

STEPHENS CITY CODE

**Chapter 2**

**ADMINISTRATION**

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### ARTICLE I. IN GENERAL

#### **Sec. 2-1. Official bonds.**

(a) Each officer, employee and agent of the town who in the course of his official duties will have in his possession, custody or control, any money, negotiable instruments, securities or other liquid assets belonging or due to the town which at any time exceed in value the sum of \$100.00 shall, before entering upon the discharge of his duties, give bond payable to the town, with corporate surety and in the amount of \$75,000.00, conditioned upon the faithful performance of his duties and a true accounting of all town assets coming within his possession, custody or control; provided, that the bond of the town treasurer, his deputies and assistants shall be in the amount not less than \$100,000.00, or 15% of the annual amount to be received by the officer, whichever is greater, and the bond of the town sergeant shall be in amount not less than \$30,000.00; and provided further, that any person holding two or more offices or positions concurrently shall give bond in amount not less than the highest amount which may be specified for any such office or position.

(b) Each officer, employee and agent of the town who in the course of his official duties is authorized to carry a firearm shall, before entering upon the discharge of his duties, give bond payable to the town, with corporate surety and in amount as may be fixed by the town council but not less than \$50,000.00, conditioned upon the payment of all claims, judgments and decrees resulting from the negligent or unlawful use of such firearm by himself or by any other person with his knowledge and consent.

(c) In lieu of individual bonds, the town council may provide for a system of blanket bonding covering all persons who, by this section, are required to be bonded.

(d) All bonds required by this section shall be approved by the town attorney as to legality and form, and by the town council as to sufficiency; and the premiums thereon shall be paid by the town. Bonds shall be filed in the office of the town clerk.

**State law references** – Bonds of officers, Code of Virginia, §§15.2-1527, 15.2-1528, payment of premiums on bonds for more than one year in advance, Code of Virginia, §15.2-1532.

#### **Sec. 2-2. Compensation of town officers and employees; fees.**

Town officers and employees shall receive such compensation for their services as may be fixed in the annual budget or as may be fixed from time to time by other ordinances or resolutions of the town council. All fees collected by town officers and employees shall be paid into the town treasury, and no town officer or employee shall have any personal interest therein except as may be specifically provided otherwise by the town council.

**State law reference** –Code of Virginia; §§15.2-1102, 15.2-1500, 15.2-1502, 15.2-1503.

#### **Sec. 2-3. Limitation on expenditure of money and contracting debt.**

No officer, employee or agent of the town shall expend any money of the town except pursuant to authorization of the town council, the town's procurement policies, and within the

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limits of funds appropriated for the purpose of such expenditure; nor shall any officer, employee or agent of the town contract any debt of the town except pursuant to authority of the town council exercised in conformity with state law.

The Virginia Public Procurement Act (VPPA) applies to all competitive negotiation, procurement of professional services when the total cost to the professional is to exceed \$30,000.00, design-build/construction management contracts, bid, performance and payment bonds and ethics.

Sec. 2.2-4343(12).

No person or company who for compensation prepares an invitation to bid or request for proposal on behalf of the Town may submit a bid for any of that procurement or disclose information to any bidder that is not already available to the public.

Sec. 2.2-4373

### **Sec. 2-4. Accounts, debts, etc., against town to be approved before allowance; exceptions; petty cash fund.**

(a) No account against the town shall be allowed until it has been approved by the committee or authorized officer by whose direction or on whose order the services were performed or material furnished for which the account was rendered, and such officer or committee shall endorse on such account the specific object of such expenditure, so far as incurred under the directions or authority of such committee or officer, and shall return it to the town treasurer.

(b) All claims, debts and demands against the town when presented to the town council shall, if deemed necessary by the council, be referred to the proper committee or officer for report thereon at the next meeting of the council; and the town attorney shall render his opinion to the council prior to approval of any claim or demand sounding in tort.

