

POCAHONTAS, TOWN OF
County of Tazewell.

Incorporation and charter, 1884, c. 67; repealed 1896, c. 410.

Charter, 1896, c. 410; repealed 1918, c. 161.

Charter, 1918, c. 161.

Amended 1923, c. 137 (§ 20)
 1924, c. 147 (§§ 17, 18, 39-a [added])
 1928, c. 263 (§ 20)
 1930, c. 134 (§ 33)
 1940, c. 410 (§ 39-a)
 1991, c. 308 (§ 19)
 2001, c. 8 (§§ 3 [added], 8, 12)
 2012, c. 314 (§ 3).

§ 1. Be it enacted by the general assembly of Virginia, That the inhabitants of the territory in Tazewell county, contained within the boundaries prescribed in § 2 hereof, be, and shall continue to be a body, politic and corporate, in fact and in name under the name and style of the town of Pocahontas; and as such shall have and exercise all the powers conferred by and be subject to all the laws of the State of Virginia now in force, or that may hereafter be enacted for the government of towns of less than five thousand inhabitants, so far as the same are not inconsistent with the provisions of this act. (1918, c. 161)

§ 2. The boundaries of the town shall be as follows: Beginning at a stake on the south side of the ridge north of Laurel creek, the northeast corner of the part of the town of Pocahontas, known as the Browning addition; said stake is situated south twenty-eight degrees twenty minutes, east seventy-five feet, from a white oak, gum and maple, a corner of the lands belonging to Mistress J. S. Browning; thence with the lines of the said Browning addition south sixty-two degrees thirty minutes, west one hundred and sixty-seven and five-tenths feet, to a white oak and gum stump; south thirty-one degrees, west two thousand six hundred and ninety-two feet, to a small chestnut and laurel near the top of a spur west of Reed's branch, in a line of Mistress J. S. Browning's land; south fifty-eight degrees, east one thousand three hundred and thirty-seven feet, to a red oak and hickory on the east side of a spur of Laurel ridge; north thirty-three degrees fifteen minutes, east two thousand and seventy feet, to a stake between two spruce pine stumps on a northeast hillside; thence, leaving said Browning addition, south twenty-eight degrees twenty minutes, east two thousand one hundred and the Abb's valley road; north sixty-one degrees, east six thousand one hundred and seventy-eight feet, to a stake on the State line south of and near Roseville; thence with State line north forty degrees thirty-four minutes, west seven thousand one hundred and sixty feet, to a stake in a flat in an old field south of and near the D. K. Perdue house; thence south sixty-three degrees, west four thousand nine hundred and fifty feet, to a stake in the field on a south hillside above the spring; thence south thirty-two degrees fifty-five minutes, east three thousand five hundred and thirty-nine feet, to the beginning.

On the second Tuesday in June, 1918, and every two years thereafter there shall be elected one elector of said town who shall be denominated the mayor thereof, and eight other electors who shall be denominated the councilmen thereof, and the said mayor and councilmen shall constitute the council of said town. They shall enter upon the duties of their offices on the first day of September next succeeding their election and shall continue in office for a term of two years and until their successors are duly elected and qualified. And said mayor and councilmen shall take the oath of office as prescribed by the general laws of this State. The failure of any person elected or appointed under the provisions of this act to qualify or take the oath of office required, within the time prescribed for entering upon the duties of the office to which he is elected or appointed, shall vacate said office, and the council shall proceed to fill said vacancy in the manner prescribed in this act. (1918, c. 161)

§ 3. Beginning with the regularly scheduled municipal elections to be held in November of 2012, there shall be elected a council consisting of a mayor and four councilmen. The mayor and councilmen shall enter upon the duties of their offices on January 1 next succeeding their election and shall continue in office for a term of two years and until their successors are duly elected and qualified. The term of the mayor and councilmen serving at the time of the change in the date of the municipal elections shall be extended to December 31, 2012. (2001, c. 8; 2012, c. 314)

§ 4. There shall be appointed for the town a registrar and officers of election in the manner provided for by the general laws of Virginia, and all elections held in said town shall be governed in accordance with said general laws, and the electorate or persons qualified to vote in said town shall be as prescribed and defined by the general laws of this State. (1918, c. 161)

§ 5. The council of said town shall judge of the election, qualification and returns of its members; may fine them for disorderly behavior, and, with the concurrence of two-thirds, expel a member. If any person returned be judged disqualified, a new election to fill the vacancy shall be held at the same place on such date as the council may prescribe. Any vacancy occurring otherwise during the term for which any of the said persons have been elected may be filled by the council by the appointment of any one eligible to said office. A vacancy in the office of mayor may be filled by the council from the electors of said town. (1918, c. 161)

§ 6. The administration and government of said town shall be vested in said mayor and councilmen of said town, and any such other bodies and officers as are hereinafter mentioned and provided for, or which may be provided for by said council. (1918, c. 161)

§ 7. The council shall have the power to suspend or remove all other town officers, whether they be elected or appointed, for inefficiency, neglect of duty or misconduct in office, to be specified in the order of suspension or removal; but any such removal shall not be made without reasonable notice to the officer complained of and an opportunity afforded him to be heard in his behalf. (1918, c. 161)

§ 8. For the transaction of business by the council of said town, three members thereof, of whom the mayor may be counted as one, shall constitute a quorum. (1918, c. 161; 2001, c. 8)

