

WAVERLY, TOWN OF
County of Sussex.

Incorporation and charter, 1879, c. 151; repealed 1892, c. 419.

Charter, 1892, c. 419; repealed 1926, c. 486.

Charter, 1926, c. 486.

Amended 1966, c. 15 (§ 76)
 1971, c. 83 (§ 7)
 1977, c. 248 (§ 95)
 1973, c. 142 (§ 95)
 1977, c. 390 (§§ 4, 10 [repealed], 11 [repealed], 12, 21 through 24
 [repealed], 31, 34 [repealed], 41, 43 [repealed], 51, 52 1/2,
 84, 85 through 92 [repealed], 96 [repealed], 98 [repealed]).

Be it enacted by the general assembly of Virginia, That all contracts and obligations of the Town of Waverly, Sussex County, heretofore and hereafter made by the present council and government by them while in office, and former councils in the corporate name of the council of the Town of Waverly not inconsistent with this charter and the general laws and Constitution of the State shall be, and are hereby declared to be, valid and legal.

§ 1. That the inhabitants of the territory in the County of Sussex contained within the boundaries prescribed and defined in the section immediately following, be, and they are hereby declared to be, a body, politic and corporate, in fact and in name, under the name and style of the Town of Waverly; and as such shall have and exercise all of the powers conferred by and be subject to all the laws of the State of Virginia now in force or that may be hereafter enacted for the government of towns, so far as the same are not inconsistent with the provisions of this act. (1926, c. 486)

CHAPTER 1
CORPORATE BOUNDARIES

§ 2. The territory contained within the limit of the said town shall be as follows, to-wit:

Beginning at Lobb's shop crossing, running thence by airline to Burt's crossing on the Norfolk and Western Railroad; thence along the county road leading to Blackwater to a point intersected by the county road leading to Waverly; thence by airline to culvert on Norfolk and Western Railroad where said road crosses the spring branch; thence by airline back to Lobb's shop crossing before mentioned, shall continue to constitute the Town of Waverly, in the County of Sussex and may sue and be sued by and in that name; and the inhabitants thereof shall have and exercise the powers and privileges herein contained and such others as may be given them under the general law of the State of Virginia. (1926, c. 486)

§ 3. The said town shall be comprised of one ward which shall include all of the area within the corporate limits hereinabove specified, or may hereafter be enlarged, diminished or altered. (1926, c. 486)

§ 4. All persons residing within the boundaries hereinbefore specified as the Town of Waverly shall be residents of the said Town of Waverly; and all persons eligible

to register and vote under the laws of the Commonwealth may vote in the Town of Waverly. (1926, c. 486; 1977, c. 390)

CHAPTER 2 GOVERNMENT

§ 5. The government of the Town of Waverly shall be vested in a mayor and council. (1926, c. 486)

§ 6. The municipal officers of the said town shall consist of a mayor, five councilmen, a treasurer, and a sergeant. (1926, c. 486)

§ 7. The mayor and councilmen shall be elected by the qualified voters of the Town of Waverly, on the first Tuesday in May, nineteen hundred seventy-two, for a term of two years and every two years thereafter, and their term of office shall begin on the first day of July next ensuing, and they shall hold office until their successors shall have qualified. (1926, c. 486; 1971, c. 83)

§ 8. No persons shall be eligible to hold an elective office unless he or she is a duly qualified voter of the said town. (1926, c. 486)

§ 9. The elective offices of the said town shall be filled by the qualified voters voting thereof at large. (1926, c. 486)

§ 10. (1926, c. 486; repealed 1977, c. 390)

§ 11. (1926, c. 486; repealed 1977, c. 390)

§ 12. The council may also appoint such other officers, agents, and employees as may be necessary to conduct the business of the town, fix their compensation and prescribe their duties, and may appoint such committees of the council, and create such boards and departments of town government and administration with such duties and powers and subject to such regulations as it may see fit, consistent with the provisions of this act. The terms of all officers, agents, and employees appointed or employed by the council, unless sooner removed from office as provided for herein, shall expire with the council, except the terms of members of the Town Planning Commission shall not automatically expire with the council. (1926, c. 486; 1977, c. 390)

§ 13. The council may also appoint a sergeant whose duties shall be as hereinafter prescribed, and may also appoint a town attorney, whose term of office shall be for two years, or at the pleasure of the said council, and may also appoint a town recorder whose duties shall be as hereinafter prescribed, and shall also appoint a treasurer whose duties shall be as hereinafter prescribed, who shall serve at the pleasure of the council. (1926, c. 486)

§ 14. All officers, agents, attorneys, sergeants and employees appointed by the council of the town may be removed at its pleasure, and the duties and compensation of such officers, agents, attorneys, sergeants and employees shall be fixed by the council and the said council may require of any of them so appointed bonds with sureties in proper penalty, payable to the town in its corporate name, with provisions for the faithful performance of said duties, and the town in its name and for its benefit shall have the same remedies in the event of default on any bond so given as the State has in like cases. (1926, c. 486)

CHAPTER 3 OATH OF MAYOR, COUNCILMEN, ETC.

