

# VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

REPRINT

## CHAPTER 125

*An Act to amend and reenact §§ 1.2, 2.2, 2.3, 3.1, 3.5, 4.1, 4.4, 4.5, 4.8 and 4.9 of Chapter 340 of the Acts of Assembly of 1974, which provided a charter for the Town of Cape Charles, in Northampton County, to amend Chapter 340 by adding a section numbered 5.2, and to repeal § 6.1 of Chapter 340, relating to boundaries, powers, eminent domain, council elections and terms, duties of mayor, council appointments, duties of town manager, town treasurer and chief of police, revenues, and schools.*

[H 611]

Approved March 11, 2002

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 1.2, 2.2, 2.3, 3.1, 3.5, 4.1, 4.4, 4.5, 4.8 and 4.9 of Chapter 340 of the Acts of Assembly of 1974 are amended and reenacted and that Chapter 340 is amended by adding a section numbered 5.2 as follows:**

§ 1.2. Boundaries.

The territory embraced within the town of Cape Charles is that territory in the county of Northampton, Virginia, established in Chapter 367 of the Acts of the General Assembly of 1938, pages 582-609, and that territory added by the orders in the annexation proceedings in the Circuit Court of Northampton County, Virginia, entered on November 13, 1957, and recorded in the Common Law Order Book 19, at pages 107-108 in the Clerk's Office of said Court, ~~and another~~; such order of annexation entered on September 24, 1965, and recorded in the Common Law Order Book 20, at page 341, in the Clerk's Office of said Court; ~~and an order of annexation entered on November 21, 1991, and recorded in the Civil Common Law Order Book, at page 619, in the Clerk's Office of said Court.~~

§ 2.2. Adoption of Certain Sections of Code of Virginia.

The powers set forth in ~~§§ 15.1-837 through 15.2-907, both inclusive of Chapter 18 of Title 15.1 Article 1 (§ 15.2-1100 et seq.) of Chapter 11 of Title 15.2~~ of the Code of Virginia, as in force on January 1, ~~1974~~ 2002, and as may hereafter be amended, are hereby conferred on and vested in the town.

§ 2.3. Eminent Domain.

The powers of eminent domain set forth in Title ~~15.1~~ 15.2; ~~Chapter 1.1 (§ 25-46.1 et seq.) of Title 25, Chapter 1.1;~~ and § 33.1-121 of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, mutatis mutandis, are hereby conferred upon the town; ~~subject to the provisions of § 25-233.~~

(a) In any case in which a petition for condemnation is filed by or on behalf of the town, a true copy of a resolution or ordinance duly adopted by the town council declaring the necessity for any taking or damaging of any property, within or without the town, for the public purposes of the town, shall be filed with the petition. The town may employ the procedures conferred by the foregoing laws, mutatis mutandis, and may, in addition thereto, proceed as hereinafter provided.

(b) Certificates issued pursuant to § 33.1-121 of the Code of Virginia, as amended, and acts amendatory thereof and supplemental thereto, may be issued by the town council, signed by the mayor and countersigned by the town treasurer. Such ~~certificate~~ certificates shall have the same effect as certificates issued by the State Highway Commissioner, under the aforesaid laws, and may be issued in any case in which the town proposes to acquire property of any kind by the exercise of its powers of eminent domain for streets, water, sewers, and related matters, whether within or without the town.

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

§ 3.1. Election, Qualification and Term of Office of Councilmen and Mayor.

(a) The town of Cape Charles shall be governed by a town council composed of six councilmen and a mayor, all of whom shall be qualified voters of the town to be elected from the town at large.

(b) The mayor and councilmen in office at the time of the passage of this act shall continue in office until their successors are elected and qualified. An election for mayor and councilmen shall be held on the first Tuesday in May; ~~1974~~ 2002; for a period of two years. ~~Thereafter, there shall be an election on the first Tuesday in May of each even-numbered year. Those elected shall take office on the first day~~

~~of the succeeding July for a term of two years. The mayor so elected shall serve a term of four years with subsequent mayoral elections to be held at four-year intervals thereafter. In order to provide for staggered terms of council members, the three candidates elected receiving the highest number of votes shall serve a term of four years. The three candidates so elected receiving the next highest number of votes shall serve a term of two years. Thereafter, there shall be an election on the first Tuesday in May of each even-numbered year at which three council members shall be elected to serve terms of four years. Terms of office for mayor and council members shall begin on the first day of July next following their election.~~

