

CULPEPER, TOWN OF
County of Culpeper.
Formerly the Town of Fairfax.

Charter, Fairfax, 1799, c. 14.

Charter, Fairfax, 1834, c. 239.

Charter, Fairfax, 1853, c. 498.

Charter and incorporation, 1870, c. 118 (name changed to Culpeper).

Charter, 1898, c. 60; repealed 1968, c. 247.

Charter, 1968, c. 247.

Amended 1977, c. 130 (§§ 3.1, 3.2, 3.3, 3.4)
 1978, c. 575 (§ 3.1, 3.4)
 1979, c. 168 (§ 3.12)
 1982, c. 94 (§§ 3.3, 3.4:1 [added], 3.9, 5.3, 5.4)
 1985, c. 55 (§§ 3.3, 3.4, 3.4:1)
 1989, c. 95 (§ 3.12)
 1993, c. 320 (§ 7.3).

Chapter 1.

Incorporation and Boundaries.

§ 1.1. Incorporation.--The inhabitants of the territory comprised within the present limits of the town of Culpeper, 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 Culpeper, 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. (1968, c. 247)

§ 1.2. Boundaries.--The territory embraced within the town of Culpeper is that territory in the county of Culpeper, Virginia, established in § 2, Chapter 254 of the Acts of Assembly of nineteen hundred thirty-six, and that territory described in an Order of Annexation entered on June twenty-four, nineteen hundred sixty-seven, by the Circuit Court of Culpeper County, sitting as a duly constituted annexation court, in town of Culpeper v. county of Culpeper, which order is recorded in the office of the clerk of the circuit Court of Culpeper County in law order book 29, at page 501 et seq. (1968, c. 247)

Chapter 2.

Powers.

§ 2.1. General Grant of Powers.--The town of Culpeper 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 shall have, exercise and enjoy all the right, 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. (1968, c. 247)

§ 2.2. Adoption of Certain Sections of Code of Virginia.--The powers set forth in §§ 15.1-837 through 15.1-915, both inclusive, of Chapter 18 of Title 15.1 of the Code of

Virginia, as in force on January one, nineteen hundred sixty-eight, are hereby conferred on and vested in the town of Culpeper. (1968, c. 247)

§ 2.3. Eminent Domain.--The powers of eminent domain set forth in Title 15.1, Title 25, Chapter 1.1 and Title 33, Chapter 1, of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, mutatis mutandis, are hereby conferred upon the town of Culpeper.

(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 and shall constitute sufficient evidence of the necessity of the exercise of the powers of eminent domain by the town. 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 §§ 33-70.3 to 33-70.11, inclusive, 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 certificate 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 any lawful public purpose, whether within or without the town; provided, that the provisions of §§ 33-70.1 through 33-70.11, inclusive, Code of Virginia, as amended shall not be used except for the acquisition of lands or easements necessary for streets, water, sewer or utility pipes or lines or related facilities. (1968, c. 247)

Chapter 3.

Mayor and Council.

§ 3.1. Composition of Council; Election, Qualifications and Term of Office of Councilmen and Mayor.--The town of Culpeper shall be governed by a town council composed of eight councilmen and a mayor, to be elected from the town at large. Councilmen shall be qualified electors of the town, and shall serve for terms of four years. Four councilmen shall be elected on the first Tuesday in May, nineteen hundred eighty, and every four years thereafter. Four councilmen shall be elected on the first Tuesday in May, nineteen hundred seventy-eight, and every four years thereafter. (1968, c. 247; 1977, c. 130; 1978, c. 575)

§ 3.2. When terms of Office to Begin.--The terms of office for the town councilmen shall begin on the first day of July next following their election. (1968, c. 247; 1977, c. 130)

§ 3.3. Vacancies on Council.--Vacancies on the town council shall be filled from among the qualified electors of the town within sixty days for the unexpired terms by a majority vote of the remaining members; provided, that where a vacancy shall occur more than six months prior to the regular town election next succeeding that at which the member of council whose seat was vacated was elected, the person so appointed shall serve only until a successor for the unexpired term shall have been elected in a special election held at the same time as that succeeding regular town election and the person so elected qualifies as provided by law and takes office on July 1 next following his election. (1968, c. 247; 1977, c. 130; 1982, c. 94; 1985, c. 55)

