

CAPE CHARLES, TOWN OF
County of Northampton.
Incorporated by an 1886 Act of Assembly.

Cape Charles House Company, incorporated, and made body politic and corporate, to erect buildings and improvements on lands situated at Cape Charles, 1852, c. 297.

Charter, 1886, c. 315; repealed 1938, c. 367.

Charter, 1938, c. 367; repealed 1974, c. 340.

Charter, 1974, c. 340.

Amended 2002, c. 125 (§§ 1.2, 2.2, 2.3, 3.1, 3.5, 4.1, 4.4, 4.5, 4.8, 4.9, 5.2 [added], 6.1 [repealed]).

CHAPTER 1.

Incorporation and Boundaries.

§ 1.1. Incorporation.--The inhabitants of the territory comprised within the present limits of the town of Cape Charles, as such limits are now or may hereafter be altered and established by law, shall constitute and continue a body politic and corporate, to be known and designated as the town of Cape Charles, and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, renew or amend at its pleasure by proper ordinance. (1974, c. 340)

§ 1.2. Boundaries.--The territory embraced within the town of Cape Charles is that territory in the county of Northampton, Virginia, established in Chapter 367 of the Acts of Assembly of 1938, pages 582-609, and that territory added by the orders in the annexation proceedings in the Circuit Court of Northampton County, Virginia, entered on November 13, 1957, and recorded in the Common Law Order Book 19, at pages 107-108 in the Clerk's Office of said Court; such order of annexation entered on September 24, 1965, and recorded in the Common Law Order Book 20, at page 341, in the Clerk's Office of said Court; and an order of annexation entered on November 21, 1991, and recorded in the Civil Common Law Order Book, at page 619, in the Clerk's Office of said Court. (1974, c. 340; 2002, c. 125)

CHAPTER 2.

Powers.

§ 2.1. General Grant of Powers.--The town of Cape Charles shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this Charter shall be held to be exclusive, and the town shall have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all the duties and obligations, now appertaining to and incumbent on the town as a municipal corporation. (1974, c. 340)

§ 2.2. Adoption of Certain Sections of Code of Virginia.--The powers set forth in Article 1 (§ 15.2-1100 et seq.) of Chapter 11 of Title 15.2 of the Code of Virginia, as in force on January 1, 2002, and as may hereafter be amended, are hereby conferred on and vested in the town. (1974, c. 340; 2002, c. 125)

§ 2.3. Eminent Domain.--The powers of eminent domain set forth in Title 15.2; Chapter 1.1 (§ 25-46.1 et seq.) of Title 25; and § 33.1-121 of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, mutatis mutandis, are hereby conferred upon the town.

(a) In any case in which a petition for condemnation is filed by or on behalf of the town, a true copy of a resolution or ordinance duly adopted by the town council declaring the necessity for any taking or damaging of any property, within or without the town, for the public purposes of the town, shall be filed with the petition. The town may employ the procedures conferred by the foregoing laws, mutatis mutandis, and may, in addition thereto, proceed as hereinafter provided.

(b) Certificates issued pursuant to § 33.1-121 of the Code of Virginia, as amended, and acts amendatory thereof and supplemental thereto, may be issued by the town council, signed by the mayor and countersigned by the town treasurer. Such certificates shall have the same effect as certificates issued by the State Highway Commissioner, 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 streets, water, sewers, and related matters, whether within or without the town.

(c) In addition to the powers conferred by the aforesaid laws, such certificates may be amended or canceled by the court having jurisdiction of the proceedings, upon petition of the town, at any time after the filing thereof; provided, that the court shall have jurisdiction to make such order for the payment of costs and damages, if any, or the refund of any excessive sums theretofore paid pursuant to such certificates as shall, upon due notice and hearing, appear just. The court shall have jurisdiction to require refunding bonds, for good cause shown by the town or any other person or party in interest, prior to authorizing any distribution of funds pursuant to any certificate issued or deposit made by the town. (1974, c. 340; 2002, c. 125)

CHAPTER 3.

Mayor and Council.

§ 3.1. Election, Qualification and Term of Office of Councilmen and Mayor.--(a) The town of Cape Charles shall be governed by a town council composed of six councilmen and a mayor, all of whom shall be qualified voters of the town to be elected from the town at large.

