

CHINCOTEAGUE, TOWN OF  
County of Accomack.  
Incorporated by a 1908 Act of Assembly.

Incorporation and charter, 1900, c. 974; repealed, 1901, c. 37.  
Incorporation and charter, 1908, c. 252; repealed, 1942, c. 210.  
Charter, 1942, c. 210.

Amended      1958, c. 135 (Chapter II, § 2 [added]; Chapter V, §§ 3, 6, 7)  
                  1981, c. 84 (Chapter V, §§ 2, 3)  
                  1991, c. 400 (Chapter I, § 2)  
                  1993, c. 578 (Chapter V, § 1; Chapter VI, § 6)  
                  1994, c. 97 (Chapter IV, § 1).

CHAPTER I

§ 1. The Town Corporate.--The inhabitants of the territory comprised within the present limits of the town of Chincoteague, as such limitations are now or may be hereafter altered and established by law, shall constitute and continue a body, politic and corporate, to be known and designated as the town of Chincoteague, and as such shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to the town 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 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 said town as a municipal corporation, and the said town of Chincoteague, 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. (1942, c. 210)

§ 2. The Town Boundary.--The corporate limits of the town of Chincoteague, Virginia, as heretofore established, are hereby reestablished, and shall be taken and deemed as the Town of Chincoteague as follows:

Those boundaries as described on pages 6 and 7 of a certain order entered on June 6, 1989, by a Special Court affirming the Voluntary Agreement entered into between the Town of Chincoteague and the County of Accomack in the matter of "IN RE: Voluntary Settlement of Annexation of 42.0 square miles of Accomack County etc." at Law No. 89CL051, filed in the Clerk's Office of the Circuit Court of Accomack County, Virginia, said order being recorded in Civil Common Law Order Book 7 at pages 82 et seq., and as further shown as "Proposed Annexation Area" on a certain map or plat entitled "MAP OF THE TOWN OF CHINCOTEAGUE, VA AND ENVIRONS" dated June 1988, revised October 17, 1988, and made by R. Stuart Rover & Associates, Inc., and marked as Exhibit 7 in said matter. (1942, c. 210; 1991, c. 400)

CHAPTER II

§ 1. Powers of the Town of Chincoteague.--

1. To raise annually, by the levy of taxes and assessments in the said town, on all such property, real and personal, as is now or may be subject to taxation by towns by the laws of this Commonwealth, such sums of money as the council thereof shall deem

necessary for the purpose of the said town, in such manner as the said council shall deem expedient in accordance with the Constitution of this State and of the United States; provided, however, that it shall impose no taxes on the bonds of the said town.

2. To impose special or local assessments for local improvements and to force payment thereof, subject to such limitations prescribed by the Constitution and laws as may be in force at the time of the imposition of such special or local assessments.

3. To impose a tax not exceeding one dollar per annum upon all persons residing in said town above the age of twenty-one years, not exempt from the payment of State capitation tax.

4. (a) The town may, in the name of and for the use of the town, contract debts and make and issue, or cause to be made and issued, as evidence thereof, bonds, notes or other obligations, upon the credit of the town, or solely upon the credit of specific property owned by the town, or solely upon the credit of income derived from property used in connection with any public utility owned and operated by the town.

(b) Pending the issuance and sale of any bonds, notes or other obligations by this act authorized, or in anticipation of the receipt of taxes and revenues of the current fiscal year, it shall be lawful for the town to borrow money temporarily and to issue notes or other evidences of indebtedness therefor, and from time to time to renew such temporary loans or to use current funds to be ultimately repaid from the proceeds of the said bonds, notes or other obligations or from the town taxes and revenues, as the case may be.

(c) The credit of the town shall not, directly or indirectly, under any devise or pretense whatsoever, be granted to or in aid of any person, firm, association or corporation.

(d) Every ordinance authorizing the issuance of bonds shall specify the purpose or purposes for which they are to be issued, the aggregate amount of the bonds, the term for which they shall be issued, and the maximum rate of interest to be paid thereon. Any such ordinance may be amended by ordinance at any time before the bonds to be affected by such amendment have been sold; provided, however, if there shall be omitted from this act any provision essential to the valid authorization, sale, execution and issuance of any of the bonds of said town, the provisions of general law with reference to similar bonds shall supply said omission.

(e) Any bonds issued by the town under this act shall be signed by the mayor and attested by the clerk under the seal of the town, and shall be made payable in the office of the town treasurer or such other place in or out of the State as the council may provide in the ordinance authorizing the issuance of the particular bonds. Such bonds may be advertised by the mayor and sold by the town treasurer, as may be provided in such ordinance, under supervision of the mayor and clerk, and the sale reported to and approved by the council, and the proceeds from said sale shall be paid to the town treasurer.

5. To expend the money of the town for all lawful purposes.

6. To acquire by purchase, gift, devise, condemnation or otherwise property, real or personal, or any estate therein within or without the town, for any of the purposes of the town; and to hold, improve, sell, lease, mortgage, pledge, or otherwise dispose of the same or any part thereof, including any property now owned by the town.

7. To establish markets in the town and regulate the same, and to enforce such regulations in regards to the keeping and sales of fresh meat, vegetables, eggs and other

green groceries and the trade of hucksters and junk dealers as may be deemed advisable; and to make and enforce such regulations as shall be necessary to prevent huckstering, forestalling or regrating.

8. To own, operate and maintain water works and to acquire in any lawful manner in any county of the State, such water, lands, property rights, and riparian rights as the council of the said town may deem necessary for the purpose of providing an adequate water supply to the said town and of piping and conducting the same; to lay, erect and maintain all necessary mains and service lines, either within or without the corporate limits of the said town, for the distribution of water to its customers and consumers, both within and without the corporate limits of the said town and to charge and collect water rents thereof; to erect and maintain all necessary dams, pumping stations and other works in connection therewith; to make reasonable rules and regulations for promoting the purity of its said water supply and for protecting the same from pollution; and for this purpose to exercise full police powers and sanitary patrol over all land comprised within the limits of the water shed tributary to any such water supply wherever such lands may be located in this State; to impose and enforce adequate penalties for the violation of any such rules and regulations; and to prevent by injunction any pollution or threatened pollution of such water supply, and any and all acts likely to impair the purity thereof; and to carry out the powers herein granted, the said town may exercise within the State all powers of eminent domain provided by the laws of this State.

9. To establish, construct, maintain and operate public landings, public wharves, harbors and docks either within the town, or without the town not exceeding the distance of two miles from the corporate limits thereof; to acquire by condemnation or otherwise all lands, riparian and other rights and easements necessary for the purposes aforesaid; to lay and collect reasonable duties or wharfage fees on vessels coming to or using said landings, wharves, harbors or docks; to dredge or deepen the harbor or river of any branch or portion thereof; to prescribe and enforce reasonable rules and regulations for the protection and use of its said properties, whether within or without the town, and to impose and enforce adequate penalties for the violation of such rules and regulations.

