

FINCASTLE, TOWN OF
County of Botetourt.
Incorporated by an 1821 Act of Assembly.

Trustees appointed, 1789, c. 63.
Name changed to Monroe, 1794, c. 40.
Charter, 1821, c. 113.
Addition to Charter, 1828, c. 132.
Charter, 1858, c. 290.
Charter, 1872, c. 274; repealed 1974, c. 35.
Charter, 1974, c. 35.

Amended 1993, c. 323 (§ 3.1)
 2009, c. 527 (§ 3.1)
 2010, c. 156 (§§ 3.1, 3.6, 4.8 [added]).

CHAPTER I.
INCORPORATION AND BOUNDARIES.

§ 1.1. Incorporation. The inhabitants of the territory comprised within the present limits of the town of Fincastle as such limitations 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 Fincastle, and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, renew, or amend at its pleasure by proper ordinance. (1974, c. 35)

§ 1.2. Boundaries. The territory embraced within the town of Fincastle is that territory in the county of Botetourt, Virginia, more particularly described in that certain plat recorded in Plat Book 7, page 93, in the clerk's office of the Circuit Court of Botetourt County, Virginia, which plat is incorporated herein by reference. (1974, c. 35)

CHAPTER II.
POWERS.

§ 2.1. General Grant of Powers. The town of Fincastle 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 full 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 the town as a municipal corporation. (1974, c. 35)

§ 2.2. Adoption of Certain Sections of the Code of Virginia. The powers set forth in §§ 15.1-837 through 15.1-907, both inclusive, of Chapter 18 of Title 15.1 of the Code of Virginia, as in force on July 2, 1972, and as hereafter amended are hereby conferred on and vested in the town of Fincastle. (1974, c. 35)

CHAPTER III.
MAYOR AND COUNCIL.

§ 3.1. Election, Qualification and Term of Office of Councilmen and Mayor. (a) The town of Fincastle shall be governed by a town council composed of six councilmen and a mayor, all of whom shall be qualified voters of the town.

(b) The mayor and councilmen in office at the time of the passage of this act shall continue in office until the expiration of the terms for which they were elected, or until their successors are duly elected and qualified. Beginning in November 2010, an election for mayor and councilmen shall be held at the time of the November general election. Following the November 2010 general election, the candidate for mayor and three candidates for town council receiving the highest votes will serve four-year terms and the candidates receiving the next three highest votes will serve two-year terms, from January 1, next following the date of their election and until their successors have been duly elected and qualified. Beginning with the November 2012 general election, the council members shall be elected for four-year terms, from January 1, next following the date of their election and until their successors have been duly elected and qualified. (1974, c. 35; 1993, c. 323; 2009, c. 527; 2010, c. 156)

§ 3.2. Vacancies on Council. Vacancies on the council shall be filled for the unexpired portion of the term by a majority vote of the members of the council. (1974, c. 35)

§ 3.3. Vacancy in Office of Mayor. A vacancy in the office of mayor shall be filled for the unexpired portion of the term by a majority vote of the members of the council. (1974, c. 35)

§ 3.4. Council a Continuing Body. The town council shall be a continuing body, and no measures pending before such body, or any contract or obligation incurred, shall abate or be discontinued by reasons of the expiration of the term of office or removal of any of its members. (1974, c. 35)

§ 3.5. General Grant of Powers to Council. The town council shall have all powers and authority that are now or may hereafter be granted to councils of towns by the general laws of the Commonwealth and by this charter, and the recital of special powers and authorities herein shall not be taken to exclude the exercise of any power and authority granted by the general laws of the Commonwealth to town councils, but not herein specified. (1974, c. 35)

§ 3.6. Powers and Duties of Mayor. The mayor shall be the chief executive officer of the town, unless the town has in its employ a town manager, as set forth in § 4.8 of this charter. If and when a town manager is appointed, all executive powers as well as the supervisory powers of the mayor as to Town employees shall devolve upon him. Unless otherwise noted, the town mayor shall have and exercise all power and authority conferred by general law not inconsistent with this charter. He shall preside over the meetings of the town council and shall have the same right to speak and vote therein as members of the town council. He shall have the power of veto over the ordinances and resolutions of the council, but such ordinances and resolutions may be passed over such veto by a two-thirds vote of the members of the town council present and voting. He shall be recognized as the head of the town government for all ceremonial purposes. He shall perform such other duties consistent with this office as may be imposed by the council. He shall see that the duties of the various town officers are faithfully performed. In times of public danger or emergencies, he may take command of the police and maintain order and enforce laws, and for this purpose may deputize such assistant policemen as may be

necessary. He, or the person acting as mayor, shall authenticate, by his signature, such documents or instruments as the council, this charter, or the laws of the Commonwealth shall require. (1974, c. 35; 2010, c. 156)