§ 15. The mayor, and the town sergeant shall take the oath prescribed by law for all State officers, and the councilmen and all other officers shall take an oath faithfully to execute the duties of their respective offices to the best of their judgment. (1926, c. 486)

§ 16. The court or person administering the oaths required by the preceding section shall make duplicate certificates of the oaths taken by the mayor, and the town sergeant and the person taking the same shall deliver the certificates to the clerk of the council who shall file all of the certificates among the records of the said town, and shall deliver the copy of the oath of the mayor and town sergeant to the clerk of the circuit court of Sussex County, to be by him filed and preserved. (1926, c. 486)

§ 17. If any person elected or appointed to any office in the said town shall neglect to take such oath on or before thirty days prior to the date on which he is to enter upon the discharge of the duties of his office, and fail to file such bond with surety as may be required of him by the council of the said town on or before entering upon the discharge of his duties, he shall be considered as having declined said office, and the same shall be deemed vacant, and such vacancy shall be filled as prescribed in this charter or by the general laws of this State. (1926, c. 486)

CHAPTER 4

RECORDS, BOOKS, ET CETERA

§ 18. If any person having been an officer, agent, or employee of the said town shall not within ten days after he shall have vacated, or been removed from office, and upon notification or request of the clerk of the council, or within such time thereafter as the council may allow, deliver over to his successor in office, or the clerk of the council, 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 not exceeding five hundred dollars, to be sued for and recovered by the said town, with costs; and all books, records and documents used in any office by virtue of any provision of this act, or any ordinance or order of the town council, or any superior officer of said town, shall be deemed the property of said town, appertaining to said office, and the chief officer thereof shall be held responsible therefor. And all records of the said town shall be kept in the town safe, or such other place as the town council may by its order direct. (1926, c. 486)

CHAPTER 5

MAYOR

§ 19. The mayor shall be elected by the qualified voters of the town for a term of two years. (1926, c. 486)

§ 20. His salary shall be fixed by the town council and shall not diminish during his term of office. (1926, c. 486)

§ 21. (1926, c. 486; repealed 1977, c. 390)

§ 22. (1926, c. 486; repealed 1977, c. 390)

§ 23. (1926, c. 486; repealed 1977, c. 390)

§ 24. (1926, c. 486; repealed 1977, c. 390)

§ 25. The mayor shall see that the bylaws and ordinances of the town are fully executed and enforced, and shall preside over the meetings of the town council, voting only in case of a tie. (1926, c. 486)

§ 26. Every ordinance or resolution having the effect of an ordinance shall before it becomes operative be presented to the mayor. If he approves he shall sign it, if not, he

may return it to the clerk of the council with his objection, or objections, and the council shall enter the same at length on its journal and proceed to reconsider it. If after such reconsideration, four-fifths 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. If any ordinance or resolution shall not be returned 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 five days, and in that event, the day on which such term of office expires. The mayor shall have the power to veto any particular item or items of any appropriation ordinance or resolution, in like manner, but such veto shall not affect any item or items to which he does not object. The item or items objected to shall not take effect except in the manner provided in this section as to ordinance or resolutions not approved by the mayor. (1926, c. 486)

§ 27. The mayor shall see that the duties of the various town officers, agents, employees, members of the police force, and fire department, whether elected, or appointed, are faithfully performed. He shall have power to investigate their accounts, have access to all their books and documents in their office, and may examine them or their subordinates on oath, but the evidence given by persons so examined shall not be used against them in any criminal proceeding. (1926, c. 486)

§ 28. The mayor shall have power to suspend any municipal officer, agent or employee, other than the councilmen and treasurer, whether elected by the people or appointed by the council, or any appointing power designated by the council, for misconduct in office, inefficiency or neglect of duty, to be specified in the order of suspension. (1926, c. 486)

§ 29. On any suspension of any officer in the preceding section, the mayor shall report the same to the town council at their next stated meeting for their consideration, but in no case shall any such suspension be binding until ratified by the council by a four-fifths vote of all the members elected thereto, after reasonable notice to the person complained of, and an opportunity be afforded him to be heard in his defense. (1926, c. 486)

§ 30. The mayor shall communicate to the town council annually at the beginning of each fiscal year, or oftener if he be required by the council, a general statement of the condition of the town in relation to its government, finances and improvement, with such recommendation as he may deem proper, and may from time to time communicate with the council such suggestion and recommendation as he shall deem proper. (1926, c. 486)

§ 31. In case of the absence, illness, or inability of the mayor, the president pro tempore, who shall be chosen by the majority of the council at its first meeting in July for a term of two years or in his absence or inability, some other member of the council chosen by the majority of the council present at a regular meeting, shall possess the same power and discharge the municipal duties of the mayor during such absence, illness or inability; and when so discharging the municipal duties of the mayor during his absence, illness or inability, the said president pro tempore, or in the case of his inability, the other member of the council so chosen for the purpose, shall receive a reasonable compensation to be fixed and allowed by the town council. (1926, c. 486; 1977, c. 390)

§ 32. In case a vacancy shall occur in the office of mayor, the vacancy shall be filled by appointment by the town council of anyone eligible to such office. (1926, c. 486)

§ 33. The mayor shall have power to call a meeting of the council whenever he deems it necessary, and in case of the absence, inability, or refusal of the mayor, the council may be convened by the order of any two members thereof. (1926, c. 486)

§ 34. (1926, c. 486; repealed 1977, c. 390)

CHAPTER 6 COUNCIL

§ 35. The town council, in addition to the mayor, shall be composed of five members, and they shall be elected by popular vote of the qualified electors of the town. (1926, c. 486)

§ 36. The town council shall by ordinance fix the time of their stated meetings, and they shall meet at least once a month, and no business shall be transacted at a special meeting thereof, except that for which it shall be called, unless all members of the council be present. (1926, c. 486)

§ 37. Three members of the council, shall constitute a quorum for the transaction of business. No votes shall be reconsidered or rescinded at a special meeting unless at such meeting there be as many members of the council present as were present when such vote was taken. (1926, c. 486)

§ 38. The meetings of the council shall be presided over by the mayor, or in his absence or inability to act, the president pro tempore, or in his absence, or inability, some other member of the council chosen by a majority of that body. (1926, c. 486)

§ 39. The meetings of the town council shall be open to the public except when a recorded vote of four-fifths of those members present shall declare that the public welfare requires secrecy. (1926, c. 486)

§ 40. The town council shall have authority to adopt rules for the regulation of their proceedings, and appointments of such officers, agents, committees, and employees as they may deem proper; to compel the attendance of absent members; to punish its members for disorderly behavior. (1926, c. 486)

