

TAPPAHANNOCK, TOWN OF  
County of Essex.

Trustees, 1818, c. 139; repealed 1841, c. 134.

Charter, 1841, c. 134; repealed 1894, c. 244.

Charter, 1894, c. 244; repealed 1972, c. 759.

Charter, 1972, c. 759.

Amended        1976, c. 415 (§ 7.3)  
                    1988, c. 141 (§ 4.2)  
                    1989, c. 120 (§§ 3.1, 3.4 [repealed])  
                    1991, c. 402 (§ 3.6)  
                    1994, c. 100 (§§ 5.1, 5.7)  
                    1995, c. 162 (§§ 4.1, 8.5).

Chapter 1.

Incorporation and Boundaries.

§ 1.1. Incorporation.

The inhabitants of the territory comprised within the present limits of the Town of Tappahannock, 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 Tappahannock, 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. 759)

§ 1.2. Boundaries.

The territory embraced within the Town of Tappahannock is that territory in the County of Essex, Virginia, established in Section 1, Chapter 450 of the Acts of Assembly of 1926 and as expanded by orders of the Circuit Court of Essex County entered on November 14, 1939, and of record in Law Order Book 9, page 231 and entered on November 8, 1966, and of record in Law Order Book 12, page 107. (1972, c. 759)

Chapter 2.

Powers.

§ 2.1. General grant of powers.

The Town of Tappahannock 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. 759)

§ 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, and as hereafter amended are hereby conferred on and vested in the Town of Tappahannock. (1972, c. 759)

§ 2.3. Eminent domain.

The powers of eminent domain set forth in Title 15.1 and Title 25, Chapter 1.1 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 Tappahannock 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 Code of Virginia, as amended, and acts 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.

(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. 759)

### Chapter 3.

#### Mayor and Council.

§ 3.1. Composition of council; election, qualification and term of office of councilmen.

A. The Town of Tappahannock shall be governed by a town council composed of six councilmen and a mayor, all of whom shall be elected at large and all of whom shall be qualified voters of the town.

B. On the first Tuesday in May, 1990, there shall be elected by the qualified voters of the town a mayor and six council members. The candidate for mayor and the three persons receiving the greatest number of votes in the election for council members shall serve for terms of four years each beginning on July 1 following the date of their election. The three candidates receiving the next highest number of votes shall serve for terms of two years each beginning on July 1 following the date of their election. Thereafter, the mayor and all council members shall be elected for terms of four years to fill vacancies caused by expiration of terms of office. The mayor and council members shall serve for the terms for which they were elected, or until their successors are duly elected and qualified. (1972, c. 759; 1989, c. 120)

§ 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. (1972, c. 759)

§ 3.3. Vacancies on the town council shall be filled within forty-five days for the unexpired terms by a majority vote of the remaining members. (1972, c. 759)

§ 3.4. (1972, c. 759; repealed 1989, c. 120)

§ 3.5. Powers and duties of mayor.

The mayor shall preside over the meetings of the town council and shall vote only in case of a tie. 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. He shall possess such other powers and duties as he may from time to time be given by ordinance or resolution of the town council. (1972, c. 759)

§ 3.6. Absence or disability of mayor.

The town council may elect, by a majority vote of the members present, from its members a person to serve as vice mayor during the absence or inability of the mayor to act. The person so elected shall possess the powers and discharge the duties of the mayor during such absence or disability of the mayor. The election shall occur at the first regular meeting of the council in the fiscal year immediately following a local general election or at a special meeting of the town council called for the purpose of conducting such election. Whenever it is necessary to elect a vice 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 a vice 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. 759; 1991, c. 402)

§ 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. (1972, c. 759)

§ 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 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. 759)

§ 3.9. 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. 759)

§ 3.10. 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. 759)

§ 3.11. 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. 759)

§ 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, at a sum not to exceed any limitations placed by the laws and Constitution of the Commonwealth of Virginia. (1972, c. 759)

Chapter 4.

Town Manager

§ 4.1. Appointment for 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 at the first meeting of each newly elected town council on or after July 1 of each even-numbered year. Thereafter, his term shall run concurrently with the appointing town council and continue until a successor town manager is appointed by the next town council and duly qualified. He shall be chosen solely on the basis of his executive and administrative qualifications, with special reference to this 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, unless specifically authorized by the town council. (1972, c. 759; 1995, c. 162)

§ 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) (Repealed.)
- (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, other than the duties conferred on the mayor by this Charter. (1972, c. 749; 1988, c. 141)

§ 4.3. Powers as to town officers and employees.

All officers and 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. (1972, c. 759)

§ 4.4. Temporary transfer of personnel between departments.

