

AMHERST TOWN CODE

CHAPTER 2

ADMINISTRATION

- Art. I. In General, §§ 2-1--2-9
- Art. II. Town Council, §§ 2-10--2-41
- Art. III. Town Officers, §§ 2-42--2-50
- Art. IV. Boards and Commissions, §§ 2-51--2-58

Article I. In General.¹

Sec. 2-1. Official bonds.²

(a) Each officer, employer and agent of the town who in the course of his official duties will have in his possession, custody or control any money, negotiable instruments, securities or other liquid assets belonging or due to the town which at any one time exceeds in value the sum of one hundred dollars shall, before entering upon the discharge of his duties, give bond payable to the town, with corporate surety and in such amount as shall be determined by the town council, conditioned upon the faithful performance of his duties and a true accounting to make all town assets coming within his possession, custody or control; provided, that the bond of the treasurer,³ his deputies and assistants shall be in amount not less than ten thousand dollars; and provided further, that the bond of the executive secretary, his deputies and assistants shall be in amount not less than ten thousand dollars.

(b) In lieu of individual bonds, the town council may provide for a system of blanket bonding covering all persons who, by this section, are required to be bonded.

(c) All bonds required by this section shall be approved by the town attorney as to legality and form, and by the town council as to sufficiency; and the premiums thereon shall be paid by the town. Bonds shall be filed in the office of the town clerk.

¹For charter provisions relating to administration and government of the town generally, see Char., art. III.
For state law relating to administration and government of counties, cities and towns generally, see Code of Va., title 15.2.

²For state law as to bonds of town officers and employees, see Code of Va., subsections 15.2-1512.

³For charter provisions as to bonding of town officers and employees, see Code of Va., subsections 15.2-1512.

Sec. 2-2. Salaries and compensation of town officers and employees.⁴

Subject to the provisions of the Charter and other state law, the mayor, councilmen and other officers and employees of the town shall receive such salaries or other compensation for their services as shall be fixed by the town council. All salaries shall be paid at such times as shall be fixed by the council. Annually, at the first regular meeting in September or thereafter, the compensation of the mayor, councilmen and other officers and employees of the town, for the current year, shall be fixed by order, ordinance or resolution of the council. Additional compensation shall be allowed any officer for special services performed not within the scope of his employment. (Code 165, Sec. 2-37.)

Sec. 2-3. Authority of deputies, assistants and acting town officers and employees.

(a) Authority vested in and duties imposed upon town officers by state law, the town Charter, this Code or other ordinances and resolutions of the town council may, when they so authorize, be exercised or performed by their deputies, assistants and other subordinates, to the extent not prohibited by state law, the town Charter, this Code or other ordinance or resolution of the town council.

(b) When any town officer or employee is absent or disabled, or when any office or position in the town government is vacant, the person designated by competent authority to act in the place of such absent or disabled town officer or employee or to hold temporarily the vacant office or position shall have the powers and perform the duties of such absent or disabled officer or employee or appertaining to such vacant office or position.

Sec. 2-4. Office and equipment furnished; office hours.

The town shall furnish each town officer with appropriate office space and all necessary stationery, books, records and equipment. Each town office shall be kept open during such hours as may be directed by the town council. (Code 1965, Sec. 2-48.)

Sec. 2-5. Town depository.⁵

Biennially, as soon as may be practicable following the election and qualification of a new town council, the town council shall, by ordinance or resolution, designate the place or places of deposits for all town funds, which shall be kept by the treasurer separate and apart from his personal funds.

Nothing in this section shall be construed so as to prevent the designation of such a depository at any other time, or to prevent any change being made, by ordinance or resolution of the town council.

⁴For charter provisions fixing salaries of mayor and councilmen, see Char., art. III, Sec. 1, subsec. (6). As to authority of town council to fix the salaries of other town officers, see Char., art. III, Sec. 1, subsecs. (13), (16), (17), (18), (19).

For state law as to authority of town council to appoint, and fix the salaries of town officers and employees, see Code of Va., Sec. 15.2-1414.6 and as to officers, see also Sec. 15.2-1407.

⁵For charter provisions as to authority of town council to designate the place of deposit for all town funds, which shall be kept by the treasurer separate and apart from his personal funds, see Char., art. III, Sec. 1, subsec. (15).

Sec. 2-6. Right of entry for purposes of inspection.⁶

Whenever any officer or employee of the town is required or authorized by statute, the provisions of this Code or any ordinance or resolution, or rules and regulations or orders issued thereunder, in order to carry out his duties thereunder, to enter any premises or vehicle for the purpose of making an inspection thereof or of anything therein contained, such officer or employee shall have the right to enter any such premises or vehicle in accordance with law at any reasonable time in pursuance of such duties.

Sec. 2-7. Execution of deeds for conveyance or exchange of town property and other instruments requiring use of seal.

All deeds for the conveyance or exchange of the property of the town, and all agreements or other instruments requiring the seal of the town to be affixed thereto, shall, when authorized by the town council, be signed in the name of the town by the mayor and executive secretary and the seal of the town to be affixed thereto and attested by the town clerk.⁷

Sec. 2-8. Virginia supplemental retirement system made applicable to eligible town officers and employees; administration of retirement system.