§ 3.7. Vice-Mayor. The town council shall elect from its members by a majority of the members present, a vice-mayor. During the absence or inability of the mayor to act, the vice-mayor shall possess the powers and discharge the duties of the mayor. While serving in the place of the mayor, the vice-mayor may vote as a member of the town council. (1974, c. 35)

§ 3.8. Meetings of Council. The town council shall fix the time of their stated meetings, and they shall meet at least once a month. The council shall keep a journal of its official proceedings and its meetings. Five members of the town council shall constitute a quorum for the transaction of business at any meeting. Special meetings may be called at any time by the mayor or by five members of the council; provided that the mayor and all council members are duly notified a reasonable period of time prior to such meeting, and no business shall be transacted at a special meeting thereof, except that for which it shall be called. If all members are present, this provision may be waived by a majority vote of the council. (1974, c. 35)

§ 3.9. Rules of Order and Procedure. The town council shall establish its own rules of order and procedure and may take appropriate action against its own members and other persons for violation thereof. (1974, c. 35)

§ 3.10. Council to Fix Salaries. The town council is hereby authorized to fix the salary of the mayor, members of the town council, members of boards or commissions, and all appointed officers and employees of said town at a sum not to exceed any limitations placed by the laws and Constitution of the Commonwealth of Virginia. (1974, c. 35)

CHAPTER IV. APPOINTED OFFICERS.

§ 4.1. Appointments. The town council may appoint a town clerk, a chief of police, a town attorney and a town treasurer and may appoint such other officers of the town as they deem necessary. Each and every officer appointed under this section shall be directly responsible to the town council and mayor. Such officers shall perform such duties as are required by general law, as well as such additional duties not inconsistent with general law as this charter or the council may prescribe. (1974, c. 35)

§ 4.2. Deputies and Assistants. The town council may appoint such deputies and assistants to appointive offices as they may deem necessary. (1974, c. 35)

§ 4.3. Term of Office. Officers and deputy and assistant officers appointed by the town council shall serve at and during the pleasure of the town council. (1974, c. 35)

§ 4.4. Bonds. Officers, deputies and assistants appointed by the town council shall execute such bonds as may be required by resolution of the town council. (1974, c. 35)

§ 4.5. Vacancies in Office. The town council may fill any vacancy in any appointive office. (1974, c. 35)

§ 4.6. Appointment of One Person to More than One Office. The town council may appoint the same person to more than one appointive office subject to the limitations of Article VII, Section 6 of the Virginia Constitution. (1974, c. 35)

§ 4.7. Town Clerk. The town clerk shall be the clerk of the town council and 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 or the general laws of the Commonwealth require of town clerks. All records in his office shall be public records and open to inspection at any time during regular business hours. (1974, c. 35)

§ 4.8. Town Manager. The town council may appoint a town manager on the basis of executive and administrative qualifications, who shall serve at the pleasure of the council. The town manager shall be the executive officer of the town, and shall be responsible to the town council for the proper administration of the town government. The salaries and compensation paid to the town manager shall be fixed by the council.

It shall be the duty of the town manager to:

(a) Appoint such employees as the council shall determine are necessary for the proper administration of the affairs of the town and, when deemed necessary, suspend or remove any town employees, except as otherwise provided by the laws of the Commonwealth or this charter;

(b) Direct and supervise employees of the town and the administration of all departments, offices, and agencies of the town, except as otherwise provided by the laws of the Commonwealth or this charter;

(c) Attend all meetings of the town council, with the right to speak but not to vote;

(d) See that all laws, provisions of this charter, and acts of the council subject to enforcement by the manager are faithfully executed;

(e) Prepare and submit to the town council the annual budget and capital program of the town and be responsible for their administration and execution after its adoption;

(f) Make reports as the council may require upon the affairs of the town and keep the council fully advised of the town's financial condition and its future financial needs;

(g) Ensure that adequate and accurate financial and personnel records are maintained with respect to the financial transactions and employees of the town, respectively; and

(h) 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 of Virginia. (2010, c. 156)

CHAPTER V.

MISCELLANEOUS.