§ 9. The mayor of said town and the councilmen thereof shall each have all the powers and authority of a justice of the peace in criminal matters within the limits of said town and one mile beyond the same; shall have the power to issue process, hear and determine all prosecutions, cases and controversies which may arise under the resolutions and ordinances of the town; may impose fines and inflict punishment when and wherever they are authorized by such resolutions and ordinances, or the general laws of this State and may issue executions for the collection of fines imposed; may commit an offender to jail or to work upon the public works or streets of said town until the fine and costs, or the costs if there be no fine, are paid. Appeal shall lie from the decision of the mayor or councilmen to the circuit court of Tazewell county, in the manner provided by the general laws of this State. (1918, c. 161)

§ 10. The jurisdiction of the corporate authorities of the said town in all criminal matters and for imposing and collecting license taxes on shows, performances and exhibitions shall extend one mile beyond the corporate limits of the said town. (1918, c. 161)

§ 11. The council shall annually elect one of its members president pro-tempore, who shall preside at its meetings, and assume the duties of the mayor in his absence, or in case of his inability or refusal to act. (1918, c. 161)

§ 12. The council of said town may adopt rules for the regulation of its proceedings, but no taxes shall be levied or corporate debt contracted unless by a vote of two-thirds of the council, three votes being counted as two-thirds, the mayor having no vote except in case of a tie, which vote shall be taken by yeas and nays and recorded in the journal. A journal shall be kept of their proceeding 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 is not then present, by the person presiding when they were read. (1918, c. 161; 2001, c. 8)

§ 13. The town council shall, by ordinance, fix the time of their stated meetings, and no business shall be transacted at a special meeting, unless all members of the council be present, but that for which it shall be called. (1918, c. 161)

§ 14. The town council may be convened at any time upon the call in writing of the mayor, or any three members thereof, but if all members of the council shall be present at such meeting, any action taken or resolution or ordinance passed at such meeting shall be valid even though there should have been no call in writing for said meeting, or such call be irregular, or not served upon all members of the council. Service of a notice of a call of any special meeting shall be served upon all of the members of the council and the mayor, who do not sign the call, at least twenty-four hours prior to such meeting. Such notice may be served by delivering a copy of such call in writing to the party in person, or, if he be not found at his usual place of abode or his usual place of business in the town, if any, by delivering such copy and giving information of its purport to his wife or any person found at his usual place of abode, who is a member of his family and over the age of sixteen years; and if there be none such found at his usual place of abode, by leaving such copy posted at the front door of the said place of abode. (1918, c. 161)

§ 15. The meetings of the town council shall be open to the public, except when, in the discretion of said council, the public welfare shall require secrecy, and the journal of their proceedings shall at all times be open to inspection by citizens of the town. (1918, c. 161)

§ 16. If any member of said council be voluntarily absent from its meetings consecutively for three months, his seat may be declared vacant by the council, and the unexpired term filled according to law. (1918, c. 161)

§ 17. The principal officers of said town shall consist, in addition to the mayor and councilmen, of a treasurer, sergeant, police justice, recorder, a commissioner of the revenue, an assessor, and a town attorney, to be appointed as hereinafter provided, and the council may appoint such committees of the council and create such boards and departments of town government and administration, with such powers and duties, and subject to such regulations as to it may seem fit, consistent with the provisions of this act and the general laws of this State. The council, however, may abrogate any of the officers mentioned in this section, to be filled by appointment, or dispense with the service of any appointive officer mentioned therein, whenever, in its opinion, the interest and necessities of the town do not require such office or officer. Any such office may also be consolidated and any one or more of said officers, that are not incompatible, may be filled and held by the same person. (1918, c. 161; 1924, c. 147)

§ 18. Subject to the provisions of the preceding section, a treasurer, a sergeant, a police justice, a recorder, a commissioner of the revenue, an assessor and a town attorney shall be appointed by the council at its first regular meeting in September, succeeding its election, or as soon thereafter as may be, and said officers shall qualify and assume the duties of their office immediately thereafter. Their term of office shall be as hereinafter provided, and they shall serve until their successors shall have qualified, unless said office be abrogated and dispensed with as herein provided. (1918, c. 161; 1924, c. 147)

§ 19. The council shall have, subject to the provisions of this act, control of the fiscal and municipal affairs of said town, and all property, real and personal belonging to said town, and they are hereby vested with power to make such ordinances and by-laws relative to the same as they may deem proper; and they shall likewise, in addition to the powers conferred by the general laws of the Commonwealth, have power to make such by-laws, ordinances, orders and regulations as they may deem necessary to carry out the foregoing and following powers which are hereby given and vested in the said council:

First. To erect and keep in proper condition all public buildings necessary and proper for the use of said town; to erect and maintain in said town a prison, said prison to contain such apartments as shall be necessary for the safekeeping of all persons confined therein.

Second. To determine and designate the route and grade of any railroad to be laid out in said town, and to restrain and regulate the rate of speed of locomotive engines and cars upon the railroads within said town.