(a) The town council hereby ratifies, confirms and continues in full force and effect for the resolution heretofore adopted by the town council,⁸ which has been approved by the board of trustees of the Virginia supplemental retirement system, whereby the town council elected to enable eligible town officers and employees become members of the Virginia supplemental retirement system, pursuant to the provisions of section 51.111.31 of the Code of Virginia.

(b) The town council shall, each year, appropriate sufficient funds to make its required employer contributions to the board of trustees of the Virginia supplemental retirement system; and the treasurer shall withhold from the salaries and wages of those town officers and employees who are members of such retirement system sufficient funds to make the required member contributions to such board of trustees; and all such contributions shall be paid by the treasurer to such board of trustees; and all such contributions shall be paid by the treasurer to such board of trustees in compliance with rules, regulations and procedures established by that board.

(c) The town treasurer shall be responsible for the performance by the town of all duties imposed upon the town and its member officers and employees under the applicable provisions of title 51, chapter 3.2 of the Code of Virginia.

⁶As to right of entry on private premises and duty of occupants thereof with respect to the abatement of nuisances, see Sec. 10.5 of this Code.

⁷For charter provision as to town clerk's authority to attest town seal, see Char., art. III, Sec. 1, subsec. (16).

⁸Editor's note--The resolution here referred to is on file in the office of the town clerk.

AMHERST TOWN CODE

Sec. 2-9. Federal social security for eligible officers and employees.

(a) In order to provide for the coverage of eligible officers and employees of the town under the provisions of title II of the federal Social Security Act, the town shall subscribe to the applicable provisions of sections 51-111.1 through 51-111.8 of the Code of Virginia; and the plan heretofore submitted to and approved by the state agency⁹ pursuant to section 51-111.5 of the Code of Virginia is hereby ratified, confirmed and continued in full force and effect.

(b) The town council shall, each year, appropriate sufficient funds to make its required employer contributions to the state agency, and the town treasurer shall withhold from the salaries and wages of those town officers and employees who are so covered by federal social security to make their required contributions pursuant to the approved plan.

(c) The town treasurer shall be responsible for the performance by the town of all duties imposed upon the town and its officers and employees who are so covered by federal social security under the applicable provisions of sections 51.111.1 through 51-111.8 of the Code of Virginia.

⁹Editor's note.--The plan here referred to is on file in the office of the town clerk.

AMHERST TOWN CODE

Article II. Town Council.¹⁰

Sec. 2-10. Time and place of meetings¹¹**--Regular.**¹²

The regular meeting of the town council shall be held at the town hall on the second Wednesday in each month, at such hour as may be fixed by the council; provided, that when a second Wednesday falls upon a holiday the next succeeding business day shall be the time for such meeting. (Code 1965, Sec. 2-3.)

Sec. 2-11. Same--Special.¹³

Special meetings of the council may be called by the town clerk of the council at the instance of the mayor or any two members for any time designated, by an order, in writing, addressed to the town clerk; and every order for a special meeting of the council shall contain a notice of the object of such meeting. (Code 1965, Sec. 2-4.)

¹⁰For charter provisions as to composition of town council and the qualifications, election, term and oath of office of members, see Char., art. III, Sec. 1, subsec. (2). As to council being the judge of election and qualifications of its members, expulsion of members and filling vacancies, see Char., art. III, Sec., 1, subsec. (4). As to salaries of councilmen, see Char., art. III, Sec. 1, subsec. (6). As to veto powers of mayor, and reconsideration of vetoed legislation and passage over veto, see Char., art. III, Sec. 1, subsec. (8). As to duty of council to keep minute book, see Char., art. III, Sec. 1, subsec. (11). As to authority of council to adopt rules for regulating its proceedings, see Char., art. III, Sec. 1, subsec. (12). As to appointment, term and duties of clerk of council, see Char., art. III, Sec. 1, subsec. (16). As to powers of council relating to taxation and finances, see Char., art. IV. As to powers of council relating to property, public places, etc., see Char., art. V. As to powers of council relating to utilities, see Char., art. VI. As to powers of council relating to streets, sidewalks, etc., see Char., art. VII. As to powers of council relating to building regulations, see Char., art. VIII. As to miscellaneous additional powers, see Char., art. IX. As to the corporate powers of the inhabitants of the town, see Char., art I.

For state law as to oath of office of mayor and councilmen, see Code of Va., Sec. 15.1-829. As to residence requirements, see Code of Va., sections 15.1-51, 15. As to conflicts of interest, see Code of Va., sections 15.1-73 to 15.1-73.2 As to ineligibility of members to hold certain offices, see Code of Va., Sec. 15.1-800. As to council being judge of election of its members, power to expel, etc., see Code of Va., Sec. 15.1-830. As to authority of council to suspend or remove town officers, other than the mayor, whether elected or appointed, for cause, see Code of Va., Sec 15.1-131. As to the journal of council, see Code of Va., Sec. 15.1-828. As to investigative powers of council, see Code of Va., Sec. 15.1-801. As to authority of council to call on governor for state troops in time of danger, see Code of Va., Sec. 44-18. As to certain duties of council relating to annual budget, see Code of Va., Sec. 15.1-160 et seq. As to duties of council relating to tax levies, see Code of Va., Sec. 58-845 et seq.

¹¹For charter provisions as to what constitutes quorum of the town council to transact business, see Char., art. III, Sec. 1, subsec. (5).