§ 41. A journal or minute book shall be kept of the proceedings of the town council, and, at the request of any member present, the yeas and nays shall be recorded on any question. At the next meeting the proceedings shall be read and signed by the person who was presiding when the previous meeting adjourned; or if he be not then present, by the person presiding when they were read provided that the reading of the minutes may be dispensed with by unanimous consent of council. (1926, c. 486; 1977, c. 390)

§ 42. The clerk of the council shall keep the said journal and shall record the proceedings of the council at large thereon, and keep the same properly indexed; and the clerk of the council shall be known as the town recorder. (1926, c. 486)

§ 43. (1926, c. 486; repealed 1977, c. 390)

§ 44. The regular attendance of all members elected to the council is desirable, and in the event a member so elected to the said council is absent, without good cause, from any regular or stated meetings, five times in succession, his seat shall automatically become vacant, and shall be filled as hereinafter provided. (1926, c. 486)

§ 45. All vacancies occurring from any cause whatsoever in the office of mayor, councilman, or any other office, whether filled by appointments or by election, shall be filled for the unexpired term by the council. (1926, c. 486)

§ 46. The council shall have power to suspend and remove all officers and employees, appointed, for misfeasance, malfeasance, inefficiency, or neglect of duty, to be specified in the order of suspension or removal, but no such removal shall be made without reasonable notice given to the person so suspended, or removed, and an opportunity afforded for a defense thereto; and no removal of any town officer, agent or employee shall be final until the same shall be ratified by a four-fifths vote of the town council; and the town council may in like manner act upon and remove any officer, agent or employee who has been suspended by the mayor. (1926, c. 486)

§ 47. The town council shall have all powers and authority that is now or may hereafter be granted to councils of towns by the general laws of this State and by this act; and the recital of special powers and authorities shall not be taken to exclude the exercise of any power and authority granted by the general laws of this State to town councils, but not herein specified. (1926, c. 486)

§ 48. And the said council shall have power to enact ordinances providing for the exercise within its jurisdiction of all police powers which the State itself may exercise under the circumstances, except such as may be specifically denied towns by the acts of the general assembly. (1926, c. 486)

§ 49. And it shall have the further power to control and manage the fiscal and municipal affairs of the town and all property, real and personal, belonging to the said town, and may make such ordinances, orders and resolutions relating to the same as it may deem proper and necessary. And it shall have the further power:

1. To purchase, hold, sell and convey all real and personal property within or without the corporate limits necessary for its uses and purposes.

2. To acquire by purchase, condemnation or otherwise, or to construct or lease and operate its own plant, factory and equipment for supplying its inhabitants, streets, grounds and buildings with water, light, power, fuel, and sewerage, and to that end it may acquire by purchase or lease any plant existing in or near the town and may acquire lands and franchise outside of the limits of the said town, and may by purchase, condemnation or otherwise, acquire easements and rights-of-way.

3. To purchase, condemn, or otherwise acquire one or more locations for a site for fire engine houses, stables, town building, parks, playgrounds, cemeteries, and for all municipal uses and purposes, within or without the town.

4. To close, extend, widen, or narrow, straighten, lay-out, graduate, curb and pave, and otherwise improve the streets, sidewalks, roads and public alleys in the town, and to have them kept in good order and properly lighted, and require the payment, by the property owner, benefited by such work or improvements of such property, of the costs as shall not exceed five per centum of the assessed value of said property, or fifty per centum of the costs of such improvement, and to make such item a lien upon their real estate, and collectible in the same manner as is herein provided, and also as provided by the general law for the State for the collection of taxes generally, and over any street or alley in the town which has been or may be ceded to the said town or conveyed to the town by proper deed, they shall have like power and authority as over other streets and alleys. They may build bridges over and culverts under the streets or alleys, and may

prevent and remove any structure, obstruction or encroachment over or under or in any street, sidewalk or alley in the said town, and may permit shade trees to be planted along said streets, also cut down and remove or may require to be taken down and removed any shade trees upon any of the streets and alleys of the said town; but no company, firm, corporation or individual shall occupy with its or his works or appurtenances thereof the streets, sidewalks and alleys of the town, without the consent of the council duly entered of record, and whenever in the construction of any sewer, conduit or public improvements, it is necessary that the same shall run through or under private property, the council shall have authority to contract and agree with the owners thereof for the use and purchase of the right-of-way or other easement, in, through, or under the same, or have the same condemned according to law.

5. To require the owners of real estate abutting upon paved or granolithic sidewalks to remove the snow therefrom, to prevent skating or riding of bicycles thereon, and of all other improper uses thereof, and to punish such violation by fine.

6. To prevent the cumbering of streets, sidewalks, alleys, roads, lanes, avenues, or bridges in the town in any manner whatsoever, and to have full and complete control thereof.

7. To determine, restrain and regulate the use and speed of bicycles, motorcycles, traction engines, locomotives, engines, cars, automobiles, and all other vehicles upon the said streets, roads and alleys of the said town; or regulate the speed of locomotives or trains, and require flagmen at dangerous railroad crossings within the town.

8. To secure the inhabitants of the said town from contagious, infectious, or other dangerous diseases, to establish, erect and regulate hospitals within or without the said town, and to prescribe all proper quarantine regulation; to provide for and enforce the removal of patients to the said hospital; to appoint and regulate a board of health for said town, prescribe its duties and invest said board with police authority and with full power for the prompt and efficient performance of its duties.

9. To require and compel the abatement of all nuisances and the removal thereof within the town at the expense of the person or persons causing the same, or the owner or owners of the ground whereupon the same may be.

10. To require and compel the owners of the houses in the town, or if the owners be unknown or absent, the occupants of such houses, to connect their water closets and water drains with the sewers of the town, or otherwise comply with such regulations as to sewers and nuisances as the council may prescribe, and upon failure so to do the same may be done by the town, by entering upon the premises, if necessary, and the cost attending same shall be collected from the owner and occupant of such houses, as taxes are herein in this charter allowed to be collected by the town.