§ 3.4. Election and term of Office of Mayor and Vice-Mayor.--The mayor shall be a qualified elector of the town and shall serve for a term of four years. The election of the mayor for a four-year term shall be on the first Tuesday in May, 1986, and every four years thereafter. At the first meeting of the town council held on or after July one in each even-numbered year, the town council shall elect from its members, by a majority vote of the members elected, a vice-mayor, who shall serve for a term of two years. (1968, c. 247; 1977, c. 130; 1978, c. 575; 1985, c. 55)

§ 3.4:1. Vacancy in the office of mayor.--A vacancy in the office of the mayor shall be filled for the unexpired term within sixty days by appointment of a qualified elector of the town by a majority vote of the remaining members of council; provided that where a vacancy shall occur more than six months prior to the regular town election next succeeding that at which the mayor was elected, the person so appointed shall serve only until a successor for the unexpired term shall have been elected in a special election held at the same time as that succeeding regular town election and the person so elected qualifies as provided by law and takes office on July 1 next following his election. Members of council are eligible to be appointed to fill the mayor's vacancy. Where a vacancy shall occur six months or less prior to the regular town election for mayor, no appointment shall be made and the vice mayor shall possess the powers and discharge the duties of the mayor for the unexpired term. (1982, c. 94; 1985, c. 55)

§ 3.5. Powers and Duties of Mayor and Vice-Mayor.--The mayor shall preside over the meetings of the town council and shall have the same right to speak and vote therein as other members of the town council. He shall be recognized as the head of the town government for all ceremonial purposes, for the purposes of military law and for the service of civil processes. The mayor shall have no power of veto over the ordinances and resolutions of the town council. During the absence of the mayor or the inability of the mayor to act, the vice-mayor shall possess the powers and discharge the duties of the mayor. (1968, c. 247)

§ 3.6. Absence or Disability of Mayor and Vice-Mayor.--If both the mayor and vice-mayor are absent or unable to act, the town council shall, by a majority vote of the members present, elect from its members a person to serve as acting mayor until either the mayor or vice-mayor is present and able to act. The person so elected shall possess the powers and discharge the duties of the mayor during such period of time. Whenever it is necessary to elect an acting mayor pursuant to this section, in the absence of both the mayor and vice-mayor, the town clerk or acting town clerk shall call the meeting of the town council to order and shall preside until an acting mayor is elected. This shall not be construed to vest in the town clerk any of the powers and duties of the mayor, except as expressly stated in this section. (1968, c. 247)

§ 3.7. 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 reason of the expiration of the term of office or removal of any of its members. (1968, c. 247)

§ 3.8. 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 chapter, 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. (1968, c. 247)

§ 3.9. Meetings of Council.--The town council shall fix the time of its stated meetings, and it shall meet at least once a month. Special meetings may be called at any time by the mayor or by three members of the town council; provided, that all members shall be duly notified as defined by ordinance seventy-two hours prior to any special meeting. The seventy-two hour period shall be from the time the notice or special meeting is duly released to the town police. A special meeting may be held without prior notification to members of council upon the consent and waiver of such notice by all council members. The time required for prior notice of any special meeting may be decreased or waived by approval of two-thirds of the members of council provided all members of council are actually notified of such meeting. (1968, c. 247; 1982, c. 94)

§ 3.10. Quorum; Reconsideration of Action.--Five members of the town council shall constitute a quorum for the transaction of business. No vote taken at any meeting shall be reconsidered or rescinded at any subsequent special meeting unless at such special meeting there are as many members of the town council present as were present when such vote was taken. (1968, c. 247)

§ 3.11. Rules of Order and Procedure.--The town council shall establish its own rules or order and procedure, and may punish its own members and other persons for violations thereof. (1968, c. 247)

§ 3.12. Council to Fix Salaries.--The town council is hereby authorized to fix the salaries of each of the members of the town council, members of boards or commissions and all appointed officers and all employees of the town. (1968, c. 247; 1979, c. 168; 1989, c. 95)

Chapter 4.

Town Manager.