(c) The town council may, by resolution, or adoption of a procurement policy and specific line item appropriation, authorize payment for items, except from the provisions of subsection (a) of this section.

(d) Nothing in this section shall be construed to prohibit the town council from establishing a petty cash fund and authorizing payments to be made therefrom. No such payment shall exceed such amount as may be prescribed by the council, without submittal to the council for approval.

**State law reference**—Disbursement of moneys, claims allowed to be posted and published, Code of Virginia.

### **Sec. 2-5. No payment of town money to be made to any person in arrears to town.**

The town treasurer shall refuse payment of any town warrant presented to him when the person presenting or holding such warrant is indebted to the town or delinquent in the payment of taxes or other dues to the town; and the town treasurer is authorized to withhold payment of such warrant until such taxes or indebtedness shall have been paid. No payment shall be made to

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any town officer or employee who is in arrears to the town or who is in default in rendering any account, statement or report required of him.

**State law reference**—Lien against real estate §15.2-104; Penalty and interest for failure to pay accounts when due, Code of Virginia, §15.2-105.

### **Sec. 2-6. Town depository.**

Biennially, as soon as may be practicable following the election and qualifications of new town councilmen, the town council shall by resolution, designate the place or places of deposit for all town funds, which shall be kept by the town treasurer separate and apart from his personal funds. The funds shall only be deposited in a “qualified public depository” as defined by Virginia Code §2.2-4401.

**State law references**—Virginia Security for Public Deposits Act, Code of Virginia, §2.2-4400, et seq.; authority of town to deposit public funds, Code of Virginia §2.2-4408.

### **Sec. 2-7. Persons to act in place of absent or disabled officers and employees, or when office or position is vacant.**

When any town officer or employee is absent or disabled, or when any office or position in the town government is vacant, the person designated by competent authority to act in the place of such absent or disabled town officer or employee or to hold temporarily the vacant office or position shall have the powers and perform the duties of such absent or disabled officer or employee or pertaining to such vacant office or position.

**State law reference**— Organization of local government §15.2-1500, et seq; designation of officers to perform certain duties, §15.2-1501; Continuity of government in case of enemy attack or disaster §15.2-1413.

### **Sec. 2-8. Right of entry for purposes of inspection.**

Whenever any officer or employee of the town is required or authorized by statute, the provisions of this Code or any ordinance or resolution, or rules and regulations or orders issued thereunder, in order to carry out his duties thereunder, to enter any premises or vehicle for the purpose of making an inspection thereof or of anything therein contained, such officer or employee shall have the right to enter any such premises or vehicle in accordance with law at any reasonable time in pursuance of such duties.

**State law reference**—Charter; §§15.2-900, et seq., 15.2-1102, 15.2-1124.

### **Sec. 2-9. Non-liability of town officers and employees for acts done in line of duty.**

No town officer or employee charged with the enforcement of any provision of this Code or other ordinance, while acting for the town in line of duty, shall thereby render himself liable personally, and he is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any lawful act required or permitted in the discharge of his official duties. However, the immunity granted by this section will not apply to conduct constituting intentional or willful misconduct or gross negligence. Any suit instituted against any officer or employee because of an act performed by him in the lawful discharge of his duties

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and under the provisions of this Code or other ordinance shall be defended by the town attorney until the final termination of the proceedings.

**State law reference**—Immunity of members of local governmental entities, Code of Virginia, §15.2-1405.

### **Sec. 2-10. Legal defense and payment of claims, etc., for and against officers and employees.**

(a) It is in the best interest of the health, education, maintenance and welfare of the citizens of the town and the owners of property therein that the town be able to attract, seek, obtain and use the services of qualified persons in the administration of the governmental functions, whether such persons are employed or serve in capacities as mayor, council members, officers, board or commission members, trustees, employees, counsel, agents or other such capacities.

(b) It is recognized that such persons may suffer and experience an increased exposure to certain liabilities, cost and expenses, including attorney's fees, by virtue of their duties in serving the town.