11. To direct the location of all buildings for storing gunpowder, firecrackers, or other works manufactured or prepared therefrom, kerosene oil, nitroglycerine, camphene, burning fluid, or other combustible material; to regulate and restrain the exhibition and use of fireworks, firecrackers, the discharge of firearms, the use of candles or lights in barns, stables, and other buildings; and to regulate and restrain the making of bonfires in the streets, alleys, roads and premises of the said town.

12. To prevent horses, cattle, hogs, dogs, cats, chickens and all other poultry and animals from running at large in the said town, and may subject the same to confiscation, regulation and taxes as may be deemed proper, and the town council may prohibit the

raising and keeping the hogs in the town or in any part thereof, or if permitted, may regulate the same.

13. To prevent the riding and driving of horses or animals at an improper speed, throwing stones or missiles or engaging in any employment or sports on the streets, sidewalks, roads or public alleys dangerous to or annoying to pedestrians, and to prohibit and punish cruel treatment of horses and other animals in the said town.

14. To protect the person and property of the inhabitants of the town and others within the town, to restrain and punish drunkards, vagrants, idlers, and street beggars, to prevent vice and immorality, obscenity, profanity, abusive language, and gambling, to preserve peace and good order; to prevent and quell riots, disturbances and disorderly assemblage; to suppress houses of ill-fame and gambling houses; to prevent lewd, indecent and disorderly conduct, or exhibits in the said town, and to expel therefrom persons guilty of such conduct; to prevent the coming into the town of persons having no ostensible means of support and persons who may be dangerous to the peace and safety of the town and compel such person to leave the town.

15. To make and enforce ordinances to secure the safe and expeditious use of streets, roads, and alleys of the said town; to regulate all manner of traffic thereon, and parking thereon, and for the protection of persons and property thereon or near thereto.

16. To establish and maintain parks, playgrounds, and boulevards, and cause the same to be laid out, equipped and beautified; to give names to or alter the names of streets and numbers for the buildings thereon, and fix building lines.

17. To lay off public grounds and provide, acquire, erect, and keep in order all buildings and other property, proper for the town.

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

19. To prohibit and punish minors from frequenting, playing in or loitering in any public pool room, billiard parlor or tenpin alley and to punish any proprietor or agent thereof for permitting same.

20. To prohibit and punish the dumping of refuse, wastes, garbage, and dead animals and fowls within the town, and to restrict the dumping of garbage to such places as the council may designate and to punish all who fail to comply with such rules and regulations as to garbage disposal.

21. To provide a prison house and work house and employ managers, physicians, nurses and servants for the same, and prescribe regulations for the government and discipline of persons therein.

22. To authorize and regulate the erection of party walls and fences and prescribe how the cost thereof shall be borne by coterminous owners; and to prohibit and punish trespassing upon private property within the town.

23. To regulate and control auction sales, livery stables, garages, barber shops, slaughter houses, soap factories, theatrical performances or other public shows or exhibitions; the hiring or use for pay of carriages, carts, wagons and drays, and the business of hawkers, peddlers, persons selling goods by sample, persons keeping billiard tables, tenpin alleys and pistol galleries for profit and all other similar businesses, occupations and employment, and as to such trades, occupations and employments and of any other of like nature, or not, may grant or refuse license as it may deem proper; and to

regulate and control the keeping open of automobile garages, service stations and drug stores, on the Sabbath.

24. To compel persons sentenced to confinement in jail for petty larceny, or other misdemeanor, or other violation of town ordinances to work on the public streets, alleys, public work or property of the said town.

25. To provide for the regular and safe construction of houses in the town for the future, 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 designate and prescribe from time to time, the part of the town within which no buildings of wood shall be erected, and to regulate the construction of buildings in the town, so as to protect it against danger of fire; to remove or require to be removed any building, structure or addition thereto, which by reason of dilapidation, defect of structure, fire or other cause is or may become dangerous to life or property, and also refuse a permit to repair any such building or structure.

27. To prevent or prohibit injury or annoyance, of anything dangerous, offensive or unhealthy.

28. To provide by regular ordinances what are nuisances; to cause the abatement of any nuisance so declared to be by the general laws of this State, or the regular ordinance of the town.

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

30. 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 ground therein; 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.

31. To offer and pay rewards for the apprehension of criminals.

32. To control, regulate, limit, and restrict the operation of motor vehicles, private or carrying passengers for hire, upon the streets and alleys of the town, to require a bond with satisfactory surety thereon of the owner of every motor vehicle so used, conditioned to satisfy all damages caused to any person, or property, in the negligent operation of such motor vehicle, or adequate insurance, to require the annual registration of each and every motor vehicle so used and a license tax to be paid thereon, to require all drivers of such motor vehicles, whether owners or not, to obtain permits from the mayor and council before operating any such motor vehicle carrying passengers for hire upon the said streets and alleys, to refuse permits to so operate any motor vehicle to any person who is not of good character, reputation, physically fit, capable, competent, of sufficient age and discretion, or who is addicted to the use of intoxicating liquors or narcotics, to revoke any permit issued to any person for good cause and after a hearing thereon; or, a franchise may be granted for the transportation of passengers by motor vehicles for hire upon the said streets and alleys, to be advertised and sold as provided for by the

Constitution and the laws of this State, subject nevertheless to such rules, regulations, restrictions, and limitations and upon such conditions, not in conflict with the Constitution, as the council may determine. But nothing in this section shall be construed to be in conflict with the general State law on motor vehicle carriers.