(b) The mayor and councilmen in office at the time of the passage of this act shall continue in office until their successors are elected and qualified. An election for mayor and councilmen shall be held on the first Tuesday in May 2002. The mayor so elected shall serve a term of four years with subsequent mayoral elections to be held at four-year intervals thereafter. In order to provide for staggered terms of council members, the three candidates elected receiving the highest number of votes shall serve a term of four years. The three candidates so elected receiving the next highest number of votes shall serve a term of two years. Thereafter, there shall be an election on the first Tuesday in May of each even-numbered year at which three council members shall be elected to serve terms of four years. Terms of office for mayor and council members shall begin on the first day of July next following their election. (1974, c. 340; 2002, c. 125)

§ 3.2. Vacancies on Council.--Vacancies on the council shall be filled for the unexpired portion of the term by a majority vote of the members of the council; persons so elected to fill vacancies must be qualified voters of the town. (1974, c. 340)

§ 3.3. Vacancy in Office of Mayor.--A vacancy in the office of mayor shall be filled for the unexpired portion of the term by a majority vote of the members of the council; the person so elected to fill the vacancy must be a qualified voter of the town. (1974, c. 340)

§ 3.4. Council a Continuing Body.--The town council shall be a continuing body, and no measures pending before such body or any contract or obligation incurred, shall abate or be discontinued by reasons of the expiration of the term of office or removal of any of its members. (1974, c. 340)

§ 3.5. Powers and Duties of Mayor.--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 this Charter. He shall preside over the meetings of the town council and shall have the same right to speak therein as members of the council, but shall not vote except in the case of a tie vote. He shall have the power of veto over the ordinances and resolutions of the council, but such ordinances and resolutions may be passed over such veto by a two-thirds vote of the members of the town council present and voting. He shall be recognized as the head of the town government for all ceremonial purposes. He shall perform such other duties consistent with his office as may be imposed by the town council. He shall see that the duties of the various town officers are faithfully performed. He, or the person acting as mayor, may deputize such assistant policemen as may be necessary; shall authenticate by his signature, such documents or instruments as the council, this Charter or the laws of the Commonwealth shall require. (1974, c. 340; 2002, c. 125)

§ 3.6. Vice Mayor.--The town council shall elect from its members, by a majority of the members present, a vice mayor. During the absence or inability of the mayor to act, the vice mayor shall possess the powers and discharge the duties of the mayor. While serving in the place of the mayor, the vice mayor may vote as a member of the town council. (1974, c. 340)

§ 3.7. Meetings of council.--The town council shall fix the time of their stated meetings and they shall meet at least once a month. A journal shall be kept of its official proceedings and its meetings shall be open to the public. Four members of the town council shall constitute a quorum for the transaction of business at any meeting. Special meetings may be called at any time by the mayor or by any three members of the council; provided that the mayor and all council members are duly notified in writing a reasonable period of time prior to such meeting, and no business shall be transacted at a special meeting thereof, except that for which it shall be called. If all members are present, this provision may be waived by a majority vote of the council. (1974, c. 340)

§ 3.8. Council to Fix Salaries.--The town council is hereby authorized to fix the salary of the mayor, members of the town council, the town manager, members of boards or commissions, and all appointed officers and employees of said town, at a sum not to exceed any limitations placed thereon by the laws of the Commonwealth of Virginia. (1974, c. 340)

§ 3.9. Acting Mayor.--In the absence or inability to act of both the mayor and vice mayor, any member of the town council may act with all the powers of the mayor upon

the request so to do by the town council, but only during the period of such dual absence and inability. (1974, c. 340)

§ 3.10. General Grant of Powers to Council.--The town council shall have all powers and authority that are now or may hereafter be granted to councils of towns by the general laws of the Commonwealth and by this Charter, and the recital of special powers and authorities herein shall not be taken to exclude the exercise of any power and authority granted by the general laws of the Commonwealth to town councils, but not herein specified. (1974, c. 340)

CHAPTER 4.

Appointive Officers.

§ 4.1. Appointment.--The town council may appoint such officers of the town as they deem necessary. Such officers may include, but shall not be limited to, a town manager, a town clerk, a town attorney, a town treasurer, a chief of police and special police officers. The enumeration of officers in this section shall not be construed to require the appointment of any of such officers herein named. Officers appointed by the town council shall perform such duties as may be specified in this Charter, by the laws of the Commonwealth, or by the town council. (1974, c. 340; 2002, c. 125)

§ 4.2. Deputies and Assistants.--The town council may appoint such deputies and assistants to appointive offices as the town council may deem necessary. (1974, c. 340)

§ 4.3. Term of Office.--Officers and deputies and assistant officers appointed by the town council shall serve at the will and pleasure of the town council. (1974, c. 340)

§ 4.4. Appointment of One Person to More Than One Office.--The town council may appoint the same person to more than one appointive office, at the discretion of the town council, subject to such limitations as are set forth in the Constitution of Virginia and Title 15.2 of the Code of Virginia, as amended from time to time. (1974, c. 340; 2002, c. 125)

§ 4.5. Qualifications and Duties of the Town Manager.--The town manager shall be the executive officer of the town, and shall be responsible to the town council for the proper administration of the town government. It shall be the duty of the town manager to:

- (a) Attend all meeting of the town council, with the right to speak but not to vote.
- (b) Keep the town council advised of the financial condition and the future needs of the town and of all matters pertaining to its proper administration, and make such recommendations as may seem to him desirable.
- (c) Prepare and submit the annual budget of the town council and be responsible for its administration after its adoption.
- (d) Prepare in suitable form for publication and submit to the town council at the next regular meeting following the end of each fiscal year, a concise, comprehensive report of the financial transactions and administrative activities of the town government during the immediately preceding fiscal year.
- (e) Present adequate financial and activity reports as required by the town council.
- (f) Arrange for an annual audit by a certified public accountant, the selection of whom shall be approved by the town council.
- (g) Perform such other duties as may be prescribed by this Charter, or required of him in accordance therewith by the town council, or which may be required by the chief executive officer of a town by the general laws of the Commonwealth.