10. To collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals and other refuse, and to make reasonable charges therefor; to acquire and operate reduction or any other plants for the utilization or destruction of such materials, or any of them; to contract or regulate the collection and disposal thereof and to require and regulate the collection and disposal thereof.

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

12. To license and regulate the holding and location of shows, circuses, public exhibitions, carnivals, and other similar shows or fairs, or prohibit the holding of the same, or any of them, within the town or within one mile thereof.

13. May require every owner of motor vehicles residing in the said town, on a date to be designated by the council, to annually register such motor vehicles and to obtain a license to operate the same by making application to the treasurer of the said town, or such other person as may be designated by the council of the said town, to issue said license, and to require the said owner to pay an annual license fee therefor to be

fixed by the council; provided that the said license fee shall not exceed the amount charged by the State on the said machine.

14. To construct, maintain, regulate and operate public improvements of all kinds, including municipal and other buildings, armories, sewage disposal plants, jails, comfort stations, markets, and all buildings and structures necessary or appropriate for the use and proper operation of the various departments of the town; and to acquire by condemnation otherwise, all lands, riparian and other rights, and easements necessary for such improvements, or any of them; either within or without the town, and to construct, maintain or aid therein, roads and bridges to any property owned by the said town and situate beyond the corporate limits thereof, and to acquire land necessary for the aforesaid by condemnation or otherwise.

15. To acquire, establish, enter, open, wide, extend, grade, improve, construct, maintain and clean public highways, streets, sidewalks, boulevards, parkways, and alleys, and to alter, vacate, or close the same; to establish and maintain parks, golf courses, playgrounds, and public grounds; to keep them lighted and in good order; to construct, maintain and operate bridges, viaducts, subways, tunnels, sewers and drains and to regulate the use of all such highways, parks, public grounds and works; to plant and maintain or remove shade trees along the streets and upon such public grounds; to prevent the obstruction of such streets and highways; to regulate the operation and speed of cars, and vehicles upon said streets and highways, within the town; and to do all other things whatsoever adapted to make said streets and highways safe, convenient and attractive.

16. To construct in such parks, playgrounds, and public grounds, as it may maintain, or upon any town property, stadiums, swimming pools, gymnasias, and recreation or amusement buildings, structures, or inclosures of every character, refreshment stands, restaurants, et cetera; to charge for admissions, and use of the same, and to rent out or lease the privileges of construction or using such stadiums, swimming pools, recreation or amusement buildings, structures, or inclosures of every character, refreshment stands, or restaurants, et cetera.

17. To establish, impose, and enforce the collection of water and sewage rates, and rates and charges for public utilities, or other services, products, or conveniences, operated, rented or furnished by the town; and to assess, or cause to be assessed, after reasonable notice to the owner or owners, water and sewage rates and charges directly against the owner or owners of the buildings or against the proper tenant or tenants; and in event such rates and charges shall be assessed against a tenant then the council may by ordinance, require of such tenant a deposit of such reasonable amount as it may by such ordinance prescribe before furnishing such service to such tenant.

18. To establish, construct, and maintain sanitary sewers, sewer lines and systems, and to require the abutting property owners to connect therewith and to establish, construct, maintain and operate sewage disposal plants, and to acquire by condemnation or otherwise, within or without the town, all lands, rights of way, riparian and other rights, and easements necessary for the purposes aforesaid, and to charge, assess, and collect reasonable fees, rentals, assessments or costs of service for connection with and using the same.

19. Subject to the provisions of the Constitution and general laws of Virginia and this charter to grant franchises for public utilities; provided, however, the town shall at

any time have the power to contract for, own, operate, manage, sell, encumber or otherwise dispose of, either within or without the town, any and all public utilities for the town and to sell the services thereof, any existing franchise to the contrary notwithstanding.

20. To charge and to collect fees for permits to use public facilities and for public services and privileges. The said town shall have the power and right to charge a different rate for any service rendered or convenience furnished to citizens without the corporate limits from the rates charged for similar service to citizens within the corporate limits.

21. To compel the abatement and removal of all nuisances within the town or upon property owned by the town beyond its limits at the expense of the person or persons causing the same, or of the owner or occupant of the ground or premises whereon the same may be, and to collect said expense by suit or motion or by distress and sale; to require all lands, lots and other premises within the town, to be kept clean and sanitary and free from stagnant water, weeds, filth and unsightly deposits, or to make them so at the expense of the owners or occupants thereof, and to collect said expense by suit or motion or by distress and sale; to regulate, or prevent slaughter houses or other noisome or offensive business within the said town, the keeping of hogs or other animals, poultry or other fowl therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets of the town; to compel the abatement of smoke and dust and prevent unnecessary noise; to regulate the location of stables and the manner in which they shall be kept and constructed; to regulate the location, construction, operation, and maintenance of billboards, signs, advertising, and generally to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, aesthetic, safety, convenience and welfare of the inhabitants of the town; and to require all owners or occupants of property having sidewalks in front thereof to keep the same clean and sanitary, and free from all weeds, filth, unsightly deposits, ice and snow.

22. To extinguish and prevent fires, and to establish, regulate and control a fire department or division, to regulate the size, height, materials and construction of buildings, fences, walls, retaining walls and other structures hereafter erected in such manner as the public safety and conveniences may require; to remove or require to be removed or reconstructed any building, structure or addition thereto which by reason of dilapidation, defect of structure, or other causes may have become dangerous to life or property, or which may be erected contrary to law; to establish and designate from time to time fire limits, within which limits wooden buildings shall not be constructed, removed, added to, enlarged or repaired and to direct that any or all future buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick, iron or other fireproof materials; and may enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblies, entertainments or amusements.

23. To direct the location of all buildings for storing explosives or combustible substances; to regulate the sale and use of gunpowder, nitroglycerin, fireworks, kerosene oil or other like materials; to regulate the exhibition of fireworks, the discharge of fire arms, and the making of bonfires in the streets and yards.

24. To authorize and regulate the erection of party walls and fences, and to prescribe how the cost thereof shall be borne by coterminous owners.

25. To provide for regular and safe construction of houses in the town for the future, and to provide a building code for the town, to provide set back lines on the streets beyond which no building may be constructed, to require the standard of all dwelling houses be maintained in residential section in keeping with the majority of residences therein, and to require the standard of all business houses be maintained in business sections in keeping with the majority of the business houses therein.