(c) The town council wishes to extend to such persons the full protection permitted by law, including the protection provided for in common and statutory law and in Code of Virginia, §§15.2-1520 and 15.2-1521.

(d) The town council will employ an attorney as provided for in Code of Virginia, §15.2-1520 and 15.2-1521, and will pay all costs, expenses, settlements and judgments of and in any legal or equitable proceedings in which such person may be a defendant when such proceedings are brought against such persons, jointly or severally, by virtue of any actions of such persons in furtherance of their duties in serving the town.

(e) This section and any action or expense taken or incurred pursuant to it shall not in any way be construed or interpreted to waive, limit or adversely affect in any manner or to any extent:

- (1) The non-liability of town officers or employees provide for by state law or this Code or by the common law;
- (2) The non-liability of any other person sought to be protected hereby, by any law, common or statutory;
- (3) The right of the town to provide for protection of such persons by the purchase of insurance or the maintenance of a self-insurance program;
- (4) The right of any such person to employ or use the service of an attorney or counsel of his choice or to seek protection of himself and his property in any manner permitted by law; or
- (5) Any defense or actions which the town or such persons may have taken or elect not to take to or in any such legal or equitable proceedings.

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(f) This section shall not be admissible in evidence or construed to be for the benefit by or for third parties, plaintiffs or complainants in any such proceeding.

**State law references**—Municipal personnel system, code of Virginia §15.2-1506, et seq., liability insurance for officers, employees, etc., Code of Virginia §§15.2-1518; 15.2-1520; 15.2-1521.

### **Sec. 2-11. Fire and rescue squads recognized**

The Stephens City Fire and Rescue Squad are hereby recognized as integral parts of the office safety program of the town within the purview of Code of Virginia, §15.2-955 Insurance; §15.2-1517; Appointment of Chief and other officers §27-13.

**Secs. 2-12—2-35. Reserved.**

## **ARTICLE II. TOWN COUNCIL.**

### **DIVISION 1. GENERALLY.**

### **Sec. 2-36. Regular meetings.**

The Town Council shall meet in a stated or regular meeting in the council chamber at the Town hall on the first Tuesday of each month. The Council shall publicly fix the start time of the meeting at the preceding month's Council meeting and give notice as required to the public. However, if the first Tuesday of the month falls upon a holiday or election day the Council may fix another day for the meeting; and provided further that should the Council chamber be inappropriate for the meeting the Council may fix another place in the Town which is accessible to the public for such meeting, and provide the notice as required to the public. (*Revised 11/05/2019*)

**State law references**—Legal holidays, Code of Virginia, §2.2-3300; The Virginia Freedom of Information Act, Code of Virginia §2.2-3700 et seq.; how council convened, Code of Virginia, §15.2-1416.

State and Local Government Conflict of Interests Act, Code of Virginia §2.2-3100 et seq.; powers of town vested in governing body, Code of Virginia §§15.2-900 et seq.; 15.2-1100 et seq.; 15.2-1400 et seq.; local governing bodies, Code of Virginia, §15.1-37.4 et seq.; eligibility of members of council to hold certain offices, charter; Code of Virginia, § 15.2-1400 et seq.; suspension and removal of other town officers, Code of Virginia, §15.2-1503; removal of public officers from office, Code of Virginia, §24.2-230 et seq.; election of mayor and council, Code of Virginia, §24.2-222 et seq.

### **Sec. 2-37. Procedure in absence of quorum.**

A majority of the governing body shall constitute a quorum, except as may be provided in the Conflict of Interests Act. If a quorum fails to attend any regular or special meeting of the town council within 20 minutes following the hour fixed for convening of the council, the Mayor, and if the Mayor is absent, those members present may direct any police officer of the town to apprehend the absent members, if they are found within the town or at any place within one mile

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beyond the town limits, and bring them to the council chamber forthwith; or those members present may adjourn to another day, in which case the clerk of the council shall give notice of such adjournment to the absent members at least 12 hours prior to the time fixed for such adjourned meeting, and in either case, the clerk of the council shall enter in the minute book the proceedings taken.

