

Mayor D. Dwayne Tuggle called a regular monthly meeting of the Amherst Town Council to order on August 10, 2022, at 7:00 P.M. in the Council Chambers of the Town Hall at 174 S. Main Street.

It was noted that a quorum was present as follows:

P	D. Dwayne Tuggle	A	Sharon W. Turner
P	Rachel A. Carton	P	Janice N. Wheaton
P	Kenneth S. Watts	P	Andra Higginbotham

Also present were the following staff members:

Sara E. McGuffin	Town Manager		Brandon Payne	Police Captain
Eric Lansing	Town Attorney		Luther Rose	Police Officer
Vicki K. Hunt	Clerk of Council		Gary Williams	Director of Plants
Tracie Morgan	Office Manager		Becky Cash	Lead Water Operator
Robert Shiflett	Chief of Police		Charles Thompson	Utilities Maintenance Foreman

Recitation of the Pledge of Allegiance to the Flag was followed by an invocation by Charles Thompson.

Town Attorney Lansing gave a brief report on consideration of an amendment to Chapter 20, Article 1 of the Town of Amherst Code, creating a new Section 20-11 – Loud Exhaust Prohibited. The proposed new Section would, if approved, prohibit excessive or unusual levels of noise from vehicles by requiring that every vehicle driven on a public highway of the Town shall be equipped with a muffler and exhaust system in good working order and in constant operation to prevent excessive or unusual levels of noise; would prohibit vehicles equipped with chambered pipes; would require muffler and exhaust systems to conform to the requirements of Va. Code §§ 46.2-1047 and 46.2-1049; would enable law enforcement to stop drivers operating a vehicle in violation of this Section; and would establish a fine of \$250 for violations. The proposed new section would also provide related violations and definitions.

Mayor Tuggle opened a duly advertised public hearing at 7:05 P.M. on the proposed amendment to Chapter 20, Article 1 of the Town of Amherst Code, creating a new Section 20-11 – Loud Exhaust Prohibited.

Town Manger McGuffin read a statement on behalf of Aaron Mahler, resident of the Town of Amherst, in support of the proposed amendment, stating that Mr. Mahler and his wife have been unreasonably disturbed by deafening vehicular noise due to vehicular exhaust modification.

Angela Sundaramurthy, resident of the Town of Amherst, came forward in opposition of the amendment stating that it would not be measurable or enforceable, cannot be proved, is too subjective, and would be a hassle for the Town law enforcement.

There being no one else present in person or otherwise who wished to speak on the proposed amendment to Chapter 20, Article 1 of the Town of Amherst Code, creating a new Section 20-11 – Loud Exhaust Prohibited, the public hearing closed at 7:12 PM.

Mr. Watts made a motion that was seconded by Ms. Wheaton to adopt the proposed amendment to Chapter 20, Article 1 of the Town of Amherst Code, creating a new Section 20-11 – Loud Exhaust Prohibited, prohibiting excessive or unusual levels of noise from vehicles by requiring that every vehicle

driven on a public highway of the Town shall be equipped with a muffler and exhaust system in good working order and in constant operation to prevent excessive or unusual levels of noise; prohibiting vehicles equipped with chambered pipes; requiring muffler and exhaust systems to conform to the requirements of Va. Code §§ 46.2-1047 and 46.2-1049; enabling law enforcement to stop drivers operating a vehicle in violation of this Section; establish a fine of \$250 for violations, and providing related violations and definitions, as recommended by staff.

After discussion, the motion, with Mayor Tuggle casting a tie breaking vote, carried 3-2 via the roll call method as follows:

D. Dwayne Tuggle	Aye	Sharon W. Turner	Absent
Rachel A. Carton	Nay	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Nay

A copy of the Ordinance is attached to and made a part of these minutes.

Mayor Tuggle opened the floor to citizen comments.

Holden Chase came forward asking for consideration to install bike racks around town.

Terrell Stinson came forward asking for Council’s consideration to modify setbacks for accessory structures.

There being no one else listed to speak on the citizen comment sign-in sheet or otherwise, no further comments were made.

Mr. Watts made a motion that was seconded by Mr. Higginbotham to approve the Minutes of the meetings held on June 8, 2022, and July 12, 2022, as presented.

After discussion, the motion carried 3-0-1 via the roll call method as follows:

D. Dwayne Tuggle		Sharon W. Turner	Absent
Rachel A. Carton	Abstain	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Aye

Ms. Carton, Chairman of the Finance Committee, gave a brief report on the Committee’s finding that funding for the K-9 unit would present no significant impact on the budget.

Amherst Police Department Captain Payne gave a report on the Department’s request for the addition of a single purpose Police K-9 to the Police Department for the purpose of detecting illegal drugs. The cost of the program would be approximately \$12,500.00 for the first year, and approximately \$8,000.00 each year thereafter for costs associated with maintaining certification, training, and care of the Police K-9. Officer Rose was present to answer questions.

Ms. Carton made a motion that was seconded by Mr. Higginbotham to approve the addition of a single purpose Police K-9, at an initial cost of \$12,500.00 and yearly costs associated with maintaining certification, training, and care of the Police K-9, as recommended by staff.