33. To pass all resolutions and ordinances not repugnant to the Constitution and the laws of the State, or in conflict with this act, which it may deem necessary for the good order and government of the said town, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health and protection of its citizens or of their property, and do such other things and pass such other laws as may be necessary or proper to carry into full effect any power, authority, capacity, or jurisdiction, which is or shall be granted to or vested in the said town or in the council, or the officers thereof, or which may be necessarily incident to a municipal corporation. (1926, c. 486)

CHAPTER 7

USE OF STREETS, ET CETERA

§ 50. No street, gas, railway, water, steam, or electric heating, electric light, or power company, compressed air, viaduct, conduit, telegraph, telephone or bridge company, firm, or corporation, association, persons or partnership, engaged in these or like enterprises shall be permitted to use the streets, roads, alleys or public grounds of the town without the previous consent of the corporate authority of the town. (1926, c. 486)

§ 51. No person or corporation shall occupy or use any of the streets, avenues, parks, bridges, boulevards, alleys or any other public place or public property of the town, or any public easement of the town of any description in a manner not permitted to the general public, without having first obtained the consent thereto of the town council, or a franchise therefor, and any person upon conviction of so doing shall be fined not less than ten dollars, not more than two hundred dollars, each day's continuance thereof to be a separate offense, such fine to be recovered in the name of the town and for its use, and such occupancy shall be deemed a nuisance. (1926, c. 486; 1977, c. 390)

§ 52. In every case when a street of said town has been, or shall be encroached upon by any fence, building, porch, projections or otherwise, the town council may require the owner if known, or if unknown, the occupant, to remove the same, and if such removal be not made within the time prescribed by the council they may impose a penalty of not exceeding twenty-five dollars for each and every day it is allowed to continue thereafter, and may cause the encroachment to be removed and collect from the owner, or if the owner be unknown, from the occupant of the premises, a reasonable charge therefor, with costs, by the same procedure as they are hereinafter empowered to collect taxes. No encroachment upon any street of the said town, however long, the same shall have been or may be continued, shall constitute an adverse possession to, or confer any rights upon the person claiming thereunder, as against the town. (1926, c. 486)

§ 52 1/2. The town council may pass such ordinances as it deems proper for the use of land in the corporate limits for business, manufacturing and residential districts. (1926, c. 486; 1977, c. 390)

CHAPTER 8

POLICE

§ 53. The town council shall have the power and authority to appoint a sergeant, and watchman, and such additional police officers as it may deem necessary or proper. (1926, c. 486)

§ 54. The town council shall prescribe rules and regulations for the government of the police department, prescribe uniforms and badges of the officers therefor, and fix their rate of pay, and in addition thereto, the mayor, or in his absence, the president pro tempore of the council or in the absence of both, any councilman shall have the power and authority whenever the regular police force of the town is, in the judgment of such person deemed inadequate to meet the needs of the occasion, to appoint and swear in such additional or special policemen as he may deem requisite for a term of service not to exceed ten days, and at such compensation as the council may fix for special policemen, or, if no compensation be fixed by the council, then at the same compensation per day paid regular police officers of the regular police force. The duties and powers of such special policemen shall be the same as that of a private on the regular police force.

(1926, c. 486)

§ 55. The police force shall be under the control of the mayor for the purpose of enforcing peace and order and executing the laws of the State and ordinance of the town. They shall also perform such other duties as the council may prescribe. For the purpose of enabling them to execute their duties and powers, any policeman is hereby made a conservator of the peace, and endowed with all the powers of the constable in criminal cases, and all other powers which under the laws of the State may be necessary to enable him to discharge the duties of his office. (1926, c. 486)

§ 56. The officers and privates of the police force of the town shall be vested with all the powers and authority which belongs to the office of a constable at common law in taking cognizance of and enforcing the criminal laws of the Commonwealth of Virginia, and the ordinances and regulations of the town respectively; and it shall be the duty of each and every one of such policemen to use his best endeavor to prevent the commitment within the said town of offenses against the laws of the Commonwealth, and against the ordinances and regulations of the town, to observe and enforce all such laws, ordinances, and regulations, to detect and arrest offenders against the same, to preserve the good order of the town and secure the inhabitants thereof from violence, and the property therein from injury. (1926, c. 486)

§ 57. The policemen of the town, other than the sergeant, shall have no power or authority in civil matters, but they shall in all other cases execute such warrants or summons as may be placed in their hands by the mayor of the said town, or properly constituted authority, and shall make due return thereof. (1926, c. 486)

CHAPTER 9

FIRE DEPARTMENT

§ 58. The town council shall have the power and authority to establish and maintain a fire department for the town, and all powers necessary for the government, management, maintenance, equipment, and direction of such fire department, and the premises, property and equipment thereof. The council may make ordinances as it may deem proper for the prevention of fires, the construction of flues, chimneys, and stove pipes, and the extinguishment of fires; for the regulation of the conduct of persons in attendance at fires in relation to the powers and duties of the officers and men of the fire department; to require citizens to render assistance to the fire department in case of need, and in relation to the acquisition, use, maintenance, and preservation of real estate, personal property, fire apparatus and equipment necessary or proper for the use of the fire department. (1926, c. 486)

§ 59. The town council may in their discretion authorize or require the fire department to render aid in case of fire occurring beyond the limits of the town, and may prescribe the conditions under which aid may be rendered. (1926, c. 486)

CHAPTER 10

DEDICATION OF STREETS, ET CETERA

§ 60. All streets, cross-streets, roadways, alleys, avenues, and walkways which have already been laid off and opened according to plats of the several subdivisions of the town as now constituted, which have been or may hereafter be accepted by the town council, not heretofore changed, closed, or altered by the municipal authorities, and all streets, cross-streets, avenues and alleys, lanes and walkways which have heretofore been opened and used as such, or which may at any time be located, surveyed and opened in the said town, or any extension of the same within the corporate limits of the town, shall be and they are hereby established as public streets, avenues, lanes and walkways of the town. (1926, c. 486)