¹²For charter provisions requiring town council to meet at least once each month, at such time as council shall fix by ordinance, see Char., art III, sec. 1, subsec. (10).

¹³For charter provisions as to how special meetings may be called, and what business may be transacted, see Char., art. III, subsec. (10).

Sec. 2-12. Same--To be public; exception.¹⁴

All meetings of the town council shall be public, except when by a recorded vote of two-thirds of those members present, the council shall declare that the public welfare requires that the council meet in executive session pursuant to section 2.1-344 of the Code of Virginia. (Code 1965, Sec. 2-7.)

Sec. 2-13. Procedure in absence of quorum.

Subject to the provisions of sections 2-14, if a quorum fails to attend within thirty minutes after the time appointed for meeting of the town council, the clerk of the council shall enter on the journal the names of those in attendance, and the adjournment for want of a quorum. If a quorum fails to attend on the day of any regular meeting, the meeting shall stand adjourned to the next day of meeting, or at such other time as those present may designate. (Code 1965, Sec. 2-8.)

Sec. 2-14. Compelling attendance of absent members of council; penalty for disobedience of summons.

Any two or members of the town council may compel the attendance of absent members of the council by a process in writing, signed by them and addressed to the chief of police of the town, directing him to bring the absent members immediately before the council. Any member failing to obey such summons may be fined by a vote of the council, not less than five nor more than ten dollars. The fine shall be collected as other fines are collected. (Code 1965, Sec. 2-9.)

Sec. 2-15. Member absenting himself from meeting prior to adjournment.

After the name of any member has been recorded as present at any meeting of the town council, he shall not absent himself previous to adjournment unless by consent of the council. (Code 1965, Sec. 2-10.)

Sec. 2-16. Expulsion of member for misconduct in office.¹⁵

By a vote of at least two-thirds of the members, the town council may expel a member of the council for misconduct in office. (Code 1965, Sec. 2-11.)

Sec. 2-17. Duties of presiding officer; preservation of order.¹⁶

At meetings of the town council the presiding officer shall preserve order and decorum, and he shall discharge all other duties usually pertaining to a presiding officer. (Code 1965, subsecs. 2-12, 2-13.)

¹⁴For charter provisions requiring open meetings except when, in the judgment of council, the public welfare shall require executive meetings, see Char., art. III, Sec. 1, subsec. (10).

For state law as to meetings of council being open to the public, executive sessions, etc., see Code of VA., Sec. 2.2-3700 et seq.

¹⁵For charter provisions as to expelling a member of the town council, see Char., art. III, Sec. 1, subsec. (4).

¹⁶For charter provisions as to duties of mayor as presiding officer of the town council, see Char., art. III, Sec. 1, subsec. (7). As to duties of the vice mayor in absence of the mayor, see Char., art. III, Sec. 1, subsec. (9).

Sec. 2-18. Disorderly conduct at public meeting of town council or committee, etc., thereof.¹⁷

If any person behaves in a riotous or disorderly manner in any public meeting of the town council or any division, committee, agency or authority thereof, or causes any unnecessary disturbance therein, by force, shouting or any other action calculated to disrupt such meeting, or shall refuse to obey any ruling of the presiding officer of such meeting relative to the orderly process thereof, he shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars or confinement in jail not exceeding twelve months, or both, in the discretion of the jury or court trying the case without a jury.

Sec. 2-19. Order of business.

At meetings of the town council, the order of business shall be as follows:

- (a) Reading and approval of the proceedings of the last meeting.
- (b) Unfinished business.
- (c) New business.

When any matter is made the special order for a future meeting, it shall at such meeting take priority of all other business except the reading of the proceedings of the last meeting. (Code 1965, Sec. 2-14.)

Sec. 2-20. Manner of addressing council generally; speaking only on question before council.

When a member of the town council rises to speak to the council he shall address "Mr. Mayor," standing in his place, and shall confine himself strictly to the question before the council. (Code 1965, Sec. 2-17.)

Sec. 2-21. Use of offensive language or gestures; sectarian or political discussion.

No member of the town council shall in debate at any meeting of the council use any language or gesture calculated to offend or insult another member. No discussion of a sectarian or partisan political character shall be allowed at meetings of the council. (Code 1965, Sec. 2-18.)

Sec. 2-22. Priority in speaking to council.

When two or more members of the town council rise at the same time, the presiding officer shall name the one to speak, but in all cases the member who shall first rise and address the chair shall be recognized to speak first, subject to the limitation imposed by section 2-23. (Code 1965, Sec. 2-19.)

Sec. 2-23. Speaking more than once on same subject.

¹⁷For state law as to authority of town council to enact this section and to propose penalty as therein prorated, see Code of Va., Sec. 18.1-253.3. As to penalty for commission of misdemeanor, see code of Va., Sec. 18.1-9.

AMHERST TOWN CODE

In any debate before the town council no member of the council shall speak more than once on the same question until all others have spoken who desire to do so, nor more than twice on the same question, unless by consent of the council. (Code 1965, Sec. 2-20.)

Sec. 2-24. Form of petitions, etc.

Every petition, communication or address to the town council shall be in respectful language and, except in cases where it is otherwise allowed, shall be in writing. (Code 1965, Sec. 2-21.)

