

THE PLAINS, TOWN OF
County of Fauquier.

Incorporation and charter authorization, 1908, c. 308 (see 1914 Acts, c. 218).
Charter by order of the Circuit Court of Fauquier County, April 26, 1910 (see 1914, c. 218); repealed 1972, c. 251.
Charter, 1972, c. 251.

Chapter 1.

Incorporation and Boundaries

§ 1.1. Incorporation. The inhabitants of the territory comprised within the present limits of the Town of The Plains, 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 The Plains, 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. (1972, c. 251)

§ 1.2. Boundaries. The territory embraced within the Town of The Plains is that territory in the County of Fauquier, Virginia, established and described in the Order of Incorporation issued April 26, 1910, by the circuit court of Fauquier County, which order is recorded in the office of the clerk of the circuit court of Fauquier County in law order book N, at page two hundred sixty-six et seq. (1972, c. 251)

Chapter 2.

Powers

§ 2.1. General grant of powers. The Town of The Plains 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 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. (1972, c. 251)

§ 2.2. Adoption of certain sections of 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 January 1, 1972, are hereby conferred on and vested in the Town of The Plains. (1972, c. 251)

§ 2.3. Eminent domain. The powers of eminent domain set forth in Title 15.1, Chapter 1.1 of Title 25, and § 33.1-121, of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, mutatis mutandis, are hereby conferred upon the Town of The Plains, subject to the provisions of § 25-233 of the Code of Virginia.

(a) In any case in which a petition for condemnation is filed by or on behalf of the town, a true copy of a resolution or ordinance duly adopted by the town council declaring the necessity for any taking or damaging of any property within or without the town, for the public purposes of the town, shall be filed with the petition. The town may employ

the procedures conferred by the foregoing laws, mutatis mutandis, and may, in addition thereto, proceed as hereinafter provided.

(b) Certificates issued pursuant to § 33.1-121 of the Code of Virginia, as amended, and acts amendatory thereof and supplemental thereto, may be issued by the town council, signed by the mayor and countersigned by the town treasurer. Such certificate shall have the same effect as certificates issued by the State Highway Commissioner, under the aforesaid statute, 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 § 33.1-121 of the 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, and further provided that the condemnation authority shall be subject to the provisions of § 25-233 of the Code of Virginia.

(c) 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 sums 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. (1972, c. 251)

Chapter 3.

Mayor and Council

§ 3.1. Composition of council; election, qualification and term of office of councilmen and mayor. The Town of The Plains shall be governed by a town council composed of six councilmen and the mayor, to be elected from the town at large. The councilmen and the mayor shall be qualified electors of the town, and shall serve for terms of four years. At the election held on the first Tuesday in May, 1972, the three councilmen receiving the highest number of votes shall serve for terms of four years; the three councilmen receiving the next highest number of votes shall serve for terms of two years. At the election held on the first Tuesday in May, 1974, and in every election thereafter, the councilmen elected shall serve for four years. The mayor shall be elected on the first Tuesday in May, 1972, and every four years thereafter. (1972, c. 251)

§ 3.2. When terms of office to begin. The terms of office for the town councilmen and mayor shall begin on the first day of July next following their election. (1972, c. 251)

§ 3.3. Vacancies on council. Vacancies on the town council shall be filled within forty-five 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 a regular town election, such vacancy shall be filled by a majority vote of the remaining members only until a successor shall have been chosen by the qualified electors of the town and shall have qualified as provided by law. In the town election to be held on the first Tuesday in May next following the occurrence of such vacancy, there shall be elected by the qualified electors of the town a member of the council to fill each such vacancy for the

unexpired term. The term of office of any councilman so elected shall begin on the first day of July next following his election. (1972, c. 251)

§ 3.4. Powers and duties of mayor.

(a) The mayor of the Town of The Plains shall be the executive head of the town government and it shall be his duty to see that the ordinances and Charter of the town are fully and faithfully executed. He shall see that peace and good order are preserved and that persons and property are protected.