### § 3.5. Powers and Duties of Mayor.

The mayor shall be the chief executive officer of the town. He shall have and exercise all power and authority conferred by general law not inconsistent with this Charter. He shall preside over the meetings of the town council and shall have the same right to speak therein as members of the council, but shall not vote except in the case of a tie vote. He shall have the power of veto over the ordinances and resolutions of the council, but such ordinances and resolutions may be passed over such veto by a two-thirds vote of the members of the town council present and voting. He shall be recognized as the head of the town government for all ceremonial purposes. He shall perform such other duties consistent with his office as may be imposed by the town council. He shall see that the duties of the various town officers are faithfully performed. ~~The police force of the town shall be under the control of the mayor, or the town manager as may be designated by the town council, for the purpose of enforcing peace and good order and executing the laws of the State and the ordinances of the town.~~ He, or the person acting as mayor, may deputize such assistant policemen as may be necessary; shall authenticate by his signature, such documents or instruments as the council, this Charter or the laws of the Commonwealth shall require.

### § 4.1. Appointment.

The town council may appoint such officers of the town as they deem necessary. Such officers may include, but shall not be limited to, a town manager, a town clerk, a town attorney, a town treasurer, a ~~town sergeant~~ *chief of police* and special police officers. The enumeration of officers in this section shall not be construed to require the appointment of any of such officers herein named. Officers appointed by the town council shall perform such duties as may be specified in this Charter, by the laws of the Commonwealth, or by the town council.

### § 4.4. Appointment of One Person to More Than One Office.

The town council may appoint the same person to more than one appointive office, at the discretion of the town council, *subject to such limitations as are set forth in the Constitution of Virginia and Title 15.2 of the Code of Virginia, as amended from time to time.*

### § 4.5. Qualifications and Duties of the Town Manager.

The town manager shall be the executive officer of the town, and shall be responsible to the town council for the proper administration of the town government. It shall be the duty of the town manager to:

- (a) Attend all meeting of the town council, with the right to speak but not to vote.
- (b) Keep the town council advised of the financial condition and the future needs of the town and of all matters pertaining to its proper administration, and make such recommendations as may seem to him desirable.
- (c) Prepare and submit the annual budget of the town council and be responsible for its administration after its adoption.
- (d) Prepare in suitable form for publication and submit to the town council at the next regular meeting following the end of each fiscal year, a concise, comprehensive report of the financial transactions and administrative activities of the town government during the immediately preceding fiscal year.
- (e) Present adequate financial and activity reports as required by the town council.
- (f) Arrange for an annual audit by a certified public accountant, the selection of whom shall be approved by the town council.
- (g) Perform such other duties as may be prescribed by this Charter, or required of him in accordance therewith by the town council, or which may be required by the chief executive officer of a town by the general laws of the Commonwealth.

All employees of the town, except those appointed by the town council, pursuant to this Charter or the general laws of the Commonwealth, shall be appointed and may be removed by the town manager, who shall report each appointment or removal to the town council at the next meeting thereof following any such appointment or removal. The town council shall designate by ordinance a person to act as town manager in the case of the absence, incapacity, death or resignation of the town manager, until his return to duty or the appointment of his successor. Until such time as the town council appoints any such town manager, the duties and powers outlined herein shall be given the mayor, or such other person as may be designated by the town council. *All employees and officers of the town, including those appointed by the town council, shall be under the management, control and supervision of the town manager.*

§ 4.8. Duties of the Town Treasurer.

The town treasurer shall collect the town taxes and licenses, and shall have the power to levy and sell for collection as given to county treasurers. ~~given to county treasurers.~~ *The town treasurer shall work cooperatively with the town manager to provide full financial disclosure and reporting as requested by the town council. The town treasurer shall perform such other duties, not inconsistent with his office, as the town council or town manager may direct.*

§ 4.9. Powers and Duties of the Chief of Police and Special Policemen.

~~The sergeant of the town~~ *chief of police* shall be a conservator of the peace, and vested with the full powers of a constable within the limits of the town. He, and any special police officers, who may be appointed by the mayor with the advice and consent of a majority of the members of the town council, shall have all the powers given to special police officers under the laws of the Commonwealth. *The police force of the town shall be under the control of the chief of police for the purpose of enforcing peace and good order and executing the laws of the Commonwealth and all the ordinances of the town.* He shall assist the treasurer in the collection of town taxes, and may distrain and sell therefor in like manner for which State taxes and county levies are distrained.

§ 5.2. Other Revenue-Generating Activity.

*The town council shall have the power to engage in other revenue-generating activities to any extent not prohibited by the laws of the Commonwealth.*

**2. That § 6.1 of Chapter 340 of the Acts of Assembly of 1974 is repealed.**

**3. That an emergency exists and this act is in force from its passage.**