26. To provide by ordinance for a system of meat and milk inspection, and regulate the sale of meat and milk, and appoint meat and milk inspectors, agents or officers to carry the same into effect within or without the corporate limits of the said town; to license regulate, control and locate slaughter houses within or without the corporate limits of the town; and for such services of inspection to make reasonable charges therefor; and to provide reasonable penalties for the violation of such ordinances.

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

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

29. To provide and maintain, either within or without the town, charitable, recreative, curative, corrective, detentive or penal institutions.

30. To prevent fowls and animals being kept in or running at large in the town, or any thickly populated portion thereof, and to subject the same to such taxes, regulations and penalties as the council may think proper.

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

32. In so far as not prohibited by general law; to control, regulate, limit and restrict the operation of motor vehicles carrying passengers for hire upon the streets or alleys of the town; to regulate the use of automobiles and other automotive vehicles upon the streets; to regulate the routes in and through the town to be used by motor vehicle

carriers operating in and through said town and to prescribe different routes for different carriers; to prohibit the use of certain streets by motor trucks; and generally to prescribe such regulations respecting motor traffic therein as may be necessary for the general welfare.

33. To grant aid to military companies and to contribute to the support of a band maintained within the said town; to associations for the advancement of agriculture or the mechanic arts, to scientific, literary, educational or benevolent organizations or institutions and to public libraries, provided such action is not prohibited by the Constitution of the State, and that all such societies, organizations or institutions be located in or near the town, and, provided, further, that no appropriation for any such purpose shall be made, nor shall aid be otherwise granted through exemption from charge for use of water or light facilities or otherwise, either with or without charge, beyond the city limits, unless two-thirds of all members elected to the council vote therefor.

34. To acquire, by condemnation, purchase or otherwise, provide for, maintain, operate and protect aircraft landing fields either within or without the corporate limits of the town.

35. If any ground in said town shall be subject to be covered with stagnant water, or if the owner or owners, occupier or occupiers thereof shall permit any offensive, unsightly or unwholesome substance or material to remain or accumulate thereon, the town may cause such grounds to be filled, raised, or drained, or may cause such substance to be covered or to be removed therefrom, and may collect the expense of so doing from the owner or owners, occupier or occupiers, or any of them (except in cases where such nuisance is caused by the action of the town authorities or their agents, or by natural causes beyond the control of the owner or occupant, in which case the town shall pay the expense of abating the same), by distress and sale in the same manner in which taxes levied upon real estate for the benefit of said town are authorized to be collected; provided, that reasonable notice and an opportunity to be heard shall be first given to said owners or their agents. In case of non-resident owners who have no agent in said town, such notice shall be given by publication at least once a week for not less than four consecutive weeks in any newspaper having general circulation in the said town.

36. To establish, organize and administer public libraries, and public schools, subject to the general laws establishing a standard of education for the State; and to provide for a census.

37. To provide in or near the town, lands to be used as burial places for the dead; to improve and care for the same and the approaches thereto, and to charge for and regulate the use of the ground therein; to cooperate with any non-profit corporation in the improvement and care of burial places and the approaches thereto; and to provide for the perpetual upkeep and care of any plot or burial lot therein, the town is authorized to take and receive sums of money by gift, bequest, or otherwise to be kept invested, and the income thereof used in and about the perpetual upkeep and care of the said lot or plot, for which the said donation, gift or bequest shall have been made.

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

39. To exercise full police powers and establish and maintain a department or division of police.

40. To restrain and punish drunkards, vagrants and street beggars, to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill-fame and gambling houses; to prevent and punish lewd, indecent and disorderly exhibitions in said town; and to expel therefrom persons guilty of such conduct who have not resided therein as much as one year.

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

42. To prohibit and punish for mischievous, wanton, or malicious damage to school and public property, as well as private property.

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

44. Where, by provisions of this act, the town has authority to pass ordinances on any subject, they may prescribe any penalty not exceeding twelve months in jail or a fine not exceeding five hundred dollars, either or both, for a violation thereof, and may provide that the offender, on failing to pay the penalty recovered and costs shall be imprisoned in jail or prison farm of the town for a term of not exceeding ninety days, which penalties may be prosecuted and recovered with costs in the name of the town of Chincoteague, or shall compel them to work on the streets or other public improvements of the said town. The town shall also have the right to establish prisoner labor force in which they may require persons convicted of violations of town ordinances, to work on the streets or other public grounds of the town, and the further right to deal with the State for the use and employment of persons convicted of violations of State laws.

45. To offer and pay rewards for the apprehension and conviction of criminals.

46. To give names to or alter the names of streets.

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

48. In so far as not prohibited by general law, to pass and enforce all by-laws, rules, regulations and ordinances which it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health and protection of its citizens or their property and to do such other things and pass such other laws as may be necessary or proper to carry into full effect, all powers, authority, capacity, or jurisdiction, which is or shall be granted to or vested in said town, or in the council, court, or officers thereof, or which may be necessarily incident to a municipal corporation.

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



50. To prescribe any penalty for the violation of any town ordinance, rule, or regulation or of any provision of this charter, not exceeding five hundred dollars or twelve months' imprisonment in jail, or both.

51. To make and adopt a comprehensive plan for the town, and to that end all plats and re-plats hereafter made subdividing any land within the town or within one mile thereof, into streets, alleys, roads, and lots or tracts shall be submitted to and approved by the council before such plats or re-plats are filed for record or recorded in the office of the clerk of Accomack county, Virginia.

52. To own, operate and maintain electric light and gas works, either within or without the corporate limits of the town and to supply electricity and gas whether the same be generated or purchased by said town, to its customers and consumers both without and within the corporate limits of the said town, at such price and upon such terms as it may prescribe, and to that end it may contract and purchase electricity and gas from the owners thereof upon such terms as it may deem expedient.

53. To exercise the power of eminent domain within this State with respect to lands and improvements thereon, machinery and equipment for any lawful purpose of the said town.

54. To divert the channels of creeks and flowing streams and for that purpose to acquire property by condemnation.

55. To every case where a street in said town has been, or shall be, encroached upon by any fence, building or otherwise, the town may require the owner to remove the same, and if such removal be not made within the time prescribed by the town, they may impose such penalty as they may deem proper for each and every day it is allowed to continue thereafter, and may cause the encroachment to be removed, and collect from the owner all reasonable charges therefor, with costs by the same process that they are hereinafter empowered to collect taxes.

Except, in any case where there is a bona fide dispute as to the true boundary line or the location of the true street line (and if passage over such street is not seriously impeded) the same shall first be established and determined by an adjudication of a court of competent jurisdiction in a proceeding instituted by either the town or the property owner for that purpose before the said town shall take any steps to remove the said obstruction or encroachment, or to impose any penalty therefor. No encroachment upon any street, however long continued, shall constitute any adverse possession to or confer any rights upon the persons claiming thereunder as against the said town.