(b) The mayor shall preside over the meeting of the town council and, in the event there is a tie vote upon any issue, the mayor shall cast the deciding vote. At all other times, the mayor shall not have the right to vote.

(c) The mayor shall exercise general supervision of all the town's rights, franchises, properties and affairs, and shall perform such other duties and functions as he may be directed by the town council. (1972, c. 251)

§ 3.5. Absence or disability of mayor. If the mayor is 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 the 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 the 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. (1972, c. 251)

§ 3.6. 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. (1972, c. 251)

§ 3.7. 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. (1972, c. 251)

§ 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. 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 a reasonable period of time prior to any special meeting. (1972, c. 251)

§ 3.9. Quorum; reconsideration of action. Four 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. (1972, c. 251)

§ 3.10. Rules of order and procedure. The town council shall establish its own rules of order and procedure, and may punish its own members and other persons for violations thereof. (1972, c. 251)

§ 3.11. 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 board or commissions and all appointed officers and all employees of the town, at a sum not to exceed any limitations placed by the laws and Constitution of the Commonwealth of Virginia, provided that no council in office shall fix any salary for councilmen or increase any salary for councilmen, which shall take effect any sooner than the end of all terms for which the council voting thereon was elected. (1972, c. 251)

Chapter 4.

Appointive Officers

§ 4.1. 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, a town attorney, a town treasurer and chief of police. 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. (1972, c. 251)

§ 4.2. Deputies and assistants. The town council may appoint such deputies and assistants to appointive offices as the town council may deem necessary. (1972, c. 251)

§ 4.3. Term of office. Officers and deputy and assistant officers appointed by the town council shall be appointed for a term of two years, unless otherwise provided by this Charter or by ordinance of the town council. Such term shall begin on the first day in July in each even-numbered year. (1972, c. 251)

§ 4.4. Vacancies in office. The town council shall fill any vacancy in any appointive office for the remainder of the unexpired term. (1972, c. 251)

§ 4.5. 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, subject to the provisions of Article VII, Section 6 of the Virginia Constitution. (1972, c. 251)

§ 4.6. 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 town clerks. All records in his office shall be public records and open to inspection at any time during regular business hours. (1972, c. 251)

Chapter 5.

Courts

§ 5.1. 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 The Plains. 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. (1972, c. 251)

§ 5.2. 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. (1972, c. 251)

§ 5.3. Jurisdiction of county court if municipal court not created. If the town council shall elect to not establish a municipal court, as provided in § 5.1 of this Charter, the county court of Fauquier 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 causes of action arising within the town or within the jurisdiction of the town. (1972, c. 251)

Chapter 6.

Financial Provisions

§ 6.1. Fiscal year. The fiscal year of the town shall begin on the first day of September of each year and end on the last day of August of the year following. (1972, c. 251)

§ 6.2. 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 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 evidence 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 employee of the town shall have authority to waive such conditions precedent or any of them.

(b) 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.

(c) The town council is authorized and empowered to compromise any claim for damages or any suit or action brought against the town. (1972, c. 251)

§ 6.3. 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.

No bonds shall be issued by the town until the voters of the town have first approved the issuance of such bonds at an election held pursuant to the laws of the Commonwealth.

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. (1972, c. 251)

Chapter 7.

Miscellaneous

§ 7.1 Elections governed by State law. All town elections shall be held and conducted in the manner prescribed by the laws of the Commonwealth. (1972, c. 251)

§ 7.2. 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. (1972, c. 251)

§ 7.3. 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. (1972, c. 251)

§ 7.4. 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. (1972, c. 251)

§ 7.5. Office of 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 The Plains the office of town sergeant. (1972, c. 251)

§ 7.6. Present officers to continue. The present elected officers of the town shall be and remain in office until expiration of their several terms, or until their successors have been duly elected and qualified. (1972, c. 251)

§ 7.7. Ordinances continued in force. All ordinances now in force in the Town of The Plains, not inconsistent with this Charter, shall be and remain in force until altered, amended or repealed by the town council. (1972, c. 251)

§ 7.8. 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. (1972, c. 251)