Sec. 2-25. Propositions to be seconded; withdrawal of seconded propositions.

No proposition shall be entertained by the presiding officer until it has been seconded. No proposition, after it has been seconded, shall be withdrawn without the consent of the member proposing and the member seconding it. (Code 1965, Sec. 2-22.)

Sec. 2-26. Decisions on points of order.

The mayor, when presiding at a meeting of the council, without vacating the chair, may give his reasons for any decision made by him on any point of order and such decision shall be made without debate. (Code 1965, Sec. 2-23.)

Sec. 2-27. Appeals from decisions on points of order.

Any member may appeal to the town council from the decision of the mayor on any question of order, a majority vote of those present being necessary to overrule the mayor. (Code 1965, Sec. 2-24.)

Sec. 2-28. Motion to adjourn.

At a meeting of the town council, a motion to adjourn shall be always in order and shall be decided without debate. (Code 1965, Sec. 2-25.)

Sec. 2-29. Motions while a question is under debate.

When a question is under debate at a meeting of the town council no motion shall be received unless it be one to amend, to commit, to postpone, for the previous question, to lay on the table or to adjourn. (Code 1965, Sec. 2-26.)

Sec. 2-30. Members to vote.¹⁸

Every member of the town council present when a question is put on an ordinance or resolution, unless interested or excused from voting, by the council, shall vote on one or the other side of such question. (Code 1965, Sec. 2-27.)

¹⁸For charter provision that mayor shall not vote on the town council except to break a tie, see Char., art. III, sec. 1, subsec. (7).

AMHERST TOWN CODE

Sec. 2-31. Interested members not to vote.¹⁹

No member of the town council who has any personal or pecuniary interest in the result of any question before the council shall vote upon such question. (Code 1965, Sec. 2-28.)

Sec. 2-32. Recorded vote on request.²⁰

At the request of any member present the "ayes" and "nays" on any question shall be recorded. (Code 1965, Sec. 2-29.)

Sec. 2-33. Voting on appointments to office.

Every appointment to office by the council shall be viva voce and the vote shall be recorded. (Code 1965, Sec. 2-30.)

Sec. 2-34. Vote required for decision.

All questions before the town council, except where otherwise provided, shall be decided by a majority vote of those present. (Code 1965, Sec. 2-31)

Sec. 2-35. Voting on money and election measures.

There shall be a recorded vote on every ordinance having for its object the levying of taxes, appropriating of money or elections. Levies, taxes and appropriations of money must be by a vote in accordance with the applicable provisions of the Charter.²¹ (Code 1965, Sec. 2-32.)

Sec. 2-36. Reconsideration of motions, etc., upon which vote has been announced.

At any meeting of the town council when any vote upon any motion, resolution, ordinance or question has been announced, it may be reconsidered on the motion of any member who voted with the prevailing side; provided, such motion be made at the same session of the council at which it was decided. Such motion shall be decided by a majority of the votes of the members present, unless a greater number of votes was required to pass the measure, in which event the motion to reconsider shall not prevail, except upon the vote of as great a number of members as was required to pass the measure. (Code 1965, Sec. 2-33.)

Sec. 2-37. Suspending rules.

Except as provided in section 2-38, no rule of the town council shall be suspended without the

¹⁹For state law relating to conflicts of interest, see Code of Va., Sec. 2.2-3100.

²⁰For charter provision that votes cast on reconsideration of vetoed ordinance or resolution be reenacted in the council minute book, see Char., art. III, Sec. 1, subsec. (8).

²¹For charter provisions as to vote required for levy of tax, contracting for corporate debt or appropriation of money exceeding the sum of one hundred dollars, see Char., art. III, Sec. 1, subsec. (12).

AMHERST TOWN CODE

concurrence of two-thirds of the members present. (Code 1965, Sec. 2-34.)

Sec. 2-38. Passage of ordinance on day of introduction.

No ordinance shall be placed upon its final passage by the council on the same day on which it shall be first presented and read, unless by the vote of four of the members of the council present. This section shall not be liable to suspension. (Code 1965, Sec. 2-16.)

Sec. 2-39. Effective date of ordinances, resolutions, and bylaws.²²

All ordinances, resolutions, and bylaws passed by the town council shall take effect at the time indicated therein, unless therein otherwise provided; and if no effective date be provided therein they shall become effective thirty days from passage. (Code 1965, Sec. 2-15.)

Sec. 2-40. Records of ordinances and resolutions passed; files; certificates of publication and service.²³

(a) The clerk of the council shall keep the minutes of the town council in such manner as to indicate with certainty each ordinance and resolution passed by the council, and shall transcribe them in books to be maintained in his office for such purpose, and these books shall be accurately indexed. The original copies of such ordinances and resolutions shall then be placed and maintained in appropriate files in his office. When any ordinance, resolution, rule, regulation, order or notice of the town council is required to be published, he shall append to the original copy thereof his certificate showing the date and manner of publication, and any such matter which is required to be served personally shall bear the appended certificate of the chief of police or other officer by whom such service was made, showing the date and manner of service.

(b) When any ordinance or resolution is amended or repealed, the clerk of the council shall enter an appropriate note in the margin of the page of the ordinance or resolution book which contains the original of the ordinance or resolution affected by such amendment or repeal, and such note shall show, among other pertinent data, the date of amendment or repeal, and shall be initialed by the clerk of the council (Code 1965, Sec. 2-45.)