56. Dedication of any street, alley or lane in said town may be made by plat or deed. Any street or alley reserved in the division or sub-division into lots of any portion of the territory within the corporate limits of said town, by a plan or plat of record, shall be deemed and held to be dedicated to public use, unless it appears by said record that the street or alley so reserved is designated for private use. The town shall have the right to elect, by resolution entered on its minutes whether it will, or will not accept the dedication of any street or alley.

57. (a) No action shall be maintained against the town for damages for any injury to any person or property alleged to have been sustained by reason of the negligence of the town or any officer, agent, or employee thereof, unless a written statement, verified by the oath of the claimant, his agent or attorney, or the personal representative of any decedent whose death is the result of the alleged negligence of the town, its officers,

agents or employees, of the nature of the claim and the time and place at which the injury is alleged to have occurred or to have been received, shall have been filed with an attorney, appointed by the council for this purpose, within sixty days after such case of action shall have accrued, and no officers, agents or employees of the town shall have authority to waive such conditions precedent or any of them.

(b) In any action against the town to recover damages against it for any negligence in the construction or maintenance of its streets, alleys, lanes parks, public places, sewers, reservoirs or water mains, where any person or corporation is liable with the town for such negligence, every such person or corporation shall be joined as defendant with the town in any action brought to recover damages for such negligence, and where there is judgment or verdict against the town, as well as the other defendant, it shall be ascertained by the court or jury which of the defendants is primarily liable for the damages assessed.

(c) If it be ascertained by the judgment of the court that some person or corporation other than the town is primarily liable, there shall be a stay of execution against the town until execution against such person or persons or other corporation or corporations shall have been returned without realizing the full amount of such judgment.

(d) If the town, where not primarily liable, shall pay the said judgment in whole or in part, the plaintiff shall, to the extent that such judgment is paid by the town, assign the said judgment to the town without recourse on the plaintiff, and the town shall be entitled to have execution issued for its benefit against the other defendant or defendants who have been ascertained to be primarily liable, or may institute any suit in equity to enforce the said judgment, or an action at law, or scire facias to revive or enforce said judgment.

(e) No order shall be made, and no injunction shall be awarded, by any court or judge, to stay the proceedings of the town in the prosecution of their works, unless it be manifest that they, their officers, agents or servants are transcending the authority given them by this act, and that the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages.

58. Except when prohibited by general law, the town may levy a tax or a license on any person, firm or corporation pursuing or conducting any trade, business, profession, occupation, employment or calling whatsoever within the boundaries of the town, whether a license may be required therefor by the State or not, and may exceed the State license, if any be required, and may provide penalties for any violation thereof.

59. Any payment of delinquent taxes made by the tenant, unless under an expressed contract contained in his lease, shall be a credit against the person to whom he owes the rent.

60. A lien shall exist on all real estate within the corporate limits for taxes, levies and assessments in favor of the town, together with all penalties and interest due thereon, assessed thereon from the commencement of the year for which the same were assessed and the procedure for collecting the said taxes for selling real estate for town taxes and for the redemption of real estate sold for town taxes shall be the same as provided in the general law of the State to the same extent as if the provisions of said general law were herein set out at length. The said town and its treasurer shall have the benefit of all other and additional remedies for the collection of town taxes which are now or hereafter may be granted or permitted under the general law.

61. All goods and chattels wheresoever found may be distrained and sold for taxes and licenses assessed and due thereon; and no deed of trust or mortgage upon goods and chattels shall prevent the same from being distrained and sold for taxes and licenses assessed against the grantor in such deed while such goods and chattels remain in the grantor's possession.

62. Ordinances making the annual tax levy, appropriation ordinances, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of town affairs, resolutions requesting information from administrative bodies, or directing administrative action and emergency measures shall take effect at the time indicated in such ordinances. Except as otherwise prescribed in this charter, all ordinances and resolutions passed by the council shall take effect at the time indicated in such ordinances, but in event no effective date shall be set forth in any such ordinance, resolution or by-law passed by the council, the same shall become effective thirty days from the date of its passage.

63. (a) There shall be set apart annually from the revenues of the town a sinking fund sufficient in amount, to be invested as hereinafter set forth, to pay the outstanding indebtedness of the town as it matures and which by its terms is not payable in one year, and the council may in its discretion annually from time to time, set aside such additional sinking funds as may be deemed proper. (b) When taxes on real and personal property are collected for the year, the town treasurer shall take therefrom the necessary amount and any additional sum, if any, so set apart, and deposit the same in a separate account to the credit of the sinking fund in such bank or banks as the council may designate; and the said council may, if it shall so elect, cause its sinking fund to be loaned on improved real estate situated in the town of Chincoteague, secured by first mortgage liens thereon, provided such funds shall not be loaned to a greater amount than fifty per centum of the market value of the property, and fire insurance shall be carried on the property during the loan in an amount at least equal to the face amount of the loan, which money shall be loaned at the rate of six per centum per annum, payable semi-annually and for no longer than five years at any one time. (c) All sinking funds shall be used exclusively in the payment or purchase and redemption of the outstanding bonds of the town, and when such sinking funds are not required or may not within a reasonable time be required for payment of any bond of the town, or cannot be used to advantage in the purchase and redemption of any bonds of the town which may be outstanding, the same shall be securely invested in interest bearing municipal, State or government bonds or loaned upon otherwise unencumbered real estate, within the town of Chincoteague upon the basis hereinbefore provided, or invested in any securities approved by the general laws of the State for the investment of such funds, or deposited in a bank on a reasonable rate of interest. Such sinking fund may be used in the payment or purchase and redemption of all bonds of the town at the discretion of the council. (d) The town council shall act as the sinking fund commission and shall provide for the investment, deposit and application of the funds in conformity to the provisions of this charter; and it may require of any bank or banks receiving on deposit its revenues or any of its sinking fund security satisfactory to the council.

64. Upon the death, resignation, removal or expiration of the term of any officer of the town, the council, shall order an annual audit and investigation to be made of the accounts of such officer and report to be made to the council as soon as practicable. After

the close of each fiscal year an audit shall be made of the accounts of all town officers; said audit shall be made by a qualified accountant, selected by the council, who shall have no personal interest, direct or indirect, in the financial affairs of the town or any of its officers or employees. The council may at any time provide for an examination or audit of the accounts of any officer or department of the town government.