Third. To direct the location of houses or buildings to be used for the sale or storage of gunpowder, dynamite or any combustibles, and to regulate the sale and use of all such substances in said town; to regulate exhibition of fireworks, the discharge of firearms, and to restrict the making of bonfires, either on public street or private property in said town; to fix and prescribe a fire limit as follows: The fire limit shall extend two

hundred feet from either side of Center street on Railroad avenue, and two hundred feet on either side of Center street on Water street; on Saint Clair street from the west end of same to Moore street, on Church street from the west end of same to Moore street; and two hundred feet on either side of Center street on Rolfe street; both sides of the streets within the bounds mentioned are included in the fire limit for a distance of two hundred feet.

Fourth. To prevent hogs, dogs and other animals from running at large in said town, and to subject the same to such regulations, confiscations and taxes as they may deem proper, and to prevent the riding or driving of horses or other animals at an improper speed, throwing stones, snowballs or other sports, or employments on the streets or alleys of said town, which may be deemed dangerous or annoying to citizens or passengers of said streets and alleys, as well as to punish the abuse and cruel treatment of horses or other animals of said town, and to regulate the speed of all automobiles and motor-driven vehicles of all kinds on the streets of said town, and to prescribe such traffic rules and regulations on said streets as may be deemed necessary.

Fifth. To arrest and punish drunkards, beggars and vagrants; to prevent vice and immorality; to preserve the public peace and good order; to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill-fame and gaming houses; to prevent and punish lewd and indecent conduct and exhibitions in said town.

Sixth. To prevent the coming into the town of persons having no ostensible means of support, and of persons who may be dangerous to the peace and safety of the town, and for those may require any person bringing them into said town to enter into a bond with good security that such person shall not become chargeable to the town for the period of one year thereafter, or may require or compel said persons to take them back from whence they brought them, and compel said persons to leave town; provided, that such order to leave be issued within sixty days after their arrival.

Seventh. To secure the inhabitants of said town from contagious, infectious or other dangerous disease; to establish, erect and regulate hospitals and to prescribe quarantine regulations; to provide for and enforce the removal of patients to said hospitals; to appoint and organize 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.

Eighth. 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 whereon the same may be; to require and compel the owner of 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 sewerage and nuisances as the council may prescribe; and upon failures so to do, the same may be done by the town by entering upon the premises, if necessary, and the cost of attending same shall be collected from the owners or occupants of such houses as taxes are in this charter allowed to be collected by the town.

Ninth. To prescribe, for the violation of any such by-laws, ordinances, orders and regulations any penalty provided by the laws of this Commonwealth for the punishment of Class 1 misdemeanors. (1918, c. 161; 1991, c. 308)

§ 20. The council shall have power to lay and levy a tax, for the general purposes of said town, on all real and personal property, which localities are permitted to tax, in said town, at such rates as may be prescribed by said council, not to exceed, however, two dollars on the one hundred dollars value of all property, and not in conflict with the general laws of this State; and in addition thereto, a tax not exceeding twenty cents on the one hundred dollars valuation of the property, real and personal, in said town, for the benefit of the public schools thereof, and a poll tax of one dollar and fifty cents on each male and female resident thereof, over twenty-one years of age, and the said town, in addition to the special powers herein given, shall have like powers of distress, levy and sale for the collection of such taxes as are now given to State officers for the collection of State taxes. (1918, c. 161; 1923, c. 137; 1928, c. 263)

§ 21. The assessment of the real and personal property in the town, for the purpose of municipal taxation, shall be the same as the assessment of such property for the purpose of State taxation, where there is a State assessment of such property. (1918, c. 161)

§ 22. In addition to the State tax on any license, the council may, when anything for which a license is so required is to be done within said town, impose a tax for the privilege of doing the same, and require a license to be obtained therefore; and in addition thereto may levy a tax, on agents and other persons, firms or corporations, whose principal office is not located in said town, if such person, firm or corporation do, or offer to do, business in said town; on public theatricals or on other performances of a public nature, on shows, on hawkers and peddlers; on agents renting or selling real estate; and on the business of any person, firm or corporation doing business in said town whether a license tax on such business be imposed by the State or not, within the limits of the Constitution; provided, farmers may sell the products from their farms in said town without a license; it being the purpose of this section to give the council of said town the power to tax all subjects within its jurisdiction not withheld from taxation by the laws of this State, whether the State taxes them or not, and whether herein specifically enumerated or not. (1918, c. 161)

§ 23. The town council shall annually cause to be made up and entered on its journal an account of all sums lawfully chargeable on the town which ought to be paid within one year, and shall order a town levy of so much as, in its opinion, is necessary to be raised in that way for the several funds of the town, in addition to what may be received for licenses and other purposes. The council may add penalties for failure of any person to pay taxes at the time provided for by ordinance of the council, and there shall be a lien for all taxes assessed which may be enforced as provided for by the general laws of the State, or as otherwise herein provided. (1918, c. 161)

§ 24. The town council shall not take or use any private property for streets or other public purposes without making to the owner thereof just compensation for the same, but in case where the town council cannot by agreement with the owner or owners thereof obtain title to any land needed for streets or any municipal building or other public purposes, it shall be lawful for the council to acquire the same by condemnation proceedings in accordance with the general laws of this State. (1918, c. 161)