Sec. 2-41. Committees of town council; investigations.

Biennially, as soon as may be practicable following the election and qualification of a new town council, the council shall, and at any other time may, adopt a resolution providing for the appointment of such standing committees as the council deems necessary or expedient for the efficient and timely transaction of its business. Any such resolution may prescribe for each committee, among other subjects not herein mentioned, the number of members and the manner of their appointments; the jurisdiction, powers and duties; town funds

²²For similar provisions of town Charter, see Char., art. III, Sec. 1, subsec. (20).

²³For charter provisions as to signatures required on ordinances and on resolutions having the effect of an ordinance, see Char., art. III, Sec. 1, subsec. (8). As to minute book generally, see Char., art. III, Sec. 1, subsec. (11). As to duty of clerk of council to publish reports and ordinances which are required to be published and to keep all papers required to be kept by the council, see Char., art. III, Sec. 1, subsec. (16).

For state law as to required publication of any code or ordinance, see Code of Va., Sec. 15.2-1433.

AMHERST TOWN CODE

authorized to be expended; and reports to be made to the town council.

The town council may at any time, by resolution, provide for the appointment, jurisdiction, powers and duties of such ad hoc or special committees as the council may deem necessary or expedient for the efficient and timely transaction of its business.

For the purpose of making investigations relating to municipal affairs, when considered by the town council necessary to do so, the council may, by resolution, designate an appropriate standing committee or appoint a special committee for such purpose, and may delegate to such committee, in the name of the town council, authority to summon and enforce the attendance of witnesses and the production of books and papers, and to administer oaths, in the same manner and with like effect and under the same penalties as the town council for contempt.

Until such time as the town council adopts a resolution pursuant to this section which supersedes and repeals the provisions of section 2-5 of the town Code of 1965, such section 2-5 shall continue to be in full force and effect. (Code 1965, sections 2-5, 2-6.)

Article III. Town Officers

Division 1. Generally.²⁴

Sec. 2-42. Holding of two or more town offices concurrently by one person;²⁵ designation of deputies and assistant.

(a) The town council may provide by ordinance or resolution that one person may serve concurrently in any two or more specific offices which are authorized to be filled by appointment by the town council, subject to any limitation imposed by the town Charter or state law; and in such ordinance or resolution the council may specify an appropriate title for a person holding more than one office concurrently, as, for example, "town clerk-treasurer," or "clerk-treasurer."

(b) Any deputy or assistant to any town officer who holds two or more town offices concurrently shall be designated according to the office or offices in which he serves as such. For example, if and when there shall be a "town clerk-treasurer," any deputy or assistant who performs duties appertaining to both such offices shall be "deputy (or assistant) town clerk-treasurer," but if he performs duties relating only to the office of town clerk, his title shall be "deputy (or assistant) town clerk."

²⁴For charter provisions as to authority of town council to appoint town officers and fix their compensations and define their duties, see Char., art. III, Sec. 1, subsec. (19).

For State law as to when and how town officers qualify, see Code of Va., subsection 15.2-1524. As to residence requirements, see Code of Va., section 15.2-1526.

²⁵For charter provisions as to town sergeant being chief of police, see Char., art III, Sec. 1, subsec. (17). As to provisions relating to town clerk and clerk of the council, see Char., art. III, Sec. 1, subsecs. (8), (16).

AMHERST TOWN CODE

Sec. 2-43. Oath of office for all elective and appointive officers of town.²⁶

The mayor and councilmen and all officers, appointed or elected for the town, shall take and subscribe the oath of office hereinafter set forth before some officer authorized by law to administer an oath. This shall be done before entering upon the discharge of any function as an officer of this town. The oath is as follows:

" _____ 19__

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____, according to the best of my ability. So help me God.

" _____

The foregoing oath was sworn to and subscribed by _____
before me this _____ day of _____
19____.
(Code 1965, Sec. 2-36.)

Sec. 2-44. Surrender of books, papers, seal, etc., at expiration of term.

At the expiration of his term of office, each officer shall forthwith deliver to his successor in office all books, papers, documents, town seal, etc., in his custody, all of which are the property of the town, and if there be no successor, to the person designated by the town council. (Code 1965, Sec. 2-38.)

Sec. 2-45. Contracts between town officers, etc., and town.²⁷

No officer of the town or member of the town council shall directly or indirectly contract with the town for furnishing it with labor, supplies, machinery or other things, nor shall he be interested in the profits of any contract with the town. (Code 1965, Sec. 2-35.)

Division 2. Specific Officers

Sec. 2-46. Mayor.²⁸

(a) The mayor shall be the chief executive officer of the town. He shall have and exercise all power and authority conferred by general law not inconsistent with the town Charter. He shall preside over the meetings of the town council and shall have the same right to speak therein as members of the town council,

²⁶For similar state law, see Code of Virginia. Sec. 49.1.

²⁷For state law as to town officers not to have interest in contract with town, etc., see Code of Va., Sec. 2.2-4300 et seq.