65. The town council may appoint a trial justice for the said town who shall serve for two years from the date of his appointment and until his successor is appointed by the council and qualifies. The mayor, or any other qualified voter of the town of Chincoteague whom the council deems qualified, may be appointed by it as such trial justice. If the mayor is appointed as trial justice, he shall discharge such duties as the trial justice of the town under this charter and not as the mayor of the town, in addition to the execution of the duties of mayor imposed upon him by this charter; and his powers, duties, authority and jurisdiction as such trial justice shall be as hereinafter provided for the trial justice. Should the mayor be appointed trial justice, he shall receive the salary of mayor provided by the council for the discharge of his duties as mayor as well as such salary of trial justice as may be provided by the council, if any.

Said trial justice is hereby vested with all the power, authority and jurisdiction and charged with all the duties within and for the town of Chincoteague, and in criminal matters for one mile beyond the corporate limits thereof, which are, or may hereafter be, conferred upon trial justices by the laws of the State of Virginia, so far as the same may be applicable and not in conflict with the provisions of this charter; and any amendments of the trial justice laws of this State shall be considered as amendments also of this section of this charter if the same are applicable hereto.

Fees and costs shall be assessed by the trial justice and shall be collected as provided by the laws of the State of Virginia relating to trial justices as the same shall now be or as hereafter amended. All fees and costs collected by the said trial justice and all fines collected for violations of all laws and ordinances of the town shall be paid into the town treasury for the use and benefit of the town.

Removals may be taken, and appeals from the decisions of the trial justice may be taken, to the Circuit Court of Accomack county in the same manner, upon the same terms and shall be tried in the same way as removals, or as appeals from the decision of trial justices, as the case may be, are provided to be taken and tried by the laws of the State of Virginia, relating to trial justice as the same shall now be or as hereafter amended.

The council may appoint such clerk or clerks as may in their discretion be necessary, provide for just compensation therefor and provide necessary records.

The council of said town shall provide a salary to compensate such trial justice in such amount and payable at such times as the council shall deem proper, and the council may provide also for a vacation period, either with or without pay, and for such duration, as in the judgment of the council may be proper.

Like provisions may be made for a substitute justice, and when such substitute acts, he shall receive the compensation which would have been paid him had the principal acted, and which compensation shall be deducted from the salary or allowance made to the principal.

Nothing contained herein shall prevent the town of Chincoteague from combining with the county of Accomack for the use of one trial justice and one substitute trial justice for such combined town and county, in such manner as may be provided by the laws of

the State of Virginia relating to trial justices; and if the town of Chincoteague and county of Accomack shall at any time combine for the use of one trial justice and one substitute trial justice for the said town and the said county, the laws of the State of Virginia relating to trial justices, so far as applicable, shall control and not this section of this charter; provided, however, that the combination of the said town with the said county for the use of one trial justice and one substitute trial justice shall not prevent the council of the town at any time thereafter it shall desire so to do from withdrawing the town of Chincoteague from such combination by a vote of the council and appointing a trial justice and a substitute trial justice for the town of Chincoteague under the provisions of this charter, notwithstanding anything in the trial justice laws of Virginia to the contrary; and likewise nothing herein contained shall prevent the town, after withdrawing from such combination, to adopt again the combination with the county.

The powers and jurisdiction provided for in this sub-section sixty-five (65) of this act as to matters other than those pertaining or relating to violations of ordinances of the town may be exercised only to the extent permitted by general law.

66. The town shall have the power to extend or contract the corporate limits of the town as provided by the Constitution and general laws of Virginia in force at the time.

67. The town of Chincoteague shall have authority to impose taxes or assessments upon abutting landowners for making and improving the walkways upon then existing streets, and improving and paving then existing alleys, and for either the construction or for the use of sewers, and the same when imposed, shall not be in excess of the peculiar benefits resulting therefrom to such abutting landowners; and the procedure for making such assessments and the method of collecting such taxes and assessments, shall be in accordance with general law.

68. The town of Chincoteague is hereby constituted a separate road taxing district. The said town shall have the power to own, lay out, and maintain its street system. The county of Accomack shall not levy any tax on the said town, or any property or residents therein for road purposes. Nor shall said town be embraced in any road district of the county of Accomack.

69. The town of Chincoteague may levy a tax on all subjects of taxation not prohibited to it by, nor exempted in, the Constitution and general laws of Virginia.

70. The council hereinafter created shall have full power and authority, except as herein otherwise specifically provided, to exercise herein all of the powers conferred upon the town, and pass all laws and ordinances relating to its municipal affairs, subject to the Constitution and general laws of the State and of this charter, and shall have full and complete control of all fiscal and municipal affairs of said town and all of its real and personal properties, and may from time to time, amend, re-amend and/ or repeal any or all of the said ordinances, for the proper regulation, management, and government of the said town and may impose fines and penalties for the violation or non-observance thereof.

71. The enumeration of specific powers, privileges, and authority in this charter shall not be deemed exclusive, but in addition to the powers and privileges herein mentioned, implied or appropriated, the said town shall have and may exercise, all other powers, which are or may hereafter be, possessed, or enjoyed, by any towns under the Constitution and laws of the Commonwealth of Virginia, or not denied by the same, as fully and completely as if herein set out at length. (1942, c. 210)

§ 2. The council may by resolution require, provide for and enforce daylight saving time in the town. Such time when so prescribed shall govern the conduct of all businesses and town elections within the corporate limits of the town. (1958, c. 135)

### CHAPTER III

§ 1. The council may adopt a town plan, showing the streets, highways, and parks heretofore laid out, adopted, and established, and such town plan shall be final with respect to the location, length, and width of such streets and highways, and the location and dimensions of such parks. Such town plan is hereby declared to be established for the promotion of the health, safety, and general welfare. Upon the adoption of the town plan, or any amendment thereto, a certificate to that effect, together with a plat, shall be filed immediately with the clerk of every county affected by such town plan and amendment. (1942, c. 210)

§ 2. The council is hereby authorized to appoint a town planning commission, fix the number and terms of members, remove any member for cause, fill any vacancies, which may occur, and provide for the powers and duties of such commission, not in conflict with the provisions of this act. (1942, c. 210)

§ 3. The council may at any time, after a public hearing, amend the town plan, by widening, relocating, or closing existing streets and highways, and by altering any existing part or by laying out new streets and highways and establishing new parks. Before amending the town plan, the council shall refer the proposed amendment to the town planning commission for a report thereon, and shall not act on such amendment until a report has been received from said commission, unless a period of thirty days has elapsed after the date of reference to the commission. Any amendment of the town plan, upon its adoption by the council, shall be final unless changed as herein provided as to the location, length, and width of any street and highway, and the location and dimensions of any park. Any widening, relocating, closing or laying out of streets and highways proposed under the provisions of law other than those contained in this article shall be deemed an amendment of the town plan, and shall be subject in all respects to the provisions of this chapter. (1942, c. 210)