§ 25. So long as the town of Pocahontas shall be dry and no license territory, no person, firm or corporation, shall, within the town, sell, or offer for sale, any ardent

spirits, or solicit orders for ardent spirits, or act as agent for the sale of ardent spirits, or the transmission of such orders, or have in his possession for personal or other use a greater quantity of ardent spirits than he is permitted to have under the general law of the State of Virginia, or advertise the sale, distribution, giving away or dispensing of the same, by the circulation of hand-bills or circulars or otherwise; nor shall any person bring into said town any such liquors except for his own use, and then, not more or oftener than such amount as he may be permitted to bring into said town, under the general laws of the State. Any person violating the provisions of this act, in addition to any fines or punishment provided by the laws of this State for so doing, shall be fined not less than twenty-five dollars, nor more than five hundred dollars, for each offense, and in addition thereto, may be sentenced to confinement in jail for such period as the trial justice may determine, not exceeding ninety days, and upon the second offense, such person so convicted shall be likewise fined and also sentenced to confinement in jail for not less than thirty days nor more than six months. The town council shall have power and authority to provide such ordinance or ordinances for more fully carrying into effect this section, as they may deem necessary. (1918, c. 161)

§ 26. The said town of Pocahontas, its inhabitants, and all taxable property within the corporate limits of said town, shall be exempt from all assessments or levies in the matter of district and county road taxes imposed by the authority of Tazewell county for the construction, repair or maintenance of roads, lying outside of said town; provided, however, that said town of Pocahontas shall construct, repair and maintain all streets and roads within the corporate limits of said town. (1918, c. 161)

§ 27. The town council may make appropriations from the general public funds of said town to any public free schools within the limits of said town, whenever, in the opinion of the council, such funds are necessary for the proper and efficient conduct and maintenance of said school. (1918, c. 161)

§ 28. 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 and 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. (1918, c. 161)

§ 29. The town council shall have power and authority to contract with any sewerage or water purification company, or power company, to establish, enlarge and operate a system of sewerage, water works and electric light works within or without the limits of the town, and shall have power to protect from injury, by ordinances prescribing adequate penalties, the works, pipes, fixtures and land or anything connected therewith, whether within or without the limits of said town, and such other powers in regard to same as is given by general laws of the State. (1918, c. 161)

§ 30. The council likewise shall have power and authority to close or extend, widen or narrow, straighten, lay out, graduate, curb and pave and otherwise improve the

streets, sidewalks and public alleys in the town, and have them kept in good order and properly lighted, and to make local assessments to pay for such proportion of the cost thereof, or such part thereof, as may be provided by said council, under the general laws of the State empowering towns to make such assessment, and may prevent or remove any structure, obstruction or encroachment over, in, or under any street, sidewalk or alley in said town, and may permit shade trees to be planted along said streets; and to prevent the cumbering of streets, sidewalks, alleys, lanes or bridges in the town in any manner whatsoever, and to have full and complete control of the same. (1918, c. 161)

§ 31. No ordinance hereafter passed by said council, as now constituted, or hereafter elected, for the violation of which any penalty is imposed, shall take effect until the same shall have been published by posting a copy thereof at the front door of the council chamber in said town for ten days after the passage of said ordinance; but after the expiration of three months from the date of such ordinance, its publication shall not be questioned or its validity affected by any failure to publish the same; but this section shall not apply, to the ordinances of whatever kind now in force in the said town, so as to require publication thereof. (1918, c. 161)

§ 32. The mayor shall preside at all meetings of the council and shall sign all ordinances enacted by said council and all warrants drawn by the treasurer of said town or said council. He shall have access to all books and accounts of each of the officers and authority to examine the same, he shall, at least twice a year, and may do so as often as he deems necessary or be requested so to do by the council, communicate to the council the general conditions of the affairs of the town with such recommendations as he may deem necessary; he shall have power to fill any vacancy that may occur in any office by death, sickness or other disability, temporarily, or until the first regular meeting of the council. The salary of the mayor shall be fixed by the town council; payable at stated periods; and no regulation diminishing such compensation after it has once been fixed shall be made to take effect until after the expiration of the term for which the mayor, then in office, shall have been elected. The salary of the mayor shall continue until changed by the council, but said salary shall not exceed the sum of sixty dollars per annum, unless the council shall designate the mayor to exercise the duties and perform the functions of police justice as herein provided, in which event the council may increase the salary of the mayor to such an amount as may be reasonable for the services performed, not to exceed, however, twenty-five dollars per month. (1918, c. 161)

§ 33. Police justice.

(a) The police justice, as herein provided for, shall be a conservator of the peace within the corporate limits of the town, and shall have the power to issue civil and criminal process, and shall have exclusive original jurisdiction to try all offenses against the ordinances of the town.

(b) The said police justice shall have jurisdiction in the town in all civil matters, now cognizable by justices of the peace of counties, and shall, in addition thereto have concurrent jurisdiction with the circuit court of Tazewell county, Virginia, in all civil matters, including damages for personal injuries, if the claim does not exceed the sum of three hundred (\$300.00) dollars, exclusive of interest. He shall have the same jurisdiction as the justices of the peace in all offenses against the laws of the Commonwealth of

Virginia. After the appointment of such police justice, no other justice of the peace shall hereafter exercise such jurisdiction as is herein conferred on the said police justice.

(c) The police justice shall hold office during the pleasure of the council, and his salary shall be fixed by the said council. He shall make a report of the affairs of his office to the council of the said town at its first regular meeting in each month, or oftener if the council shall request same.