After discussion, the motion carried 4-0 via the roll call method as follows:

D. Dwayne Tuggle		Sharon W. Turner	Absent
Rachel A. Carton	Aye	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Aye

After Town Attorney Lansing gave a report on a proposed Application for Abandonment of a Public Right-of Way, Ms. Carton made a motion that was seconded by Ms. Wheaton to authorize Town Manager McGuffin and Town Attorney Lansing to publish and make the Application for Abandonment of a Public Right-of-Way available to any interested applicant, as recommended by staff.

After discussion, the motion carried 4-0 via the roll call method as follows:

D. Dwayne Tuggle		Sharon W. Turner	Absent
Rachel A. Carton	Aye	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Aye

Mr. Watts made a motion that was seconded by Mr. Higginbotham to set a public hearing on September 14, 2022, on consideration of amending proposed Section 18.1-902.02 of the Zoning and Subdivision Ordinances referring to accessory buildings, that would, if approved, amend setbacks for accessory structures as set out in Section 18.1-901.02 of the Town’s Zoning and Subdivision Ordinances.

After discussion, the motion carried 4-0 via the roll call method as follows:

D. Dwayne Tuggle		Sharon W. Turner	Absent
Rachel A. Carton	Aye	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Aye

Town Manager McGuffin gave a report on two applications for appointment to the Economic Development Authority to fill a vacancy which occurred on June 30, 2022, and to fill a vacancy for an unexpired term ending June 30, 2025.

Ms. Wheaton made a motion that was seconded by Ms. Carton to appoint the following individuals to the following board for the terms listed below.

Board	Appointed	Term of Office
Economic Development Authority	Mark D. Milhous	8-10-2022 – 8-31-2026
Economic Development Authority	Douglas L. Thompson	8-10-2022 – 6-30-2025

There being no discussion, the motion carried 4-0 via the roll call method as follows:

D. Dwayne Tuggle		Sharon W. Turner	Absent
Rachel A. Carton	Aye	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Aye

Police Captain Payne clarified that Officer Rose will be the Police K-9 handler.

There being no one listed to speak on the citizen comment sign-in sheet or otherwise, no comments were made.

At 7:51 PM Mayor Tuggle recessed the meeting.

At 7:54 PM, Ms. Carton read a resolution to authorize closed meeting, as follows:

WHEREAS, the Town Council of the Town of Amherst desires to discuss in Closed Meeting the following matter(s):

- Assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the public body, namely, the Town Manager and the Town Attorney - §2.2-3711(A)(1)
- Consultation with legal counsel pertaining to actual or probable litigation, namely, litigation regarding the derelict building located at 172 Depot Street, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the public body. - §2.2-3711(A)(7)
- Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, namely, the process for the Town Council to exercise its power under article IX, § 1(1) of the Town Charter, providing for the Council to compel the abatement or removal of a nuisance. - §2.2-3711(A)(8).

WHEREAS, pursuant to Virginia Code §§ 2.2-3711(A)(1), (A)(7), and (A)(8), respectively, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Amherst does hereby authorize discussion of the aforesated matters in Closed Meeting.

After the reading, the motion carried 4-0 via the roll call method as follows:

D. Dwayne Tuggle		Sharon W. Turner	Absent
Rachel A. Carton	Aye	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Aye

A copy of the Resolution is attached and made a part of these minutes.

At 7:55 PM, pursuant to the Resolution, Town Council convened in closed session.

At 8:11 PM the meeting reopened to the public.

Clerk of Council Hunt read the following closed session certification to Council:

Do you certify that to the best of your knowledge (i) only public business matters lawfully exempted from open meeting requirements under Title 2.2, Chapter 37 of the Code of Virginia, and (ii) only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed, or considered in the session?

Responses via the roll call method was as follows:

D. Dwayne Tuggle	Yes	Sharon W. Turner	Absent
Rachel A. Carton	Yes	Janice N. Wheaton	Yes
Kenneth S. Watts	Yes	Andra Higginbotham	Yes

Ms. Carton made a motion that was seconded by Mr. Watts to amend Town Manager McGuffin’s contract to reflect a change of notice of resignation requirement from six (6) months to 2 (two) months.

The motion carried 4-0 via the roll call method as follows:

D. Dwayne Tuggle		Sharon W. Turner	Absent
Rachel A. Carton	Aye	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Aye

Ms. Carton made a motion that was seconded by Mr. Higginbotham to amend the retainer agreement effective January 1, 2022, between the Town of Amherst and Deal & Lachney, P.C., to reflect a change in paragraph 1 of the agreement referring to designation of Town Attorney from Eric Lansing to Kelley Kemp.

The motion carried 4-0 via the roll call method as follows:

D. Dwayne Tuggle		Sharon W. Turner	Absent
Rachel A. Carton	Aye	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Aye

There being no further business, the meeting adjourned at 8:13 P.M., until September 14, 2022, at 7:00 p.m., on motion of Ms. Wheaton seconded by Ms. Carton.