§ 4. No plat showing a new street or highway within the town, shall be filed or recorded in the office of the clerk of the town or of any county until such plat has been approved by the council. Before giving any approval, the council shall refer every such plat to the town planning commission for a report, and shall not act on any plat so referred until a report has been received from the commission, unless a period of forty-five days has elapsed after the date of reference to the commission. Before reporting to the council on any plat, the commission shall hold a public hearing thereof. If any plat is disapproved by the commission, it shall report the reasons for such disapproval to the council. The council shall not approve any plan unless the streets and highways provided in such plats are of sufficient width, of proper grades, and suitably located to meet the probable traffic needs; to afford adequate light, air, and access of fire apparatus to such buildings as may be erected along the proposed streets and highways; and to insure healthful conditions on the land adjacent to such streets and highways. The council may, in appropriate cases, require that a plat, before being approved, shall provide adequate open spaces for parks, playgrounds, or other recreational uses; but the inclusion of such open spaces upon a plat does not require their dedication to public use. After a plat has been approved by the council, the streets, highways, parks, and other open spaces shall be

a part of the town plan. The council, after a public hearing, may adopt general regulations in regard to the filing of plats. (1942, c. 210)

§ 5. (a) Before approving such plat, and thereby accepting the dedication of the streets, alleys, parks and public places thereon, the council shall require that the streets and alleys thereon shall be properly laid out and located with reference to the topography of the land so platted and the adjoining lands, both as to connections and widths, which widths of such streets and alleys shall be plainly marked in figures or written on such plat, and which streets and alleys shall be laid out in harmony with the general plan of the town.

(b) And, before approving such plat, and thereby accepting the dedication of the streets and alleys thereon, the council shall require the owner thereof to execute and deliver to the town of Chincoteague a release and waiver of any claim or claims for damages which such owner, his heirs, successors or assigns may have or acquire against the town of Chincoteague by reason of establishing proper grade lines on and along such streets and alleys and by reason of doing necessary grading or filling for the purpose of placing such streets and alleys upon the proper grade and releasing the town of Chincoteague from building any retaining wall or walls along the streets and alleys and property lines; and the council may require such release and waiver to be written and executed on said plat and recorded therewith or by an instrument of writing to be executed and recorded in the clerk's office of the Circuit Court of Accomack County.

And the council may, in its discretion, require the owner of such platted lands to submit profiles of such streets and alleys, showing the contour thereof, together with proper grade lines laid thereon, and if and when the council is satisfied that the proper grade lines are laid on such profiles, the profiles shall be approved by the council and recorded by the owner or at his expense in the record of the profiles of the streets and alleys of the town, and the council may, in its discretion, require such release and waiver to be made with reference thereto.

(c) Before approving any such plat of any sub-division of lots or lands the town council may, at its discretion, require the owner of such lot or lands to grade the streets and alleys therein, according to grade lines approved and established by the council. (1942, c. 210)

§ 6. For the purpose of preserving the integrity of the plan, no permit shall hereafter be issued for the construction of any building within the street lines of any mapped street or highway, as laid down in the town plan, within the town. Provided, however, if the land within any mapped street or highway is not yielding a fair return to the owner, the board of appeals, provided for herein, by a majority vote of all its members, may issue a permit for a building within the street line of such street or highway, upon such conditions as will increase as little as possible the cost of opening such street or highway, and will protect as far as possible the rights of the public and the integrity of the town plan. The board of appeals, hereinafter authorized, before taking any action under the provisions of this section, shall hold a public hearing, of which adequate notice shall be given to all persons deemed to be affected. Any decision by the board of appeals, rendered under the provisions of this section, shall be subject to the same court review as provided for zoning decisions of the board. (1942, c. 210)

§ 7. If such town plan is adopted, no public sewer, water pipe, or other public utility shall be laid and no grading or paving shall be done by the town in any street or

highway in the town, unless such street or highway has been placed upon the town plan by the council. No permit shall be issued for any building in the town unless such building is located adjacent to a street or highway, which has been placed upon the town plan by the council. Provided, however, where the literal enforcement of the provisions of this section would result in practical difficulty or unnecessary hardship, or where the nature or use of the proposed building does not require its location to be adjacent to a street or highway, the board of appeals, by a majority vote of all its members, may issue a permit for a building, upon such condition as the board may deem necessary to preserve the integrity of the town plan and to insure the proper location of future streets and highways in the town and the surrounding area. Any decisions of the board of appeals, rendered under the provisions of this section, shall be subject to the same court review as provided for zoning decisions of the board. (1942, c. 210)

#### CHAPTER IV

§ 1. The town council is hereby empowered to pass zoning ordinances subject, however, to the following modifications:

(a) The council shall not adopt any zoning ordinance or map until it shall have appointed a town planning commission, as provided for in this act and shall have received from such commission its recommendations as to a zoning ordinance and map, and shall have held a public hearing thereon.

(b) Any zoning ordinance, regulations, restrictions, and boundaries of districts may be changed from time to time by the council, either upon its own motion or upon petition, under such conditions as the council may prescribe, after a public hearing and adequate notice to all owners and parties affected. If a protest or protests be filed with the council, signed by the owners of twenty percent or more of the area of the land included in the proposed change, or by the owners of twenty percent or more of the area of the land immediately adjacent to the land included in the proposed change, within a distance of one hundred feet therefrom, or by the owners of twenty percent or more of the area of the land directly opposite across any street or streets from the land included in the proposed change, within a distance of one hundred feet from the street lines directly opposite, then no such change shall be made except by the majority vote of all of the members of the council. No change shall be made by the council in any zoning ordinance or map until such change has been referred to the town planning commission for a report thereon, and no action shall be taken by the council until a report has been received from the commission, unless a period of thirty days has elapsed after the date of reference to the commission.

(c) Within thirty days after the adoption of any zoning ordinance and map, the council shall appoint a board of zoning appeals, consisting of seven members, none of whom shall hold any other positions with the town.

The council may remove any member of the board for cause, after a public hearing. If a vacancy occurs otherwise than by the expiration of the term of the different members, it shall be filled by the council for the unexpired term.

Unless the council designates some member of the board as a chairman, the board shall select a chairman from among its own members, and may create and fill such other offices as it may choose. The board may employ such persons as the council may approve, and may expend such sums as are appropriated by the council for its work. (1942, c. 210; 1994, c. 97)



## CHAPTER V

### Administration and Government

§ 1. (a) The present mayor and council of the Town of Chincoteague shall continue in office until the expiration of the terms for which they were respectively elected.