All employees of the town, except those appointed by the town council, pursuant to this Charter or the general laws of the Commonwealth, shall be appointed and may be removed by the town manager, who shall report each appointment or removal to the town council at the next meeting thereof following any such appointment or removal. The town council shall designate by ordinance a person to act as town manager in the case of the absence, incapacity, death or resignation of the town manager, until his return to duty or the appointment of his successor. Until such time as the town council appoints any such town manager, the duties and powers outlined herein shall be given the mayor, or such other person as may be designated by the town council. All employees and officers of the town, including those appointed by the town council, shall be under the management, control and supervision of the town manager. (1974, c. 340; 2002, c. 125)

§ 4.6. Duties of the Town Clerk.--The town clerk shall be the clerk of the town council. He shall keep the journal of the proceedings and shall record all ordinances and resolutions in a book or books kept for the purpose. He shall be the custodian of the corporate seal of the town and shall be the officer authorized to use and authenticate it. He shall perform such other duties and keep such other records as the town council may specify or the general laws of the Commonwealth require of town clerks. All records in his office shall be public records and open to inspection at any time during regular business hours. (1974, c. 340)

§ 4.7. Duties of the Town Attorney.--The town attorney shall be the legal adviser of the town council. He shall represent the town in all legal affairs as may be requested by the mayor, town council, or by an officer of the town appointed under the provisions of this Charter. (1974, c. 340)

§ 4.8. Duties of the Town Treasurer.--The town treasurer shall collect the town taxes and licenses, and shall have the power to levy and sell for collection as given to county treasurers. The town treasurer shall work cooperatively with the town manager to provide full financial disclosure and reporting as requested by the town council. The town treasurer shall perform such other duties, not inconsistent with his office, as the town council or town manager may direct. (1974, c. 340; 2002, c. 125)

§ 4.9. Powers and Duties of the Chief of Police and Special Policemen.--The chief of police shall be a conservator of the peace, and vested with the full powers of a constable within the limits of the town. He, and any special police officers, who may be appointed by the mayor with the advice and consent of a majority of the members of the town council, shall have all the powers given to special police officers under the laws of the Commonwealth. The police force of the town shall be under the control of the chief of police for the purpose of enforcing peace and good order and executing the laws of the Commonwealth and all the ordinances of the town. He shall assist the treasurer in the collection of town taxes, and may distrain and sell therefor in like manner for which State taxes and county levies are distrained. (1974, c. 340; 2002, c. 125)

§ 4.10. Bonds.--Officers, deputies and assistants appointed by the town council shall execute such bonds as may be required by resolution of the town council. (1974, c. 340)

§ 4.11. Vacancies in Office.--The town council may fill any vacancy in any appointive office. (1974, c. 340)

§ 4.12. Residence of Officers and Employees.--Any appointive officers or employees of the town may be appointed and serve whether or not the appointee be a resident or nonresident of the town. (1974, c. 340)

CHAPTER 5.

Raising of Revenue.

§ 5.1. Assessment of Taxes.--The council shall have the power to assess and tax real or personal property within the town, levy taxes, impose licenses and collect the same to any extent not prohibited by laws of the Commonwealth. (1974, c. 340)

§ 5.2. Other Revenue-Generating Activity.--The town council shall have the power to engage in other revenue-generating activities to any extent not prohibited by the laws of the Commonwealth. (2002, c. 125)

CHAPTER 6.

Schools.

§ 6.1. (1974, c. 340; repealed 2002, c. 125)

CHAPTER 7.

Financial Provisions.

§ 7.1. Fiscal Year.--The fiscal year of the town shall begin on July 1 of each year, and end on June 30 of the year following. (1974, c. 340)

CHAPTER 8.

Miscellaneous.

§ 8.1. Elections Governed by State Law.--All town elections shall be held and conducted in the manner prescribed by the laws of the Commonwealth of Virginia. (1974, c. 340)

§ 8.2. Applicability Outside Town.--All ordinances of the town so far as they are applicable, shall apply on, in or to all land, buildings and structures owned by or leased or rented to the town and located outside the town. (1974, c. 340)

§ 8.3. Ordinances Continued in Force.--All ordinances now in force in the town of Cape Charles, not inconsistent with the Charter, shall be and remain in force until altered, amended or repealed by the town council. (1974, c. 340)

§ 8.4. Severability of Provisions.--If any clause, sentence, paragraph or part of this Charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Charter, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered. (1974, c. 340)

§ 8.5. Disclosure of Interest.--The town council is hereby empowered to adopt a conflict of interest and disclosure ordinance to govern elected and/or appointed town officials not inconsistent with the general law. (1974, c. 340)