²⁸For charter provisions as to qualifications, election and oath of office of mayor, and specifying that the mayor and five councilmen shall constitute the town council, see Char., art. III, Sec. 1, subsec. (2). As to powers and duties of mayor generally, see Char., art. III, Sec. 1, subsec. (7). As to veto powers of mayor, see Char., art. III, Sec. 1, subsec. (8). As to powers and duties of vice mayor during absence or disability of mayor or when the office of mayor is vacant, see Char., art. III, Sec. 1, subsec. (9).

AMHERST TOWN CODE

but shall not vote, except in case of tie. The mayor shall be recognized as the head of the town government for all purposes, and he shall see that the duties of the various town officers are faithfully performed and that state law and the town ordinances are enforced within the town. In addition to the duties that may be imposed upon him under the Charter, state law and the provisions of this Code and other ordinances and resolutions of the town, the mayor shall discharge all other duties which may be imposed upon him by the town council.

(b) In event of any public emergency involving the health, comfort, peace and safety of any substantial number of citizens of the town, the mayor, in the exercise of general police power, may forthwith promulgate rules and regulations and take such steps as may be necessary to deal with the emergency until such time as by specific ordinance such emergency be cared for. (Code 1965, subsecs. 2-39, 2-40.)

Sec. 2-47. Town Manager.^{29, 30}

(a) The office of Town Manager is hereby established. The Town Manager shall be appointed by the town council and shall serve at the Town Council's pleasure. He shall be Clerk of the Council. The Town Manager shall be the administrative officer for the mayor and the town council and shall perform such duties and have such powers as may from time to time be specified for his office by the mayor and council.

(b) It shall be the duty of the Town Manager to (1) attend all meetings of the town council, with the responsibility to counsel and advise, but without any right or privilege to vote; (2) keep the town council advised of the financial condition and the future needs of the town and all of matters pertaining to its proper administration, and make such recommendations as he deems desirable; (3) prepare and submit the annual budget to the town council and be responsible for its administration after its adoption; (4) prepare in suitable form for publication and submit to the town council at a regular meeting in June of each year a concise, comprehensive report of the financial transactions and administrative activities of the town government during the immediately preceding fiscal year; (5) present adequate financial and activity reports as required by the town council; (6) arrange for an annual audit by a certified public accountant, the selection of whom shall be approved by the town council; and (7) perform such other duties as may be prescribed or required by the mayor or the town council.

(c) At the instance of the mayor or any two councilmen, the Town Manager shall call a special meeting of the town council, for the time, place and purpose of such meeting as stated by the mayor or councilmen instigating the call. He shall provide sufficient copies of such call to the Chief of Police, for service on members of the council not parties of the call.

(d) The Town Manager may, with the consent of the council, appoint or employ and remove or discharge such officers, employees and assistants as he deems necessary to carry on the work of such departments of the town as are committed to him by the council, in all their respective details, in an economical and satisfactory manner. The salary or compensation, and the terms of office or employment of such officers, employees and assistants shall be fixed by the Town Manager, subject to approval by the council; and his actions in all respects shall be subject to review by the council, and he shall be accountable to the council only.

²⁹For charter provisions as to authority of town council to appoint a business manager for the town, see Char., art. III, Sec. 1, subsec. (19).

³⁰For charter provisions relating to clerk of the council, see Char., art. III, Sec. 1, subsec. (10, (11), (16).

However, this paragraph shall not apply to the Chief of Police or any police department employee.

Sec. 2-48. Clerk of the Council.³¹

(a) The Clerk of the Council shall be the custodian of all records, documents and other papers of the town for which no other officer is designated as custodian, and he shall maintain them in a systematic manner so as to facilitate ready reference thereto, and in a secure and fireproof safe or in locked filing cabinets in his office; provided that the safe deposit box of a bank or trust company designated by the town council for such purpose may be used as the place of maintenance for papers of unusual value to the town.

(b) It shall be the duty of the Clerk of the Council to enter of record and file all bonds which may be required of the mayor, councilmen or officers of the town, and he shall also file all oaths required to be taken and subscribed by the mayor, councilmen and officers of the town.

(c) The Clerk of the Council shall have such other powers and perform such other duties as may be specified for such office by the town Charter, state law, this Code and other ordinances, resolutions and orders of the town council, and which are incidental to the office of Clerk of the Council generally.

Sec. 2-49 Town Treasurer.³²

(a) *Powers and duties generally.* The Town Treasurer shall perform all the duties in regard to the town taxes, levies and assessments for the town and be subject to all the duties and penalties as are prescribed for a county treasurer in respect to state revenue, county taxes and assessments, so far as applicable and not inconsistent with the Charter, this Code and other ordinances and resolutions of the town. He shall perform all duties of the Town Treasurer as provided in the Charter and in this Code and the ordinances, resolutions or orders promulgated by the town council. He shall strictly enforce the provisions of the Charter, this Code and other ordinances of the town with reference to the nonpayment of taxes, licenses, special assessments and water and sewer charges and charges for electrical service.

(b) *Books, papers and accounts.* The Town Treasurer shall keep accurate books and accounts. Such books and accounts shall always be subject to the inspection of the council or any committee thereof. The books, papers and accounts, concerning his office, shall be kept in a fireproof safe, all of which shall be the property of the town.

(c) *Segregation of money received on special assessment.* All money received on any special assessment shall be held by the Town Treasurer as a special fund to be applied to the payment for which the assessment was made, and the money shall be used for no other purpose whatsoever.