(b) The administration and government of the Town of Chincoteague shall be vested in one body to be called the council of the Town of Chincoteague, which shall consist of seven members, six of whom shall be known as councilmen and one to be known as mayor, all of whom shall be residents and qualified voters of the said town. No person shall be a candidate simultaneously for the office of mayor and council member. No council member shall be eligible for qualification or election to the office of mayor unless (i) the council member's term of office will expire on June 30 of the year of the election for mayor (ii) the council member's term of office will expire after June 30 of the year of the election for mayor, the council member submits his written resignation to the council at least 120 days before the day of the election for mayor, and such resignation shall become effective on June 30 of the year of the election for mayor. The council may create, appoint, or elect such departments, bodies, boards, and other officers, or assessors or attorneys, as are hereinafter provided for, or as are permitted or required by law to be appointed by the council, or as may be deemed necessary or proper, and may fix their compensation and define their duties. (1942, c. 210; 1993, c. 578)

#### Mayor and Vice-Mayor

§ 2. (a) The mayor shall preside at the meetings of the council and perform such other duties as may be prescribed by this charter and by general law, and such as may be imposed by the council, consistent with his office. He shall be recognized as the official head of the town for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the Governor for military purposes. In time of public danger or emergency, he may take command of the police, maintain order and enforce the law. Such course of action shall be subject to review by the council.

The mayor shall have no right to vote in the council except that in every case of a tie vote of the council, the mayor shall be entitled to vote and his vote in case of a tie only shall have the same weight and effect as the vote of a councilman.

The mayor shall have no power to suspend, remove or discharge any officer, agent or employee of the town nor shall he have any power or authority to appoint or employ any officer, agent or employee of the town nor to fix the term of office or employment, or the compensation, or to increase or decrease the power and authority of any officer, agent, or employee of the town, unless such power shall have been given him by the council, but the mayor shall have such powers with respect to the chief of police, the police, the policemen and employees of the police force when and if the mayor is given the control and supervision of the chief of police.

(b) Every ordinance, or resolution having the effect of an ordinance, shall, before it becomes operative be presented to the mayor. If he approve, he shall sign it, but if not, he may return it, with his objections in writing, to the town clerk who shall enter the mayor's objections at length on the minute book of the council. The council shall thereupon proceed to re-consider such ordinance or resolution. If, after such consideration, two-thirds of all the members elected to the council shall agree to pass the ordinance or resolution, it shall become operative notwithstanding the objection of the

mayor. In all such cases the votes of the members of the council upon such reconsideration shall be determined by "yeas" and "nays," and the names of the members voting for and against the ordinance or resolution shall be entered on the minute book by the council. If any ordinance or resolution shall not be returned by the mayor within five days (Sunday excepted) after it shall have been presented to him, it shall become operative in like manner as if he had signed it, unless his term of office or that of the council, shall expire within said five days.

(c) The council shall at its first meeting in July following every regular municipal election choose one of its members as vice-mayor. The vice-mayor shall perform the duties of the mayor during his absence or disability.

The member of the council who shall be chosen vice-mayor, shall continue to have all of the rights, privileges, powers, duties and obligations of councilmen even when performing the duties of mayor during the absence or disability of the mayor of the town. (1942, c. 210; 1981, c. 84)

#### The Council

§ 3. (a) At the regular municipal election to be held in the town in 1982, and every two years thereafter, there shall be elected, in the manner prescribed by law, three councilmen for terms of four years. A mayor shall be elected for a term of four years in 1984 and every four years thereafter.

Municipal elections shall be held at the time and in the manner provided for by general law. Terms of office shall begin on the first day of July next following the election. Each councilman and the mayor elected as hereinabove provided shall serve for the term stated or until his successor shall have 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 the term of office or removal of the members of said body or any of them.

(b) The council shall, by ordinance, fix the time for their stated meetings. Special meetings shall be called by the clerk of the council upon the request of the mayor, or any three members of the council; no business shall be transacted at a special meeting but that for which it shall be called, unless the council be unanimous. The meetings of the council shall be open to the public, except when the public welfare shall require executive sessions.

If any member of the said council shall be voluntarily absent from three regular meetings of the council consecutively, his seat may be deemed vacant by resolution of the council and thereupon his unexpired term shall be filled according to the provisions of this act. (1942, c. 210; 1958, c. 135; 1981, c. 84)

#### Town Clerk

§ 4. The town clerk shall be appointed by the council, and shall attend the meetings of the council and shall keep permanent records of its proceedings; 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 keep all papers, codes, documents, and records pertaining to the town, the custody of which is otherwise provided for in this charter; he shall give notice to all parties, presenting petitions, or communications to the council of the final action of the council on such communications or petitions; he shall give to the proper department or officials ample notice of the expiration or termination of any franchise, contracts or agreements; he shall publish such reports 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. (1942, c. 210)

Town Treasurer

§ 5. (a) The town treasurer shall, before entering upon the duties of his office, give bond with sufficient surety to be approved by the council, in a penalty of such amount as may be fixed by the council from time to time, payable to the town of Chincoteague, conditioned for the true and faithful performance of the duties of his office. The treasurer shall be responsible for the collection of all taxes, licenses and levies and charges for services furnished by the public utilities of the town. The council shall have authority to place in the hands of a town collector to be appointed by it, the collection of any taxes licenses and other levies at any time if in the discretion of the council it shall be proper so to do.

(b) The town treasurer shall receive all moneys belonging to the town which it is his duty to collect from persons owing the same to the town, or which it is the duty of other officers of the town to collect and pay over to him, and pay the same out as the ordinances of the town may prescribe; to keep such moneys safely and account therefor; and to pay all drafts or orders made on him in conformity with the ordinances of the town.

(c) The funds of the town shall be deposited by the treasurer in such bank or banks as the council may direct, and such bank or banks may be required to give security in such sum or sums as the council shall fix. He shall keep books showing accurately the state of his accounts and the money of the town shall be kept distinct and separate from his own money and he is hereby expressly prohibited from using directly or indirectly, the town's money, checks, or warrants in his custody and keeping for his own use and benefit, or that of any person or persons whomsoever, and any violation of this provision shall subject him to immediate removal from office.

(d) The books and accounts of the town treasurer and all papers relating to the accounts and transactions of the town, shall be at all times subject to the inspection of the mayor, the town council, and such other persons as the council may appoint, to examine the same, and all such books and accounts, together with any balance or moneys on hand, shall be transferred by the treasurer to his successor at every new appointment, or delivered up as the council may at any time require.

(e) The town treasurer shall, when required by the council, render an account to the council showing the state of the treasury and the balance of money on hand. He shall also, if required so to do by the council, accompany such account with a statement of all money received by him and on what account, with a list of all checks paid by him during the month then closed, and shall furnish such other information, accounts and statements as the town council may direct.