(d) The council may, however, in lieu of appointing a police justice, designate the mayor or some member of the council to perform and exercise the duties of police justice, in which event, the person so designated shall have all the powers, authority and jurisdiction of the police justice and shall receive such compensation for his services as may be allowed by the council.

(e) In the event of the inability of the police justice, on account of sickness, absence, vacation, personal interest, or if he be otherwise disqualified to sit in judgment, the council shall appoint a substitute police justice, who shall perform all the duties of the office of police justice in such case.

(f) All the provisions of law now in force, or which may be hereafter enacted, governing preliminary examinations, granting of bail, procedure, and appeals in both civil and criminal cases, cognizable by justices of the peace, not affected by this act, shall apply in like manner to cases tried before the said police justice, unless otherwise provided herein, except that in all civil and criminal cases triable before such police justice no removal shall be allowed, unless claim be for fifty (\$50.00) dollars, or over, exclusive of interest; nor shall an appeal be allowed in any civil case, from the judgment of said police justice, unless the judgment exceed the sum of twenty (\$20.00) dollars, exclusive of interest. Removals and appeals permitted herein shall be to the circuit court of Tazewell county, Virginia.

(g) The police justice shall have power to make and enforce such reasonable rules of practice as are not in conflict with law. (1918, c. 161; 1930, c. 134)

§ 34. Recorder.

As herein provided, the council at its first regular meeting in September, shall appoint a recorder, who by virtue of his office, shall also be commissioner of the revenue. He shall attend the meetings of the council and shall correctly note the proceedings of each meeting in a minute book, and he shall afterwards record and properly index said proceeding in a book to be known the "record book"; he shall have custody of the corporate seal; he shall keep all papers, that, by the provisions of this act, or the direction of the council, are required to be filed and kept by him; he shall give notice to all parties presenting communications or petitions to the town council of the final action of the council on such communications or petition; he shall publish such reports and ordinances as the town 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, require; he shall also see that the license laws of the town are faithfully performed; he shall hold office during the pleasure of the council and his salary shall be fixed by the council, not to exceed ten dollars per month, and in addition thereto, he shall receive as compensation for his services as commissioner of the revenue, the fees allowed by law to the commissioner of the revenue of the county, to be paid by the person

applying for such license, and he shall receive no other compensation for performing his duties as commissioner of the revenue. (1918, c. 161)

§ 35. Assessor.

The council shall, before the first day of February of each year, appoint an assessor, who shall assess the value of all real and personal property in said town according to the laws of the State of Virginia; he shall also make out all tax tickets and deliver the same to the treasurer of the town. He shall receive as compensation for his services, such sum as the council may provide, not to exceed two hundred dollars, to be paid when the council is satisfied with the duties performed by him. (1918, c. 161)

§ 36. Sergeant.

As herein provided, the council at its first regular meeting in September, shall appoint one town sergeant, who shall hold office during the pleasure of the council. He shall have power and it shall be his duty, to collect all fines and penalties which may be imposed by the police justice and arising from the police department, and he shall pay over the same to the treasurer of the town every week. He shall be ex-officio chief of police, and shall have and exercise all the powers of a police officer of towns and cities under the laws of the State of Virginia. He shall attend all meetings of the council and shall make a report to that body at its first regular meeting in each month of the condition of his office, and may be required to do so at any time by the council. He shall qualify and give bond before the council for such amount and with such surety as the council may approve. In all civil matters arising in said town, or within one mile of the corporate limits thereof; he shall be vested with all the powers which the general laws of the State confer upon constables. He shall receive for his services such salary as may be fixed by the council, but such salary shall not exceed the sum of one hundred and twenty-five dollars per month, payable proportionately, at the end of each month, and he shall receive no other compensation, except such fees as he may be entitled to under the general laws, arising out of civil cases. (1918, c. 161)

§ 37. Police force.

The council may, in addition to the sergeant, appoint one or more policemen, as the needs of the town may require, who shall be privates of the police force of the town; who shall hold office during the pleasure of the council, and whose compensation shall be fixed by the council. (1918, c. 161)

§ 38. The mayor, or in his absence, the president, pro-tempore of the council, or in the absence of both, any councilman shall have power and authority, whenever the regular police force of the town is inadequate to meet the needs of the occasion, to appoint or swear in such additional or special policeman 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 is fixed by the council, then at two dollars per day. The duties and powers of such special policeman shall be the same as that of private or the regular police force. (1918, c. 161)

§ 39. 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 the ordinances 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 each policeman is hereby made a conservator of the peace and endowed with all the powers of a 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. (1918, c. 161)

§ 39-a. As herein provided the council shall, at its first regular meeting in September, after its election, or as soon thereafter as may be, appoint a town attorney, who shall be a regularly licensed and practicing attorney at law, who shall hold his office for the same term as the council which appointed him, unless sooner removed, and who shall be the attorney and counsel for the town. He shall have control of all of the law business in which the town might be engaged; and shall draw all leases, deeds and legal papers for the same, and be the legal adviser of the mayor, town council or any committee thereof. He shall appear as counsel for the town in any and all cases in which the town shall be a party and shall prosecute all violations of town ordinances, and, with the approval of the council, shall institute and prosecute all legal proceedings deemed necessary or proper to protect the interest of the town. He shall have such other powers and perform such other duties as are or may be required of him for the town by any ordinance or resolution of the town council. He shall receive such compensation as the council may determine, to be paid by the town; he shall receive in addition to said allowance from the town the same fees as attorneys for the Commonwealth receive in all criminal cases, these fees to be charged up as costs against the defendant and in case of conviction to be paid by the defendant, but he shall receive no such fees in criminal cases where there is no conviction. (1924, c. 147; 1940, c. 410)

§ 40. Treasurer.

