force.

The police force shall be under the control of the town manager, and during any time that the office of *the* town manager is not filled, or in the absence of the town manager, under the control of the mayor, for the purpose of enforcing peace and order and executing the laws of the state and ordinances of the town. They shall perform such other duties as the council may prescribe. For the purpose of enabling them to execute their duties, each policeman is hereby invested with all the power and authority which belongs to the office of the constable at common law in criminal cases.

§ 3.19. *Execution of bonds, etc.*

All bonds, and other evidences of indebtedness of the town, shall be signed by the Mayor and countersigned by the clerk of the council, who shall affix the corporate seal of the town and attest the same.

§ 3.20. Sinking funds.

(a) There shall be set apart from the revenues of the town an annual amount to be covered into a sinking fund sufficient to pay, at or before maturities, all outstanding bonded indebtedness of the town. This does not include so-called short term obligations of the town. The council may, in its discretion, annually, from time to time, set aside such additional sinking funds for equipment and capital improvements as it may deem advisable.

(b) All sinking funds set aside for the payment of the bonded indebtedness of the town shall be used exclusively in the payment or purchase and redemption of such outstanding bonds. When any sinking funds are not immediately needed for the purpose for which they were provided, they may be invested

in securities as provided for by ~~§ 26-40~~ § 15.2-2500 of the Code of Virginia under the then existing laws of the Commonwealth of Virginia for public sinking funds, to such extent as the council shall deem proper or expedient.

§ 3.21. *Annual audit of financial records; fiscal year.*

The council shall have the financial records of the town audited by a certified public accountant ~~biannually~~ annually, as soon after the close of the fiscal year as is practicable or at any other time deemed necessary by the council. The fiscal year begins ~~September one of each year~~ and ends August ~~thirty-one of the following year in accordance with the Code of Virginia.~~

The town council may, by resolution, change the fiscal year where it would seem to be to the best interest of the town.

§ 4.01. *Town plan generally; subdivision.*

The town is empowered to make and adopt a comprehensive plan for the town, and to that end all plats and replats hereafter made subdividing any land within ~~two miles~~ of its corporate limits into streets, alleys, roads and lots or tracts shall be submitted to and approved by the council within such limitations as they may prescribe before such plats or replats are filed for record or recorded in the office of the clerk of the circuit court of Montgomery County, Virginia.

The town council shall have the authority to require real estate subdividers within the corporate limits of the town to construct, at the subdividers' expense, water mains, sewer mains, streets, drainage, sidewalks, curbs and gutters. Such construction ~~to~~ shall be as prescribed by and under the direction of the town council.

The town council shall have the authority to negotiate with subdividers without the corporate limits as to the construction of water mains, sewer mains, and as to water and sewer service.

§ 4.06. *Waterworks, sewage disposal facilities, etc.; eminent domain.*

(a) The town council shall have the power and authority to acquire or otherwise obtain control of, or establish, maintain, operate, extend and enlarge waterworks, sewerage systems and treatment facilities, gasworks, electric plants, airports and other public utilities within or without the limits of the town; to acquire within or without the limits of the town by purchase, or otherwise, whatever land may be necessary for acquiring, locating, establishing, maintaining, operating, extending and enlarging said waterworks, electric plants, airports, and other utilities, and rights of way, rails, pipes, manholes, poles, conduits and wires connected therewith; establish rates, rules and regulations for all public utilities operated by the town, any or all of which rates, rules and regulations the council may alter at any time without notice. The town council may, by ordinance, prohibit the waste and unnecessary use of water.

(b) The town of Christiansburg may exercise the power of eminent domain with respect to land and improvements thereon, machinery and equipment, for any lawful purposes of said town.

The powers set forth in ~~§§ 15.1-837 through 15.1-915 inclusive of Chapter 18 of Title 15.1~~ Chapter 11 (§ 15.2-1100 et seq.) of Title 15.2 of the Code of Virginia as in force on January 1, 1968, the date of the enactment of this charter are hereby conferred on and vested in the town of Christiansburg. In addition, the town of Christiansburg shall have the powers set forth in §§ ~~33-70.1~~ 33.1-119 through ~~33-70.11~~ 33.1-129 of the Code of Virginia. When certificates are issued pursuant to §§ ~~33-70.1~~ 33.1-119 through ~~33-70.11~~ 33.1-129, inclusive, of the Code of Virginia, as amended, and acts amendatory thereof and supplemental thereto, they may be issued by the town council, signed by the town manager, or the mayor, and countersigned by the town treasurer. Such certificate shall have the same effect as a certificate issued by the State Highway Commissioner of the Virginia Department of Transportation under the aforesaid laws, and may be issued in any case in which the town proposes to acquire property of any kind by the exercise of its powers of eminent domain for any lawful public purpose, whether within or without the town; provided, that the provisions of §§ ~~33-70.1~~ 33.1-119 through ~~33-70.11~~ 33.1-129, inclusive, of the Code of Virginia shall not be used except for the acquisition of lands or easements necessary for streets, water, sewer or utility pipes or lines or related facilities.

§ 4.10. *Grade of streets, sidewalks, etc.; permits for street openings.*

The town council shall have the exclusive authority to determine the grades for all streets, sidewalks, curbs, gutters and alleys not in conflict with the State Virginia Department of ~~Highways~~ Transportation, and shall have the right to require permits for, and control of any opening in any street under its jurisdiction.

§ 6.02. *Connection with and use of town sewer or water pipe lines.*

The town council shall have the power and authority to require the owners or occupiers of the real estate within the corporate limits of the town to use such sewer pipes and conduits and water furnished by the town under such ordinances and regulations as the council may deem necessary to secure the proper sewerage thereof and to improve and secure good sanitary conditions; and shall have the power to enforce the observance of all such ordinances and regulations by the imposition and collection of fines and penalties, to be collected as other fines and penalties, under the provisions of this act Charter.

§ 7.01. *Contracts for erection of public improvements and buildings; interest of council members in contracts.*

All contracts for the erection of public improvements and buildings within the jurisdiction of the town where the estimated cost thereof exceeds three thousand dollars shall be in compliance with the Code of Virginia, and in all cases where practicable, shall be let to the lowest responsible bidder, all things considered, and the party to whom any contract is let shall give bond as the council may require, but in no event shall any contract be let to any member of the town council, nor shall any member have any interest in such contract.

§ 7.03. *Protection of persons and property and preservation of peace and order.*

The town council shall have the power and authority to protect the persons and property of the inhabitants of the town and others within the town, restrain and punish drunkards, vagrants and street beggars; to prevent vice and immorality; to preserve the public peace and good order; to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill fame and gambling houses; to prevent and punish lewd or indecent conduct or exhibitions in the town; and to expel therefrom persons guilty of such conduct who have not resided therein as much as one year; and for any violation of such ordinances may impose fines and other punishments in addition to those prescribed by the laws of the State.

§ 7.10. *Working of prisoners.*

Any person confined in jail as provided in this charter or for violations of town ordinances, the Code of Virginia, or federal laws may be required to work on the streets and public works of said town during the time of confinement. Any person refusing so to work may be subjected to solitary confinement with a diet of bread and water for a period not exceeding thirty-six hours.

§ 7.11. *Continuation of existing ordinances.*

All ordinances now in force in the town of Christiansburg, not inconsistent with this Charter, shall be and remain in force until altered, amended or repealed by the town council.

§ 7.14. *Title of Charter.*

This Charter may for all purposes be referred to or cited as the Christiansburg Charter of 1954, as amended.

2. That §§ 7.04, 7.06, 7.07, and 7.08 of Chapter 240 of the Acts of Assembly of 1954 are repealed.