(d) *Disbursement in payment of claims and charges against town.* The Town Treasurer shall make disbursements of town funds in payment of all claims and charges against the town approved by the town

³¹For reference in charter to the clerk of the council, see Char., art. III, Sec. 1, subsec. (16).

³²For charter provisions as to appointment, bond, term, powers and duties of treasurer, see Char., art. III, Sec. 1, subsecs. (13), (14). As to provisions relating to taxation and finance, see Char., art. IV.

As to applications for town licenses to be made to the town treasurer, see Sec. 8-3 of this Code. As to duty of town treasurer to keep record and make reports to town council concerning licenses issued, see Sec. 8-7.

AMHERST TOWN CODE

council as budgeted; provided, that payroll checks, funds for petty cash reimbursement, payments on bonded indebtedness and interest recurring obligations, refunds of utility deposits may be paid between council meetings by the town treasurer without specific approval by the council as may any other type of obligation or claim included in this classification by the council by resolution.

(e) *Relief from liability on account of failure of authorized depository.* The town treasurer is hereby relieved from any liability from or on account of the failure of any authorized depository in which he has deposited funds of the town.

(f) *Notes, etc., issued pending sale of bonds or in anticipation of revenue.* All notes and other obligations issued pending the issuance and sale of any authorized bonds, or in anticipation of receipts or revenues of the current fiscal year, shall be signed in the name of town by the town treasurer and the approval thereof endorsed on the face of such note or other obligation by the mayor, officially.

(g) *Purchase of warrants at discount.* The town treasurer shall not, either directly or indirectly, contract for or purchase any warrant drawn upon the town treasury, or payable therefrom, at any discount whatever upon the sum due upon the warrant.

(h) *Refusal of payment of warrant of person indebted to town.* The town treasurer shall refuse payment of any town warrant presented to him when the person presenting or holding such warrants is indebted to the town or delinquent in the payment of taxes or other dues to the town. The treasurer is authorized to withhold payment of such warrant until such taxes or indebtedness shall have been paid.

(i) *Power of levy, distress, etc.* For the purpose of collecting taxes, assessments, special assessments, license fees, utility charges and other dues to the town the treasurer shall have the right of distress, levy, lease and garnishment as provided by the laws of the state. All property subject to levy to satisfy taxes due to the state may be taken to satisfy taxes, assessments, special assessments, license fees, water and sewer charges due the town.

(j) The Town Treasurer shall be supervised by the Town Manager.

Sec. 2-50. Town attorney.³³

The town attorney shall be a member in good standing of the bar of Amherst County, who shall be retained by the town council to perform such duties consistent with this section as shall be agreed upon by and between him and the town council. The town attorney shall be legal counsel for the town council and town officers, and perform such other professional services as are usually incidental to the position of legal counsel, including representation of the town in prosecutions and other litigation, with such exceptions as may be agreed upon by and between him and the town council. Subject to agreement with the town council, the town attorney may designate an assistant town attorney, who shall be a member in good standing of the bar of Amherst County, to perform the duties of town attorney when the town attorney is absent, ill or otherwise disabled or unavailable. If at any time the town attorney retained pursuant to this section be the same person who is commonwealth's attorney for Amherst County, this shall not be deemed to be a conflict of interests per

³³For state law as to authority of town council to employ town attorney, or other counsel approved by the town council, etc., see Code of Virginia, Sec. 15.2-1520.

AMHERST TOWN CODE

se; and if at any time the assistant town attorney designated pursuant to this section be the assistant commonwealth's attorney for Amherst County this shall not be deemed to be a conflict of interests per se.

The town attorney shall attend all town council meetings.

In addition to the annual retainer paid the town attorney by way of salary, he shall have additional compensation for all special services rendered the town, in such amount as may be agreed upon by the town attorney and the town council.

From time to time, the town attorney shall present for payment any actual outlay or expense which the performance of his duties have entailed. (Code 1965, sections 2-41 to 2-43.)

Article IV. Boards and Commissions

Sec. 2-51. Industrial Development Authority created; powers, duties and obligations.³⁴

There is hereby created, pursuant to the provisions of the "Industrial Development and Revenue Bond Act", chapter 33, sections 15.1-1373 through 15.1-1390, inclusive of the Code of Virginia, a political subdivision of the Commonwealth of Virginia, to be known as an industrial development authority, with such public and corporate powers, duties and obligations as are set forth in the above cited sections of the Code of Virginia.

Sec. 2-52. Name.

The name of the political subdivision of the Commonwealth of Virginia created by this division shall be the "Industrial Development Authority of the Town of Amherst, Virginia." (312-69, Sec. 2.)

Sec. 2-53. Board of directors--Composition; appointment, term and oath of office of directors.

The industrial development authority shall be governed by a board of directors in which all powers of the authority shall be vested, and which board shall be composed of seven directors, appointed by the town council, each for a term of four years and until his successor is appointed and qualified, except that appointments to fill vacancies shall be for the unexpired term only.

Each director shall, before entering upon his duties, take and subscribe the oath prescribed by section 49-1 of the Code of Virginia. No director shall be an employee of the Town of Amherst. (3-12-69, Sec. 4.)
(Amended July 17, 2002.)

Sec. 2-54. Same--Quorum; vote required for certain purposes.