As herein provided, the council shall at its regular meeting in September, after its election, appoint a treasurer, who shall hold office during the pleasure of the council, and who shall serve until his successor shall be appointed and qualified. It shall be the duty of the treasurer to receive all moneys belonging to the town, to collect all taxes, assessments and licenses, and to pay and disburse the same only on the written order of the council signed by the mayor and attested by its recorder. He shall have power to appoint a deputy to assist him in the discharge of his duties. He shall make a report of the condition of his office at least once a month, and may be required to do so at the pleasure of the council. He shall, before entering upon the duties of his office, execute a bond in the penalty of five thousand dollars or more, in the discretion of the said council, conditioned according to law for the faithful performance of his duties, said bond to be signed by at least three personal sureties, or such corporate sureties as may be approved by the council. The treasurer shall receive as compensation for his services a salary to be fixed by the council not to exceed two hundred dollars per year, payable proportionately at the end of each month and he shall receive no other compensation except such fees for the collection of delinquent taxes as hereinafter provided. (1918, c. 161)

§ 41. There is no § 41.

§ 42. In addition to all other taxes, the council is empowered and authorized to provide a special tax and levy for the payment of interest on all bonds of said town heretofore issued or that may hereafter be issued by virtue of any act of the general assembly, or general laws of the State, and also to provide a sinking fund to retire said bond at maturity or sooner. (1918, c. 161)

§ 42. The town treasurer or other officer whose duty it is to collect town taxes shall commence to receive the town levies on or before the first day of July of each year,

or as soon thereafter as he may receive the tax tickets from the assessor, and continue to receive same up to the first day of December thereafter; and for this purpose, said treasurer or such other officer shall advertise for ten days at the voting place in the town, and at such other public places therein as may be necessary to give general publicity thereto, upon what days he will be in his office in said town to receive such levies; and shall at a time specified, remain in his office not less than three days for the purpose of receiving such levies.

Any person failing to pay any town levies to the treasurer or other such officer by the first day of December of the year in which assessed, shall incur a penalty thereon of five per centum, which shall be added to the amount of levies due from such tax-payer, which penalty when collected shall be received by the treasurer as an additional compensation for his services; and on the sum total of said levy ticket and penalty, there shall be added interest at six per centum per annum from December fifteenth of the year in which such levy was assessed until the same be paid, said interest to be accounted for by the treasurer and paid into the treasury of said town.

It shall be the duty of the treasurer or other such officer after the first of December to call upon each person, resident within the town chargeable with levies, who has not paid the same, or upon the agent, if any, of such person resident within the town, for the payment thereof; and upon the failure or refusal of such person or agent to pay the same he shall promptly proceed to collect the same by levy, distress or otherwise.

Should it come to the knowledge of the treasurer or other such officer that any such person or persons owing such levies is moving or contemplating moving from the town prior to the first day of December, he shall have the power to collect same by levy, distress or otherwise at any time after such tax tickets have come into his hands. (1918, c. 161)

§ 43. There shall be a lien upon all real estate within the town for town taxes and levies assessed thereon, and interest on such taxes and levies at the rate of six per centum per annum, from the fifteenth of December, in the year in which same may have been assessed, for the period of five years, unless sooner paid. (1918, c. 161)

§ 44. Any goods or chattels in the town belonging to the person or estate assessed with town levies or taxes, may be distrained therefor by the treasurer or other officer whose duty it is to collect the same. In all cases property subject to levy or distress for municipal taxes and levies shall be liable to levy or distress in the hands of any person for town taxes and levies thereon.

When the treasurer or other such officer has to levy or distrain or sell, or levy or distrain without selling, he shall receive a fee of sixty cents, to be collected with the town levies or taxes levied or distrained for. (1918, c. 161)

§ 45. The treasurer or other officer whose duty it is to collect town taxes or levies may distrain for municipal levies and license taxes for which he has accounted to the town council at any time within one year after June fifteenth next succeeding the year for which such levies or license taxes were assessed. (1918, c. 161)

§ 46. The goods or chattels of the tenant, or other person, claiming under the party or estate assessed with municipal levies on land, may be distrained if found on the premises, but not for an amount exceeding the rent contracted to be paid by such tenant

for said premises, nor until property of the landlord subject to distress, within the town, shall have been exhausted. (1918, c. 161)

§ 47. Any real estate in the corporate limits of said town belonging to the person or estate assessed with town taxes or levies due on such real estate, may be rented or leased by the treasurer, or other officer whose duty it is to collect town taxes and levies, either on the premises or at some public place in the town, after giving not less than fifteen days' notice by printed or written notices posted at the front door of the courthouse of the circuit court of Tazewell county, and at three or more places in the neighborhood of the real estate to be leased. Such lease shall be for a term not exceeding one year, and for cash sufficient to pay the levies due on real estate so rented, and the cost and charges of advertising and leasing.

When real estate is advertised for leasing for the town taxes and levies thereon and there is any tenant in possession of the property so advertised, then the treasurer or other collecting officer making the lease, shall serve upon such tenant at least five days prior to the day of leasing a copy of the notice of leasing.