§ 5.1. Elections Governed by State Law. All town elections shall be held and conducted in the manner prescribed by the laws of the Commonwealth. (1974, c. 35)

§ 5.2. Actions against Town for Damages, etc. (a) No action shall be maintained against the town for any injury to any person or property or for wrongful death alleged to have been sustained by reason of the negligence of the town, or any officer, agent or employee thereof, unless notice shall be given by the claimant in accordance with § 8-653, as amended, of the Code of Virginia and as may be amended from time to time.

(b) The town council is authorized and empowered to compromise any claim for damages or any suit or action brought against the town. (1974, c. 35)

§ 5.3. United States Government Employees. No person, otherwise eligible, shall be disqualified, by reason of his accepting or holding an office, post, trust or emolument under the United States government, from serving as an officer or employee of the town,

or as a member, officer, or employee of any board or commission; unless disqualified otherwise by the Constitution and laws of the Commonwealth of Virginia. (1974, c. 35)

§ 5.4. Acceptance of Federal Aid, Contributions, etc. The town of Fincastle shall have the power to receive and accept from any federal agency grants of any kind for or in aid of public works, the construction of any project, the procuring or reserving of park land, open spaces or any recreational facility, and to do all such things or make any covenants or agreements which may be necessary or required in order to obtain and use such federal grants. The town may receive and accept aid or contributions from any source or money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made. (1974, c. 35)

§ 5.5. Power of Town as to Poles and Wires for Electric, etc., Service. The town is empowered to permit and regulate, or to prohibit, the erection of poles and wires for electric, telegraph or telephone service or the laying of any kinds of pipes in the streets or alleys of the town, and to prescribe, assess and collect annual or other periodical charges for the doing of any such things under permits hereafter granted; and the power to require the owners or operators of any such electric light, telephone or telegraph lines to change the location of any of their poles whenever the council deems any such change expedient; and to require all wires or cables carrying electric current, whether heretofore or hereafter installed, to be placed in suitable conduits, underground, in the discretion of the council; provided, that none of the powers above enumerated shall be exercised in a manner inconsistent with the provisions of any franchise granted by the town. (1974, c. 35)

§ 5.6. Eminent Domain. The powers of eminent domain set forth in Title 15.1; Title 25, Chapter 1.1; and § 33.1-121 of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, are hereby conferred upon the town of Fincastle; provided, however, that the provision of § 25-233 or any other applicable section of the Code of Virginia shall apply as to any property owned by a corporation possessing the power of eminent domain that may be sought to be taken by condemnation under the provisions of this act.

(a) Certificates issued pursuant to § 33.1-121 of the Code of Virginia, of 1950, 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 clerk. 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 acquisition of lands, easements or related interests in property necessary for streets, water, sewer or utility pipes or related facilities, whether within or without the town.

(b) In addition to the powers conferred by the aforesaid laws, such certificates may be amended or cancelled by the court having jurisdiction of the proceedings, upon petition of the town, at any time after the filing thereof; provided, that the court shall have jurisdiction to make such order for the payment of costs and damages, if any, or the refund of any excessive funds theretofore paid pursuant to such certificate as shall, upon due notice and hearing appear just. The court shall have jurisdiction to require refunding bonds for good cause shown by the town or any other person or party in interest prior to authorizing any distribution of funds pursuant to any certificate issued or deposit made by the town. (1974, c. 35)

§ 5.7. Disclosure of Interest. The town council is hereby empowered to enact a conflict of interest and disclosure ordinance to govern elected and/or appointed town officials not inconsistent with the general law. (1974, c. 35)

§ 5.8. Fiscal Year. The fiscal year of the town shall begin on July 1 of each year and end on June 30 of the year following. (1974, c. 35)

§ 5.9. Present Officers to Continue. The present elected officers of the town shall be and remain in office until June 30, 1974, or until their successors have been duly elected and qualified. (1974, c. 35)

§ 5.10. Ordinances in Force. All ordinances now in force in the town of Fincastle, not inconsistent with this charter, shall be and remain in force until altered, amended or repealed by the town council. (1974, c. 35)

§ 5.11. Severability of Provisions. If any clause, sentence, paragraph or part of this charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this charter, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered. (1974, c. 35)

§ 5.12. Supersedes Old Charter. This charter supersedes and renders null and void all charters and amendments thereto and enabling acts or orders granted by circuit courts pursuant to general law, except insofar as orders of such courts established boundaries of the town of Fincastle. (1974, c. 35)