Four members of the board of directors of the industrial development authority shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other

³⁴For State Industrial Development and Revenue Bond Act, see Code of Va., Sec. 15.2-4900 et seq. As to power of town, by ordinance, to create industrial development authority, see Code of Va., Sec. 15.2-4903.

AMHERST TOWN CODE

purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board. (3-12-69, Sec. 6.)

Sec. 2-55. Same--Minutes, records and audits.

The board of directors of the industrial development authority shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of all its financial transactions and shall arrange to have them audited annually. Copies of each such audit shall be furnished to the town council and shall be open to public inspection. (3-12-69, Sec. 7.)

Sec. 2-56. Officers.

The board of directors of the industrial development authority shall elect from their membership a chairman, a vice chairman and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer. The directors shall receive no salary but shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties. (3-12-69, Sec. 5.)

Sec. 2-57 Policy on process for appointments to vacant town council seats.

I. Purpose:

The purpose of this policy is:

- a. To provide an expedited and consistent procedure for the appointments to the vacated seats of the Amherst Town Council.
- b. To encourage participation in a free and democratic local government; and
- c. To seek qualified individuals for appointments.

II. Procedure:

- a. The Town Clerk will make public notice of all unexpected vacancies to the seats of Town Councilor immediately upon notification of said vacancy. The Clerk will also immediately notify the mayor and other members of the Council of said vacancy.
- b. The Town Clerk shall be authorized to automatically make the public notice without direct order of the Mayor or Council.
- c. "Public Notice" is defined as posting of vacancies in a conspicuous location at the Town Hall; advertisement in the Amherst New-Era Progress; and posting on any official Town of Amherst web site.
- d. Any eligible individual desiring to be considered for appointment to a vacated seat on Town Council shall complete a Town of Amherst Application for Appointment to Town Council and return it to the Town Clerk within thirty (30) days of the effective date of the vacancy.
- e. The Town Clerk shall forward all applications to the Mayor with copies to Town Council Members and arrange for a closed session of the Council at the next regular Council meeting following the application deadline or at a special called meeting of the Council for the purpose of making appointments to vacated seats on Town Council.
- f. The Town Council may schedule interviews with prospective appointees at its discretion.

AMHERST TOWN CODE

- g. The Town Council has the authority to appoint qualified individuals to vacant seats on the Town Council under per of Sec. 3.01(4) of the Town Charter. The Town Council shall endeavor to appoint a qualified individual to a vacant seat on the Town Council within the time limits prescribed by Section 24.2-228 of the Code of Virginia.

(Adopted September 8, 2004.)

Sec. 2-58 Policy on process for appointments to standing boards, commissions and authorities.

I. Purpose:

The purpose of this ordinance is:

- a. To provide a expedited and consistent procedure for the appointment of or recommendation of appointments to the Standing Boards, Commissions and Authorities of the Town of Amherst;
- b. To encourage participation in a free and democratic local government;
- c. To seek qualified individuals for appointments; and
- d. To promote diversification among the members of standing boards, commissions and authorities.

This procedure shall apply to the following standing boards, commissions and authorities:

- Planning Commission
- Board of Zoning Appeals
- Industrial Development Authority
- Property Maintenance Investigation Board
- Town/Sweet Briar Sewer Use Committee

II. Procedure:

- a. The Town Clerk will make public notice of all unexpected and anticipated vacancies or expired terms of all standing boards, commissions and authorities of the Town at least two (2) months prior to the anticipated vacancies or expired terms. The Town Clerk will make public notice of all unexpected vacancies of all boards, commissions and authorities immediately upon notification to the Town Clerk that an appointment has been vacated.
- b. The Town Clerk shall be authorized to automatically make the public notice without direct order of the Mayor or Council. However, the Mayor and Council shall be notified of all unanticipated vacancies as soon as possible.
- c. "Public Notice" is defined as posting of anticipated vacancies, expired terms and unanticipated vacancies in a conspicuous location at the Town Hall; advertisement in the Amherst New-Era Progress; and posting on any official Town of Amherst web site .
- d. Any eligible individual desiring to serve on a board, commission or authority of the Town shall complete a Town of Amherst Application for Appointment and return it to the Town Clerk thirty (30) days prior to the anticipated vacancy or expired term or thirty (30) days after the vacancy of an unanticipated vacancy. However, no individual serving on a board, commission or authority shall be required to complete such an application for reappointment to the same board, commission or authority.
- e. The Town Clerk shall forward all applications to the Mayor and Council members.

AMHERST TOWN CODE

f. The Town Council may schedule interviews with prospective appointees at its discretion.

The Council will be responsible for all appointments or recommendations of appointments as directed by the Town Charter and Town Code.

(Adopted September 8, 2004.)

Sec. 2-59. Election of mayor and town council at November general election.

The election of the mayor and members of town council shall be held on the general election date in November of even-numbered years, beginning in November 2010, and biennially thereafter.

(Reference Sec. 3.01(2) of the Town Charter and §24.2.222 and §24.2-222.1 of the Code of Virginia.)

(Adopted June 10, 2009.)

Sec. 2-60. Voting precincts and polling places.

Voting precincts and polling places for town elections, including a central absentee precinct, shall correspond to those established by Amherst County to serve town residents for general elections.

(Adopted June 10, 2009.)