When the treasurer or other such officer advertises and leases or advertises without leasing, a parcel of real estate under this section, he shall receive a fee of sixty cents, to be paid as part of the cost of his proceeding. (1918, c. 161)

§ 47. Any payment of taxes or levies by the tenant, unless under an express agreement by which the tenant is bound to pay such taxes shall be a credit against the person to whom he owes rent. (1918, c. 161)

§ 48. No deed of trust or mortgage upon goods or chattels shall prevent the same from being distrained and sold for town taxes or levies against the grantor in said deed while such goods and chattels remain in the grantor's possession; nor shall any such deed prevent the goods and chattels conveyed from being distrained and sold for town taxes or levies thereon, no matter in whose possession they may be found. (1918, c. 161)

§ 49. The officer of the town, whose duty it is to collect the town taxes and levies, shall have all powers to levy upon and distrain goods and chattels of the tax debtor or any other person therefor that may be given by the laws of this State to the officer of a town whose duty it is to collect town levies and taxes. (1918, c. 161)

§ 50. When the treasurer or other officer whose duty it is to collect town taxes and levies, cannot find sufficient goods or chattels to distrain for municipal taxes and levies, any person indebted to or having in his hands estate of the party assessed with such levies or taxes may be applied to for payment thereof out of such debt or estate; and a payment by such person or the said levies or taxes either in whole or in part, shall entitle him to a charge or credit for so much on account of such debt or estate against the party so assessed. If the person applied to does not pay so much as may seem to the treasurer or other such officer ought to be recovered on account of the debt or estate in his hands, the treasurer or other such officer shall, if the sum due for such taxes or levies does not exceed twenty dollars, procure from the mayor or any councilman of the town or from a justice of the peace a summons directing such person to appear before the mayor, or some councilman of the town or some justice of the peace at such time and place as may seem reasonable; and if the sum due exceed twenty dollars, shall procure from the clerk of the circuit court of Tazewell county a summons directing such person to appear before the said court on the first day of the next term thereof; and from the time of the service of any

such summons, the said taxes and levies shall constitute a lien on the debt so due from such person, or on the estate in his hands.

If such summons be returned executed, and the person so summoned does not appear, judgment shall be entered against him for the sum due for such taxes and levies and for the fees of the clerk, mayor, councilman, or justice and of the officer who executed the summons.

If the person so summoned appear, he shall be interrogated on oath, and such evidence may be heard as may be adduced, and such judgment shall be rendered as, upon the whole case, shall seem proper. (1918, c. 161)

§ 51. The treasurer or other officer whose duty it is to collect town taxes and levies after ascertaining which of the taxes and levies assessed in the town cannot be collected, shall not later than the fifteenth day of June in each year, make out lists of such as cannot be collected upon forms similar to those prescribed for county treasurers, with the names of the persons chargeable with such town taxes and levies placed thereon alphabetically; and such lists shall be of four classes.

First: A list of property on the commissioner's land book improperly placed thereon or not ascertainable, with the amount of the municipal levies charged thereon.

Second: A list of other real estate which is delinquent for the nonpayment of the municipal levies thereon.

Third: A list of such municipal levies assessed other than on real estate as he is unable to collect, including the capitation levies included in list number four below.

Fourth: A list of such capitation taxes or levies as he is unable to collect.

At the foot of each list subscribe the following oath:

"I....., of the town of Pocahontas, in Tazewell county, who is charged with the duty of collecting the taxes and levies of said town, do swear that the foregoing list is, I verily believe, correct and just; that I have received no part of the town levies mentioned in the said list; and that I have used due diligence to find property within my town liable to distress for the said levies, but have found none." (1918, c. 161)

§ 52. Each of the said lists shall be presented to and examined by the town council together with the tax or levy tickets corresponding thereto; and if the said council be satisfied of the correctness of the list, and that the taxes or levies are correctly extended, or having corrected them, if erroneous, it shall credit the treasurer or other officer charged with the collection thereof with the amount thereof; and thereafter the treasurer or other such officer shall be under no liability for failure to collect the same, and such delinquent tax or levy tickets shall be delivered to the town sergeant for collection. (1918, c. 161)

§ 53. The original of the lists whereof credit may be allowed, the said recorder of the town shall transmit to the auditor of public accounts a copy of the list of real estate appearing thereby to be delinquent, showing the amount of delinquency of each lot, or levies appearing thereby to be delinquent.

The said recorder of the town shall at the same time he certified said lists to the auditor of public accounts, make two other copies of the same, one of which he shall deliver to the clerk of the circuit court of Tazewell county to be delivered by him to the treasurer of Tazewell county as hereinafter provided, and the other of which he shall

deliver to the clerk of the court of Tazewell county to be recorded by him as hereinafter provided. (1918, c. 161)

§ 54. When the clerk of the circuit court of Tazewell county delivers to the treasurer of said county a list of real estate delinquent for the nonpayment of State taxes and county levies, he shall also deliver to said treasurer the said copy of real estate delinquent for the nonpayment of municipal levies of the town of Pocahontas. Upon receipt of which lists the county treasurer shall proceed to post and distribute copies of such list and advertise for sale, the real estate so delinquent as is provided by the laws of this State in the case of real estate delinquent for the nonpayment of State taxes and county levies and capitation taxes. (1918, c. 161)