§ 61. Any street, alley, avenue or walkway heretofore or hereafter reserved or laid out in the division or subdivision into lots of any portion of the territory within the corporate limits of the town as now constituted by a plan or plat of record, not altered, closed, or vacated by the municipal authorities, or otherwise as provided by law, shall be deemed and held to be dedicated to public use as and for a public street, avenue, alley or walkway, as the case may be, of the town, unless it appears by the said record that the street, avenue, alley or walkway so reserved is designated for private use, and whenever any street, alley, avenue, walkway or lane in the town shall have been opened and used as such by the public for a period of five years, the same shall thereby become a street, alley, avenue, walkway, or lane for public use, unless notice of the contrary intention on the part of the land owner be given in writing to the mayor of the town, who shall report the receipt of such notice to the council that it may be spread on the journal; and the council shall have the same authority and jurisdiction over, and right and interest therein, as they have by law over the streets, avenues, walkways and lanes laid out by them, and all streets, avenues, alleys and walkways hereafter laid out in the division or subdivision into lots of any portion of the territory within the corporate limits of the town shall be made to conform to existing streets, avenues, alleys and walkways, both in width and their courses and direction. (1926, c. 486)

§ 62. The town shall repair, maintain, and keep in good order the public streets and roads within the corporate limits of the town, and if the said town so keeps in order, repairs and maintains the public roads and streets, within said corporate limits, no road tax shall be levied therein by the County of Sussex, or any subdivision thereof; and the inhabitants of the town and all taxable property, personal and real, within the corporate limits of the town shall be exempt from all assessment and levies imposed by the authorities of the County of Sussex or other subdivision thereof, for construction, repair, or maintenance of roads lying outside of the corporate limit of the said town. (1926, c. 486)

CHAPTER 11

TREASURER

§ 63. The treasurer of the said town shall be appointed by the council for a term of two years, who shall serve at the pleasure of the council, and shall collect and receive all money belonging to the town, and shall perform such other duties as are prescribed by the

council. He shall keep his office at some convenient place in the town, provided by the town council. He shall keep his books and accounts in such manner as the town council may prescribe, and such books and accounts shall always be subject to the inspection of the mayor and council, or any committee or committees of the council. He shall receive for his services such compensation, either in fees or salaries, as the town council may from time to time allow, and when such compensation has been fixed by the council, the same shall not be diminished during the term of his office. (1926, c. 486)

§ 64. No money shall be paid out by the town treasurer except by order of the council and upon a warrant of the clerk of the council, countersigned by the president of the council, except as hereinafter provided. (1926, c. 486)

§ 65. The town treasurer or his deputy duly appointed by the council and qualified, or by order of the council of the said town, the town sergeant, or any other person appointed by the town council shall collect all the taxes, revenues and assessments, which may be levied by the said town council, and for this purpose the said treasurer or other person appointed by the town council as aforesaid, shall be vested with power and be subject to liabilities and penalties now prescribed by law in regard to the county treasurers of the State of Virginia in the levying and collection of taxes, and said officers or persons appointed as aforesaid to collect said taxes, revenues, and assessments, shall have full power to levy on property and sell the same for the payment of such tax, as the said county treasurers of the State of Virginia are now empowered by law to do, and such sales shall be made upon the notice and in such manner as now prescribed by law in sales of personal property for State taxes; and any person so appointed shall give bond and receive such compensation as said council shall direct. (1926, c. 486)

§ 66. The treasurer shall be required to keep all money in his hands belonging to the town in such place or places of deposit as the town council by ordinance may provide or direct. (1926, c. 486)

§ 67. The treasurer shall report to each stated meeting of the council the amount of cash then on deposit to the order of the town, and in what depositories deposited, furnishing an itemized statement of receipts and disbursements for the previous month, and shall annually at the end of each fiscal year publish, either in the newspaper or by posting in three or more public places in said town, a statement showing all the receipts and incomes of the said town and from what sources, and all disbursements made and for what purpose, a copy of which said statement shall be filed in the records of the said town. (1926, c. 486)

§ 68. The treasurer shall execute bond with satisfactory surety payable to the town for the faithful performance of all duties of his office, and to account for all money coming into his hands. (1926, c. 486)

CHAPTER 12 RECORDER

§ 69. The town recorder shall also be the clerk of the council and shall be elected by the council. He shall hold office during the term of the council or at its pleasure. He shall attend the meetings of the council and keep a record of its proceedings; he shall have the custody of the corporate seal; he shall keep all the papers that, by the provisions of this act, or the direction of the council, are required to be filed with or kept by him; he shall give notice to all parties presenting communication or petitions to the town council

of the final action of the council on such communication or petition; he shall publish such reports and ordinances as the council is required to publish, and such other reports and ordinances as it may direct, and shall, in general, perform such other acts and duties as the council may from time to time prescribe and require of him. Within the town limits he shall assess the lands and take the list of personal property for taxation, and do all other acts and things in connection therewith the same as, and have the same authority, as the commissioner of the revenue in Sussex County. (1926, c. 486)

§ 69 1/2. The town recorder shall have the power and authority to propound interrogatory to any person subject to taxation, and may use such other evidence as he may be in position to procure, in making his assessment or taking lists; such interrogatory shall be answered under oath and any applicant refusing to answer such interrogatory under oath shall be fined not less than five dollars, nor more than one hundred dollars, for each offense. It shall be the duty of the recorder to assess for taxation all persons and property subject to town taxation, whether the same shall have been omitted from the assessment of the commissioner of revenue for Sussex County or not. All books, schedules and records, and papers pertaining to the office of assessor shall be open to and subject to the inspection of the mayor, the members of the town council, or any committee thereof, and of the collector of town taxes. He may use as the basis of his assessment, the assessment made by the commissioner of revenue in Waverly magisterial district, Sussex County. He shall receive for his services such compensation as the town council may from time to time direct. (1926, c. 486)

CHAPTER 13

SERGEANT

§ 70. The town council shall have the power and authority to prescribe for the town sergeant such general and other duties as it may see fit, and shall fix his compensation, and in all civil and criminal cases arising under the State laws, the sergeant shall receive the same fees as are provided by law for constables, and in all cases arising under the town ordinances where not otherwise provided, he shall receive the same fees as constables receive in similar cases arising under the State laws. (1926, c. 486)