The town manager shall have power, whenever the interest of the town require, irrespective of any 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. (1972, c. 759)

§ 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 of or 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. (1972, c. 759)

§ 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, except those of which he is a member. (1972, c. 759)

§ 4.7. Acting town manager.

The town council may 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. (1972, c. 759)

## 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 manager, a town clerk, a town attorney, a town treasurer and a chief of police. The enumeration of officers in this section shall not be construed to require the appointment of any 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. 759; 1994, c. 100)

§ 5.2. Deputies and assistants.

The town council may appoint such deputies and assistants to appointive offices as the town council may deem necessary. (1972, c. 759)

§ 5.3. Term of office.

Officers and deputy and assistant officers appointed by the town council shall be appointed for a term of two years, to coincide with the term of the appointing council, 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. 759)

§ 5.4. Vacancies in office.

The town council shall fill any vacancy in any appointive office for the remainder of the unexpired term. (1972, c. 759)

§ 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, subject to the provisions of Section 5 of Article VIII of the Constitution of Virginia. (1972, c. 759)

§ 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 town clerks. All records in his office shall be public records and open to inspection at any time during regular business hours. (1972, c. 759)

§ 5.7. Appointment, power and duties of chief of police.

The town council may appoint a chief of police for the town. He shall have all powers and authority conferred by law upon the chiefs of police of towns, and shall discharge the same duties as sheriffs within the corporate limits of the town and for a distance of one mile beyond the same. He shall discharge such further duties as the town council or town manager may impose. (1972, c. 759; 1994, c. 100)

§ 5.8. Town treasurer.

The town council may appoint a treasurer whose duty it shall be to collect all the town levies and taxes, and disburse the same by check. He shall have the same power of levy or distress in collecting the levies and taxes as is now conferred upon county and city treasurers.

The town council may require of the town treasurer a bond in any penalty with such sureties as it may deem proper, payable to the Town of Tappahannock, and conditioned according to law for the faithful performance of his duties as treasurer of the town.

Before entering upon the discharge of his duties, the town treasurer shall take the oaths required to be taken by the treasurer of the county. He may be removed by the council at any time from the office of treasurer for any default in duty, or any failure properly and promptly to account for any money in his hands, as the council may order or direct. He shall receive for his services as treasurer such compensation as the town council may from time to time direct. (1972, c. 759)

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 Tappahannock. 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. 759)

§ 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. (1972, c. 759)

§ 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 Essex 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. 759)

§ 6.4. Warrant justice.

The mayor, in his discretion with the approval of the town council, may appoint special justices of the peace to be known as warrant justices, for the Town of Tappahannock. Such warrant justices shall have power to issue warrants for violation of town ordinances, the power to issue subpoenas or other processes the same as could be issued by the police justice and the power to admit to bail in any case where the police justice could admit to bail, but any warrant, summons or process issued by such warrant justices shall be returnable before the police justice for action thereon. Compensation shall be paid to any such warrant justices by the town as provided by the council. All costs collected shall be paid into the town treasury. (1972, c. 759)

Chapter 7.

Financial Provisions.

§ 7.1. Fiscal year.

The fiscal year of the town shall begin on July 1 of each year and end on June 30 of the year following. (1972, c. 759)

§ 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 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 or 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. 759)

§ 7.3. Creation of debt; issuance of bonds.

The town shall have the authority to borrow money, contract debts, make and issue or cause to be issued, as evidence thereof, bonds, notes, or other obligations within the limitations prescribed by the Virginia Constitution, and in accordance with the provisions of the Virginia law concerning bond issues by towns.

Any ordinance creating a debt for which money is to be borrowed shall be adopted by a recorded majority vote of the elected members of the town council. (1972, c. 759; 1976, c. 415)

§ 7.4. Licensing of utilities.

The town council shall have the authority to require a license and to impose a license tax upon any public utility doing business within the town; provided, that this section shall not be construed as to limit any licensing power granted to the town pursuant to the Code of Virginia or this Charter. (1972, c. 759)

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. (1972, c. 759)

§ 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. (1972, c. 759)

§ 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. (1972, c. 759)

§ 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. (1972, c. 759)

§ 8.5. Present officers to continue.

Officers appointed by the town council shall be and remain in office until expiration of their several terms, and until their successors have been duly appointed and qualified. (1972, c. 759; 1995, c. 162)

§ 8.6. Ordinances continued in force.

All ordinances now in force in the Town of Tappahannock, not inconsistent with this Charter, shall be and remain in force until altered, amended or repealed by the town council. (1972, c. 759)



§ 8.7. 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. 759)