§ 4.1. Appointment and Qualifications.--There shall be a town manager, who shall be the executive officer of the town and shall be responsible to the town council for the proper administration of the town government. He shall be appointed by the town council for an indefinite term. He shall be chosen solely on the basis of his executive and administrative qualifications, with special reference to his actual experience in or knowledge of accepted practice in respect to the duties of his office. At the time of his appointment, he need not be a resident of the town or the Commonwealth, but during his tenure of office, he shall reside within the town. (1968, c. 247)

§ 4.2. Duties.--It shall be the duty of the town manager to:

(a) Attend all meetings 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 to 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 a regular meeting in September of each 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 of the chief executive officer of a town by the general laws of the Commonwealth, other than the duties conferred on the mayor by this charter. (1968, c. 247)

§ 4.3. Powers as to Town Officers and Monthly Employees.--All officers and monthly 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. (1968, c. 247)

§ 4.4. Temporary Transfer of Personnel Between Departments.--The town manager shall have power, whenever the interests of the town require, irrespective of an other provisions of this charter, to assign employees of any department, bureau, office or agency to the temporary performance of duties in another department, bureau, office or agency. (1968, c. 247)

§ 4.5. Council Not to Interfere in Appointments or Removals; Relationship with Council.--Neither the town council nor any of its members shall direct or request the appointment of any person to or his removal from any office or employment by the town manager or by any of his subordinates or in any way take part in the appointment or for removal of officers and employees of the town, except as specifically provided in this charter. Except for the purpose of inquiry, the town council and its members shall deal with the administrative services solely through the town manager, and neither the town council nor any member thereof shall give orders, either publicly or privately, to any subordinate of the town manager. Any councilman violating the provisions of this section or voting for a motion, resolution or ordinance in violation of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to be a councilman. (1968, c. 247)

§ 4.6. Relations with Boards, Commissions and Agencies.--The town manager shall have the right to attend and participate in the proceedings of, but not to vote in, the meetings of all boards, commissions or agencies created by this charter or by ordinance and any other board or commission the town council may designate. (1968, c. 247)

§ 4.7. Acting Town Manager.--The town council shall designate by ordinance a person to act as town manager in case of the absence, incapacity, death or resignation of the town manager, until his return to duty or the appointment of his successor. (1968, c. 247)

Chapter 5.

Appointive Officers.

§ 5.1. Appointment.--The town council may appoint such officers of the town as they may deem necessary. Such officers may include, but shall not be limited to , a town clerk, town attorney, a town treasurer and justices of the peace. 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 or by the town council. (1968, c. 247)

§ 5.2. Deputies and Assistants.--The town council may appoint such deputies and assistants to appointive offices as the town council may deem necessary. (1968, c. 247).

§ 5.3. Term of Office.--Officers and deputy and assistant officers appointed by the town council shall be appointed to serve at the pleasure of council. (1968, c. 247; 1982, c. 94)

§ 5.4. Vacancies in Office.--The town council shall fill any vacancy in any appointive office at their discretion. (1968, c. 247; 1982, c. 94)

§ 5.5. 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. (1968, c. 247)

§ 5.6. Duties of Town Clerk.--The town clerk shall be the clerk of the town council. He shall keep the journal of its 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 the town clerks. All records in his office shall be public records and open to inspection at any time during regular business hours. (1968, c. 247)

Chapter 6.

Courts.

§ 6.1. Authority to Establish Municipal Court; Jurisdiction of Court.--The town council may establish by ordinance a municipal court, which shall be known as the Municipal Court of Culpeper. Jurisdiction of the municipal court in civil matters shall be as provided in § 16.1-77 of the Code of Virginia, and in criminal matters as provided in § 16.1-124 of the Code of Virginia. (1968, c. 247)

§ 6.2. Judge of Municipal Court Substitute Judge.--The judge of the municipal court shall be appointed by the town council. He shall serve at the pleasure of the town council. The town council may appoint a substitute judge to serve during the absence or inability to act of the judge of the municipal court. (1968, c. 247)

§ 6.3. Jurisdiction of County Court if Municipal Court Not Created.--If the town council shall elect to not establish a municipal court, as provided in § 6.1 of this charter, the county court of Culpeper County shall have such jurisdiction within the town as the municipal court would have if it were established by the town council. The town council may enter into such contracts or agreements as it may deem necessary to permit the trial in said county court of cases or cases of action arising within the town or within the jurisdiction of the town. (1968, c. 247)

Chapter 7.

Financial Provisions.