§ 55. After such lists of such delinquent municipal levies and capitation taxes are delivered to the treasurer of Tazewell county, he shall have the authority to receive payment thereof, and for all collections thereof he shall receive a commission of ten per centum, and unless the amount for which said lands so delinquent and such municipal capitation taxes together with the interest, costs and charges shall have been previously paid to such treasurer, he shall proceed to sell such real estate so delinquent at the same time and place, and in the same manner as the real estate delinquent for the nonpayment of State taxes and county levies. (1918, c. 161)

§ 56. The sale of the treasurer of Tazewell county of lots of the land in the town of Pocahontas shall be of each lot separately, or such undivided interests therein as shall be sufficient to satisfy the State taxes, county levies and municipal levies thereon, with interest, costs and charges, as provided by law, and its proportion of expense. (1918, c. 161)

§ 57. All proceedings in anywise connected with the sale of the land in the town of Pocahontas, for the nonpayment of municipal levies thereon, the duties of the treasurer of Tazewell county with reference to such sale, reports of such sales, confirmation of such sales, rights of purchasers at such sales, rights of redemption of land so sold, duties of the clerk of the circuit court of Tazewell county as to such sales, the making of deeds to purchasers at such sales, and all such matters, shall be the same as are provided by the law of this State as to sales of land delinquent for the nonpayment of State taxes. (1918, c. 161)

§ 58. It shall be the duty of the clerk of the circuit court of Tazewell county to lay a copy of the treasurer's report of such sales before the council of the town of Pocahontas at the next meeting thereof after the clerk has certified such report to the auditor of public accounts, and the town council shall charge the said treasurer with whatever is due on account of said sale for municipal levies less a commission of ten per centum, and his sureties on his official bond shall be liable therefor. (1918, c. 161)

§ 59. When any real estate is offered for sale for the nonpayment of State taxes, county levies or municipal levies of the town of Pocahontas, as provided in this act, and the laws of the State, and no person bids the amount chargeable thereon, the treasurer shall purchase the same in the name of the auditor of public accounts for the benefit of the State and county or the town, respectively, unless such real estate has been previously purchased in the name of the auditor, in which case it shall be sold for such price as it will bring.

A list of real estate so purchased in by the treasurer, showing in whose name sold, the amount of taxes, county levies, municipal levies, costs and charges, certified by his oath, shall be returned by him to the circuit court of Tazewell county at the time he returns his report of sales of delinquent lands as is provided by law. If the court finds said list to be correct, or having corrected the same, where there are errors, it shall confirm the same and direct its clerk to transmit a copy thereof to the town council of Pocahontas at their next meeting. On receipt of said copy, the town council of the town of Pocahontas shall credit the treasurer with the amount of town levies chargeable on such real estate so purchased in the name of the auditor. (1918, c. 161)

§ 60. When any real estate in the town of Pocahontas is sold for less than the aggregate amount of taxes, county levies, and municipal levies thereon, what may remain after the Commonwealth's lien for its taxes and interest is satisfied, shall go ratably to the county and town of Pocahontas. (1918, c. 161)

§ 61. Where town levies of the town of Pocahontas are paid to the auditor of public accounts in redemption of any delinquent real estate in said town, he shall immediately thereafter, account for and pay over the same to the treasurer of the town. (1918, c. 161)

§ 62. The clerk of Tazewell county shall pay over to the treasurer of the town all levies of the town of Pocahontas received by him under the provisions of this act and the general laws of this State within ten days after collecting the same, and take and file receipts therefor in his office. (1918, c. 161)

§§ 63 through 66.

§ 67. So soon as the clerk of the circuit court of Tazewell county shall receive from the recorder of the town council of Pocahontas, copies of the lists of the real estate within the town of Pocahontas delinquent for the nonpayment of town levies thereon and of persons delinquent for the nonpayment of taxes he shall record and index the same in a book to be kept for such purpose, without waiting for a sale to be had thereof. Such book shall be furnished by the town of Pocahontas and shall conform as near as may be to the book in which real estate delinquent for the nonpayment of State taxes and county levies and State capitation taxes. For recording such lists and indexing the same, the said clerk shall be entitled to a fee of five cents per name, to be paid by the town of Pocahontas. (1918, c. 161)

§ 68. In addition to the bond herein required of the sergeant and the recorder, the council may require any other officer of said town to enter into a bond for the faithful performance of his duties as such officer in such penalty as they may prescribe. (1918, c. 161)

§ 69. Each councilman of the town of Pocahontas for his services, shall receive a salary of twenty-five dollars per annum. (1918, c. 161)

§ 70. All ordinances now enforced in the town of Pocahontas not inconsistent with this act shall be and remain in force until amended or repealed by the town council.

The present mayor and councilmen of the town shall be and remain in office until the expiration of their several terms, and the present officers of the town elected by said council, shall remain in office until the expiration of their several terms unless sooner removed by the council. (1918, c. 161)

§ 71. There is no § 71.

§ 72. All acts and parts of acts in conflict with this act are hereby repealed insofar as they affect the provisions of this act and all former acts chartering or amending the charter of the town of Pocahontas are hereby repealed.

An emergency caused by reason of a change in the revenue as provided for in this act for the fiscal year beginning February first of this year, this act shall be enforced from its passage. (1918, c. 161)