(f) The town treasurer shall annually submit to the town council, at such time as directed by the council, a full and detailed account of all receipts and disbursements made during the fiscal year just closed.

(g) All taxes, levies or other sums of money of whatever nature received by the town treasurer belonging to the town of Chincoteague shall be credited by the treasurer

on his books to the town of Chincoteague and shall be paid out by him only on a warrant of the clerk of the council, countersigned, by the mayor.

(h) The treasurer shall keep a separate account of each fund and appropriation and the debts and credits belonging thereto; provided, however, that the council shall have the right to require all town funds to be deposited to the credit of the town and may prescribe by resolution or ordinance such other method of disbursement as it shall from time to time deem proper.

(i) All moneys received on all special assessments shall be held by the treasurer as a special fund, to be applied to the payment of the matter for which the assessment was made and said moneys shall be used for no other purpose.

(j) The treasurer shall perform such additional duties as may be required of him by the council not inconsistent with the laws of the State.

(k) The town treasurer shall receive for his services such compensation, if any, as the council may deem proper. (1942, c. 210)

#### Chief of Police (1958, c. 135)

§ 6. There shall be appointed by the council a chief of police who shall qualify and give bond in such amount as the council may require. He shall be vested with powers of a conservator of the peace, and shall have the same powers and discharge the same duties as a constable within the corporate limits of the town and to a distance of one mile beyond the same, and shall perform such other duties as may be from time to time prescribed by the council. (1942, c. 210; 1958, c. 135)

#### Town Officers--General

§ 7. (a) The town council may combine offices when not expressly prohibited, except that the assessing and collecting officers shall not be the same person.

(b) The town council shall grant and pay to all town officers and employees such salaries or compensation, if any, as the said council may from time to time deem just and proper, or which shall be fixed by this act, except as such salaries or compensation may be fixed by general law.

(c) If any person, having been an officer of such town, shall not within ten days after he shall have vacated, or removed from office, and upon notification or request of the clerk of the council, or within such time thereafter as the town council shall allow, deliver over to his successor in office all property, books, and papers belonging to the town, or appertaining to such office in his possession or under his control, he shall forfeit and pay to the town the sum of five hundred dollars, to be sued for in the name of the town and recovered with costs; and all books, records, and documents used in any such office by virtue of any provision of this act, or of any ordinance or order of the town, council, or any superior officer of the said town, shall be deemed the property of the said town and appertaining to said office, and the chief officer thereof shall be responsible therefor.

(d) All officers hereafter elected under this act, shall be elected at the times and for the terms, as hereinbefore provided, and shall enter upon the discharge of their duties, in accordance with the provisions of the general laws of this State concerning town officers.

(e) The town of Chincoteague and the officers thereof, elected or appointed in accordance with the provisions of this act, shall be clothed with all the powers, and be subject to all the provisions of law not in express conflict with the provisions of this act.

(f) The mayor, the town councilmen, the chief of police and the members of the police force of the town shall have jurisdiction, power and authority in criminal and police matters for one mile from the corporate limits of the said town.

(g) All officers elected or appointed under the provisions of this charter, shall, unless otherwise provided under general law or by this charter, or by ordinance of the council, execute such bond with such approved security as may be required by general law, by this charter, or by ordinance or resolution of the council, and file the same with the town clerk before entering upon the discharge of their duties; and in event of default on the part of any bonded municipal officer, the town shall have the same remedies against him and his sureties as are provided for the State in enforcing the penalty of any official bond given to it.

(h) All officers elected or appointed under the provisions of this charter shall take the oath of office required by general laws before entering upon the discharge of his duties, and if these requirements have not been complied with within thirty days after the term of office shall have begun or after his appointment to fill a vacancy, then such office shall be considered vacant. (1942, c. 210; 1958, c. 135)

#### Chapter VI

##### General Provisions

§ 1. The major, town clerk and town treasurer shall have power to administer oaths, and to take and sign affidavits in the discharge of their respective official duties. (1942, c. 210)

§ 2. The council, mayor, and any officer, board or commission authorized by the council, shall have power to make investigations as to town affairs and for that purpose to subpoena witnesses, administer oaths and compel the production of books and papers.

Any person refusing or failing to attend or to testify or to produce such books and papers may, by summons issued by such officer or board or the town council, be summoned before the mayor of said town by the board, official, or council making such investigation and upon his failure to give satisfactory explanation of such failure or refusal, may be fined by the mayor not exceeding one hundred dollars or imprisoned not exceeding thirty days, and such person shall have the right to appeal to the circuit court of Accomack County. Any person who shall give false testimony under oath at any such investigation shall be liable to prosecution for perjury. (1942, c. 210)

§ 3. The plan of government provided by this charter may be changed to any other plan provided for the government of incorporated towns in the manner provided by general law therefor; and if and when the town of Chincoteague shall become a city of the second class in the manner provided by general law, the plan of government provided by this charter shall continue so far as applicable, but such plan of government may be changed to any other plan provided for the government of cities of the second class at any time in the manner provided by general law. (1942, c. 210)

§ 4. All contracts and obligations heretofore or hereafter made by the council of the town of Chincoteague, while in office not inconsistent with this charter, or the Constitution, or the general laws of this State shall be, and are hereby declared to be valid and legal. (1942, c. 210)

§ 5. All ordinances now in force in the town of Chincoteague, not inconsistent with this charter shall be and remain in force until altered, amended or repealed by the council of the said town. (1942, c. 210)

§ 6. Vacancies in all elective or appointive offices may be filled by a majority vote of the council. No appointive officer shall be appointed for a term longer than two years at any one time. Such provision shall not prevent the council from appointing such officer for as many unexpired or full terms as the council may desire. A vacancy in the elective offices of the town shall be filled by the council within thirty days of such vacancy, and upon a failure of a majority of the remaining members of council to so act, the judges of the Circuit Court of the County of Accomack shall make such appointment in accordance with the provisions of § 24.1-76 of the Code of Virginia. Any such person so appointed shall be fully eligible to hold such office. The person so appointed shall hold office until the qualified voters shall fill the vacancy in a special election in accordance with § 24.1-76 and such person so elected qualifies, or until such time as otherwise provided by § 24.1-76. Upon the occurrence of any such vacancy, the town council shall forthwith advise the judges of the Circuit Court of said County who shall, subject to the provisions of § 24.1-76, issue a writ of election to fill such vacancy. (1942, c. 210; 1993, c. 578)

§ 7. If any clause, sentence, paragraph, or part of this act, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, said judgment shall not effect, impair or invalidate the remainder of the said act, but shall be confined in its operations to the clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered. (1942, c. 210)

§ 8. This act may for all purposes be referred to or cited as the Chincoteague Charter of 1942. (1942, c. 210)