The motion carried 4-0 via the roll call method as follows:

D. Dwayne Tuggle		Sharon W. Turner	Absent
Rachel A. Carton	Aye	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Aye

D. Dwayne Tuggle, Mayor

Attest: _____
Clerk of Council

MOTION: Kenneth S. Watts
SECOND: Janice N. Wheaton



August 10, 2022
Regular Meeting
Ord. No. 220810

ORDINANCE OF THE TOWN OF AMHERST

AN ORDINANCE AMENDING THE CODE OF THE TOWN OF AMHERST, VIRGINIA, CHAPTER 20 (TRAFFIC AND VEHICLES), ARTICLE I (IN GENERAL), BY ENACTING THEREIN § 20-11 (LOUD EXHAUST PROHIBITED), TO PROHIBIT EXCESSIVE OR UNUSUAL LEVELS OF NOISE FROM VEHICLES.

WHEREAS, §§ 15.2-1427 and 15.2-1433 of the Code of Virginia, 1950 enables a local governing body to adopt, amend and codify ordinances or portions thereof;

WHEREAS, § 46.2-1051 of the Code of Virginia enables any town to regulate noise from a vehicle operated on a highway that is not equipped with a muffler and exhaust system conforming to the law;

WHEREAS, article IX, § 1, clause 25 of the Charter of the Town of Amherst empowers the Town Council more generally “to regulate the use of automobiles and other automotive vehicles upon the streets,” provided that such regulations as “not prohibited by general law”;

WHEREAS, article IX, § 1, clause 17 of the Town Charter empowers the Town Council to “pass and enforce all . . . ordinances which it may deem necessary for the good order and government of the town . . . , and to do such other things and pass such other laws as may be necessary or proper to carry into full effect all powers . . . [of the] town”;

WHEREAS, the Town Council deems this ordinance necessary for the good order and government of the Town;

WHEREAS, the full text of this amendment was available for public inspection in the Amherst Town Hall, at 174 S. Main Street, Amherst, VA 24521; and

WHEREAS, on August 10, 2022, a public hearing was held on this matter, and all of those wishing to speak on this topic were heard;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AMHERST, that Chapter 20 (Traffic and Vehicles), Article I (In General), § 20-11 of the Amherst Town Code is hereby amended as follows:

Sec. 20-11. – Loud exhaust prohibited.

- A. Every vehicle driven on a public highway of the Town shall be equipped with a muffler and exhaust system in good working order and in constant operation to prevent excessive or unusual levels of noise. No person shall drive a vehicle on a public highway, and no owner of a vehicle shall permit or allow his vehicle to be driven on a public highway, unless the vehicle’s muffler and exhaust system conform to the foregoing requirements.
- B. Definitions:
 - 1. “Excessive or unusual levels of noise” mean any noise of such intensity as to unreasonably disturb or annoy the quiet, comfort, or repose of any person.
 - 2. “Exhaust system” means all the parts of a vehicle through which the exhaust passes after leaving the engine block, including mufflers and other sound dissipative devices.
- C. Deemed violations:
 - 1. Every muffler and exhaust system that fails to conform to the requirements of Virginia Code §§ 46.2-1047 and 46.2-1049 shall be deemed in violation of this Section.
 - 2. Any vehicle equipped with chambered pipes shall be deemed in violation of this Section.
- D. Pursuant to Subsection B of Virginia Code § 46.2-1051, a law enforcement officer may stop a motor vehicle for a violation of this ordinance.
- E. It shall be an affirmative defense that the vehicle (1) is an antique motor vehicle licensed pursuant to 35 § 46.2-730, provided that the engine is comparable to that designed as standard factory equipment for use on that particular vehicle, and the exhaust system is in good working order, or (2) is a converted electric vehicle.

The foregoing Ordinance was adopted on the 10th day of August,2022.

D. Dwayne Tuggle, Mayor

ATTEST:

Clerk of Council

RESOLUTION
TOWN COUNCIL OF THE TOWN OF AMHERST, VIRGINIA

MOTION: Rachel Carton

Wednesday, August 10, 2022
Regular Meeting

RE: AUTHORIZE CLOSED MEETING

WHEREAS, the Town Council of the Town of Amherst desires to discuss in Closed Meeting the following matter(s):

- Assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the public body, namely, the Town Manager and the Town Attorney. - §2.2-3711(A)(1)

- Consultation with legal counsel pertaining to actual or probable litigation, namely, litigation regarding the derelict building located at 172 Depot Street, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the public body. - §2.2-3711(A)(7)

- Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, namely, the process for the Town Council to exercise its power under article IX, § 1(1) of the Town Charter, providing for the Council to compel the abatement or removal of a nuisance. - §2.2-3711(A)(8)

WHEREAS, pursuant to Virginia Code §§ 2.2-3711(A)(1), (A)(7), and A(8), respectively, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Amherst does hereby authorize discussion of the aforestated matters in Closed Meeting.

D. Dwayne Tuggle	Aye	Sharon W. Turner	Absent
Rachel A. Carton	Aye	Janice N. Wheaton	Aye
Kenneth S. Watts	Aye	Andra Higginbotham	Aye

Adopted this 10th day of August, 2022.

D. Dwayne Tuggle, Mayor

ATTEST:

Clerk of Council