§ 7.1. Fiscal Year.--The fiscal year of the town shall begin on July one of each year and end on June thirty of the year following. (1968, c. 247)

§ 7.2. Actions Against Town for Damages, etc.--

(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 oath of the claimant, his agent or attorney, or the personal representative of any decedent whose death is a 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 the mayor or an attorney appointed by the town council for this purpose, and the town is hereby authorized to appoint such an attorney, within sixty days after such cause of action shall have accrued. Where the claimant is an infant or non compos mentis, or the injured party dies within such sixty days, such statement may be filed within one hundred twenty days provided, that if the complainant is compos mentis during such sixty day period but is able to establish by a clear and convincing evident that due to the injury sustained for which a claim is asserted that he was physically or mentally unable to give such notice within the sixty day period, then the time for giving notice shall be tolled until the claimant sufficiently recovers from such injury so as to be able to give such notice. No officer, agent or employee 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 such action brought to recover damages for such negligence, and where there is a 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 is 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 corporation or corporations shall have been returned without realizing the full amount of such judgment.

(d) If the town, when not primarily liable, shall pay such judgment in whole or in part, the plaintiff shall, to the extent that such judgment is paid by the town, assign the 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 to enforce such judgment, or an action at law, or scire facias to revive such judgment.

(e) No order shall be entered or made, and no injunction shall be awarded by any court or judge, to stay 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 in this charter, and that the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages.

(f) The town council is authorized and empowered to compromise any claim for damages or any suit or action brought against the town. (1968, c. 247)

§ 7.3. Creation of Debt; Election on Issuance of Bonds.--Any ordinance creating a debt for which money is to be borrowed shall be adopted by a majority vote of the elected members of the town council.

The town council may, and upon receipt of a petition signed by fifteen percent of the qualified electors of the town registered as of January 1 of the year in which the petition is received by council shall, submit to a vote of the qualified electors of the town the question of whether such money shall be borrowed. Any such petition shall be filed with the town clerk within thirty days of the vote of the town council to borrow money.

Such election shall be held in the manner provided for such elections by the general laws of the Commonwealth. A majority vote of the qualified electors voting at such election shall be required for the approval of the borrowing of such money.

The provisions of this section shall not be construed to prohibit the town council from proceeding under any provisions of the Constitution of Virginia and general laws of the Commonwealth in the borrowing of money. (1968, c. 247; 1993, c. 320)

§ 7.4. Sale, Lease, Etc., of Town-Owned Public Utilities.--Neither the town council nor any of its officers or its agents shall have the power or authority to sell, rent, lease or otherwise dispose of any public utility owned by the town of Culpeper without first submitting such sale, rental or lease to a vote of the qualified electors of the town, at a special election to be held in accordance with law providing for special election for towns in Virginia, and such sale shall only be consummated upon a vote of the majority of the qualified electors of the town voting in such an election. (1968, c. 247)

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. (1968, c. 247)

§ 8.2. Amendment of Zoning Ordinance.--The town council may, by ordinance, require that whenever the planning commission recommends against the adoption of any proposed amendment to the Zoning Ordinance of the town, now or hereafter in effect, such amendment shall become effective only upon the affirmative vote of two-thirds of the elected members of the town council. (1968, c. 247)

§ 8.3. Applicability of Ordinances to Lands, etc., 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. (1968, c. 247)

§ 8.4. Bonds of Officers and Employees.--The town council may require all or any officers and employees of the town to give bond for the faithful and proper discharge of their duties. As used herein, the words "officers and employees" shall include officers and employees paid solely or partly by the town. The town may pay the premium on such bonds from the town funds and may provide for individual surety bonds or for a bond covering all officers and employees or any group thereof. The bond shall be payable to the town as its interest may appear in event of breach of the conditions thereof. (1968, c. 247)

§ 8.5. Office of the Town Sergeant Not to be Created.--Notwithstanding the provisions of § 15.1-796 of the Code of Virginia, there shall not be created in the town of Culpeper the office of town sergeant. (1968, c. 247)

§ 8.6. Present Officers to continue.--The present elected officers of the town shall be and remain in office until expiration of their several terms, and until their successors have been duly elected and qualified. (1968, c. 247)

§ 8.7. Ordinances Continued in Force.--All ordinances now in force in the town of Culpeper, not inconsistent with this charter, shall be and remain in force until altered, amended or repealed by the town council. (1968, c. 247)

§ 8.8. 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. (1968, c. 247)