§ 71. The town sergeant shall perform the duties, receive the compensation and be subject to the liabilities prescribed by this act, the ordinances, bylaws and regulations of the town council, and by the laws of this State, and also shall have the powers and discharge the same duties as constables within the corporate limits of the town, and be subject to the same liability touching all process lawfully directed to him, as constables are subject to under the laws of this State. (1926, c. 486)

§ 72. The sergeant and the police officers of the town shall have power to arrest without warrants and carry before the mayor or other proper authority, to be dealt with according to law, any and all persons who shall violate any ordinance of the town or law of the State in their presence, and it shall be their duty to swear out warrants of arrest for any person or persons where they have reason to believe any offense has been committed. (1926, c. 486)

§ 73. The sergeant shall be collector of all fines and penalties imposed for the violation of town ordinances, bylaws, rules and regulations, and of delinquent town levies, and of all tax tickets declared delinquent by the town council, and allowed the treasurer in his settlement with the town council, shall be turned over to the sergeant to

collect, and for that purpose he shall have all the power and authority and be subject to the same liabilities and penalties as are prescribed for county treasurers in the collection of State taxes and county levies, and may be proceeded against in the same manner, so far as applicable. (1926, c. 486)

§ 74. The town sergeant shall pay over to the council of the town at each monthly meeting all money which comes into his hands for taxes, or levies, or fines and costs, or any part or parts of any fines or costs collected by him, together with a written report showing each and every item and the amount so collected, and as well any other items or articles of property coming into his hands belonging to the town through or by confiscation or otherwise. (1926, c. 486)

§ 75. He shall be required to give bond with satisfactory surety, payable to the said town for the faithful performance and discharge of all of his duties as sergeant, and to faithfully account for all money coming into his hands by virtue of his office. (1926, c. 486)

CHAPTER 14 TAXATION

§ 76. For the execution of its powers and duties the council may tax all real and personal property in the town not exempt by law from taxation; not to exceed one dollar and fifty cents per hundred dollars assessed value; all corporations located in the town or having their principal office therein and not exempt by law from taxation; all credits due to any person living in the town; all capital of persons having a place of business in the town and doing business therein and employed in the said business, though the said business may extend beyond the town, provided that so much of said capital as is invested in real estate or employed in the manufacture of articles outside the town limits shall not be taxed as capital; and all stocks in incorporated joint stock companies, doing business in the town and by whomsoever owned and not exempt by law from taxation. Assessment upon stock and bonds shall be according to the market value thereof. Nothing in this act shall be construed as conflicting with the general laws of the State providing for the segregation or partial segregation of the subject of taxation.

The council shall have the power to levy and collect public utility service or consumer taxes on gas, electric, telephone, water and sewer services, or any of them, from the occupant or lessee of any premises, purchased by such person and furnished at such premises for the use and benefit of such occupant or lessee. The term premises shall include those title to which is held (a) by a person whose property is exempt under § 58-12 of the Code of Virginia, as amended, or (b) by a person who is not subject to a license tax on persons engaging in the rental of properties owned by them by virtue of § 58-500 of the Code of Virginia. (1926, c. 486; 1966, c. 15)

§ 77. The council may impose a tax not exceeding one dollar and fifty cents per annum upon each resident of the town who has attained the age of twenty-one years, for street purposes. (1926, c. 486)

§ 78. The council may impose a license tax on merchants, commission merchants, auctioneers, manufacturers, traders, lawyers, physicians, dentists, brokers, keepers of ordinary, hotel keepers, boarding house keepers, keepers of drinking or eating houses, keepers of livery stables, garages, filling stations, distributors of oils, gasoline and grease, photographic artists of all kinds, agents of all kinds, vendors of quack medicine, public theatrical or other performances or shows, soda fountains and distributors of soft drinks,

keepers of billiard tables, tenpin alleys, pistol galleries, hawkers, peddlers, sample merchants, railroad companies, telegraph companies, telephone companies, gas companies, electric companies, street railway companies, express companies, contractors, barber shops, and any other person, firm, corporation, employment, or trade, whether of like kind with any of the foregoing or not, which it may deem proper, whether such person, firm, corporation, business, employment, or trade be herein specifically enumerated or not, and whether any tax be imposed thereon by the State or not. As to all such persons, firms, corporation, employments, or trades, the council may lay a direct tax or may require a license tax therefor under such regulations as it may prescribe and levy a tax thereon; and where it is not prohibited by the laws of this State or of the United States may levy both a direct tax and a license tax, but the taxes herein authorized shall be subject to the provisions and conditions set forth in this act, but this section shall not render it legal to conduct within the town any business, calling, or vocation which but for this section would be illegal. (1926, c. 486)

§ 79. The council may subject any person who, without having obtained a license therefor, shall do any act or follow any employment or business in the town for which a license may be required by ordinance, such fine or penalty as it is authorized to impose for any violation of its laws. (1926, c. 486)

§ 80. The town council may exempt from all municipal taxation bonds and other obligations of indebtedness issued by the town. (1926, c. 486)

§ 81. The council shall have power to fix and collect water rents, and make proper charges for light and power furnished and provided by the municipal power plants. (1926, c. 486)

§ 82. The council shall not appropriate any part of any sinking fund of its accrued interest thereon for any other objects or purposes than that for which the said sinking fund is collected. (1926, c. 486)

CHAPTER 15 TAX LIENS, ET CETERA

§ 83. There shall be a lien on real estate for the town taxes as assessed thereon from the commencement of the year for which they were assessed. And the town council shall by ordinance require said taxes to be paid in one installment at such time, and with a penalty not in excess of ten per centum, as the said council may designate. The council may require real estate in the town delinquent for the nonpayment of taxes or assessments, to be sold for said taxes and assessments, with interest thereon from the time the same is delinquent, at the rate of six per centum per annum, and ten per centum of the amount of the tax to cover costs and charges, exclusive of costs attending the redemption thereof, as hereinafter provided, and may cause a good and sufficient deed to be made to the purchaser. (1926, c. 486)

§ 84. It shall be the duty of the treasurer of the town to make out and deliver to the council at their regular meeting in July in each year following passage of this act, a list of all real estate whereupon delinquent taxes or assessments are due and unpaid for the previous year. (1926, c. 486; 1977, c. 390)

§ 84 1/2. The town council by order direct the sale of any property confiscated or otherwise coming into the possession of the said town; the said sale to be held according to the terms of the order directing the same; and the proceeds therefrom shall be paid into the treasury of the said town. (1926, c. 486)

- § 85. (1926, c. 486; repealed 1977, c. 390)
- § 86. (1926, c. 486; repealed 1977, c. 390)
- § 87. (1926, c. 486; repealed 1977, c. 390)
- § 88. (1926, c. 486; repealed 1977, c. 390)
- § 89. (1926, c. 486; repealed 1977, c. 390)
- § 90. (1926, c. 486; repealed 1977, c. 390)
- § 91. (1926, c. 486; repealed 1977, c. 390)
- § 92. (1926, c. 486; repealed 1977, c. 390)

CHAPTER 16

LOANS, BONDS, ET CETERA

§ 93. The town council shall have the power and authority, without reference thereof to a vote of the people to issue certificates of indebtedness, bonds, or other obligations issued in anticipation of the collection of the revenue of the town for the then current year; provided that such certificates, bonds, or other obligations mature within one year from the date of their issuance, and be not past due and do not exceed the revenue for such year. (1926, c. 486)

§ 94. The town council shall have the power and authority, without reference to the vote of the people, to provide by ordinances for the issuance of new bonds, for the redemption and liquidation of any lawfully issued bonds, when they fall due, become subject to call, or can for any reason be refunded or redeemed. Said new bonds shall not exceed in amount, the original bonds to be redeemed, liquidated, or refunded, may be registered, serial, or coupon, and shall be sold, at not less than five per centum below par, to the highest bidder for cash, provided no such new bonds shall bear a higher rate of interest than six per centum per annum, and provided, further, that the proceeds of the sale of new bonds so issued shall be used only in the payment of the old bonds, which are subject to call, redemption or can otherwise be refunded or redeemed. Such bonds shall be payable in lawful money of the United States and a sinking fund shall be created and maintained sufficient to redeem such bonds at maturity, and shall be applied to such redemption and to no other purpose; provided, further, such short term notes or obligations of the said town outstanding at the time this act goes into effect, may likewise be refunded into long-term bonds under this section. (1926, c. 486)

§ 95. And the council shall have the further power and authority to borrow money in the name of the town and for its uses and purposes whenever in the opinion of a majority of its members, ascertained by a recorded affirmative vote of all members elected to the council, it is to the best interests of the municipality to do so, such borrowed money to be evidenced by the bonds, notes, or certificates of indebtedness of the said town duly executed by the mayor thereof and attested by the clerk of the council, but the amount of the indebtedness shall not exceed eighteen per centum of the assessed valuation of the real estate therein, subject to taxation as shown by the last preceding assessment. The classes of indebtedness excluded in determining the limitation on indebtedness under Section 10 (a) of Article VII of the Constitution of Virginia shall not be included in determining the debt limitation of the town. None of the obligations issued under this provision shall be sold at less than five per centum below par, or bear interest at a rate exceeding six per centum per annum, and shall become due and payable not exceeding forty years from the date of their issuances. The council shall make provisions for the payment of interest on the bonds, notes, or certificates of indebtedness so issued

and shall provide a sinking fund for the retirement thereof at or before maturity. The coupons shall be received for town taxes. Notwithstanding any other provision of this charter, the power and obligation of the town to pay any and all bonds, notes and certificates of indebtedness, except revenue bonds made payable solely from revenue producing properties, shall be unlimited and the town shall levy ad valorem taxes upon all taxable property within the town for the payment of such bonds, notes and certificates of indebtedness and the interest thereon, without limitation as to rate or amount. (1926, c. 486; 1971, c. 248; 1973, c. 142)

CHAPTER 17 GENERAL PROVISIONS

§ 96. (1926, c. 486; repealed 1977, c. 390)

§ 97. The jurisdiction of the corporate authorities of the town in criminal matters except as otherwise provided by laws, and for imposing and collecting a license tax on all shows, performances and exhibitions, shall extend one mile beyond the corporate limits of the town. (1926, c. 486)

§ 98. (1926, c. 486; repealed 1977, c. 390)

§ 99. If any section or provision of this act or any part of any section shall be declared unconstitutional, the part so declared unconstitutional shall cease to be operative, but the remainder of this act and every section or part thereof not so declared unconstitutional shall continue to be the law governing this town. (1926, c. 486)

§ 100. In case 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. (1926, c. 486)

§ 101. The same person shall be eligible to, and if elected, or appointed, may hold a county office and a town office if the said offices be of the same nature, at the same time; provided, such officer lives within the town limits; and a person otherwise qualified who is a resident of the said town shall be eligible to election or appointment of any county office of Sussex County. (1926, c. 486)

§ 102. Where by the provisions of this act or the general laws of this State, the council has the authority to pass an ordinance, resolution, or regulation on any subject, it may prescribe a penalty not exceeding five hundred dollars or confinement in jail not exceeding twelve months, or both, and for the violation thereof and any other form of punishment provided for by the laws of this State for the punishment of misdemeanors. (1926, c. 486)

§ 103. All ordinances now in force as the ordinances of the Town of Waverly in the Town of Waverly not inconsistent with this act shall be and remain in force until altered, amended, or repealed by the town council. (1926, c. 486)

§ 104. The present officers of the town shall be and remain in office until the expiration of their several terms. (1926, c. 486)

§ 105. All acts or parts of acts in conflict with this act are hereby repealed, but only insofar as they affect the provisions of this act. (1926, c. 486)

§ 106. An emergency is hereby declared to exist and this act shall be in effect from and after the date of its passage. (1926, c. 486)