**State law reference**—Town Charter; at what meeting council may act §15.2-1415.

### **Sec. 2-38. Duties of presiding officer; preservation of order.**

(a) At all meetings of the town council the presiding officer shall preserve order and decorum and shall discharge all duties prescribed by state law for presiding officers of town council meetings and such other duties usually pertaining to presiding officers.

(b) If any person behaves in a riotous or disorderly manner in any public meeting of the town council or any division, committee, agency, or authority thereof, or causes any unnecessary disturbance therein, by force, shouting or any other action calculated to disrupt such meeting, or shall refuse to obey any ruling of the presiding officer of such meeting relative to the orderly process thereof, he shall be guilty of a Class 1 Misdemeanor.

**State law references**—Presiding Officer, Code of Virginia §15.2-1423; punishment for conviction of misdemeanor, Code of Virginia, §18.2-11 et seq.; disorderly conduct in public places, Code of Virginia, §18.2-415.

### **Sec. 2-39. Participation Remotely**

If a quorum of the Town Council is physically present for a meeting, other members may attend and participate in such meeting from a remote location by telephone or other audio or video means. A member wishing to attend in this manner shall advise the clerk of the Council a reasonable time before start of the meeting, so that the necessary equipment can be put in place. Unless the equipment cannot be put into place, the Town hereby approves of such participation remotely.

The reason for the physical absence must be due to an emergency or personal matter, which must be identified with specificity in the meeting and recorded in the minutes as well as the remote location from which the member participated.

Such participation by the member shall be limited each calendar year to two meetings or 25% of the meetings of the public body, whichever is fewer.

(Ord 9/2/14)

**State law references** 2.2-3708.1

### **Sec. 2-40. Aye and nay votes, dissents.**

(a) On the call of any member of the town council, the vote on any question shall be taken by yeas and nays and recorded.



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(b) Any member of the town council shall have the liberty to dissent from, or protest against, any ordinance, resolution or order of the council, and have the reason of his dissent entered upon the record.

**State law reference**—Town Charter.

### **Sec. 2-41. When members to disclose personal interest in transaction before council and refrain from voting; penalty for violation of section.**

(a) Any member of the town council who knows that he has a personal interest in any transaction, not of general application, in which the council is or may be in any way concerned, shall disclose such interest to the council, and disqualify himself from voting or participating in any official action thereon as provided in the State and Local Government Conflict of Interests Act (Code of Virginia, 2.2-3111 et seq.) If disqualifications in accordance with this section leave less than the number required by law to act, the remaining members shall have authority to act by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of the remaining members.

(b) Any member of the town council who shall knowingly violate the provisions of subsection (a) of this section shall be guilty of a class 3 misdemeanor, and his office may be forfeited.

**State law references**—Prohibited contracts by members of town councils, Code of Virginia, §2.2-3107; prohibited conduct concerning personal interest in a transaction, Code of Virginia, §2.2-3112; disclosure statements required to be filed, Code of Virginia, §2.2-3113 et seq.; penalties and remedies, Code of Virginia, §2.2-3120 et seq.; knowing violation constitutes malfeasance in office, Code of Virginia, §2.2-3122.

### **Sec. 2-42. Compelling attendance of witnesses and production of documents, etc.**

(a) The town council, and any committee thereof when specially authorized by the council, shall have the power to require the attendance of any person as a witness and the production by any person of all proper books and papers when, in the opinion of such body, such attendance or such production is necessary and proper. Summons or other process to attend as witnesses or produce books or papers shall be in writing, signed by the presiding officer of the Council or committee thereof, and may be served by the town sergeant in the same manner as process to commence an action of law. Such witness shall be sworn by the officer presiding at such investigation and shall be liable for perjury or false testimony given at any such investigation.

(b) Any person who fails to obey or to fully comply with the requirements of any summons or other process issued pursuant to this section, or who knowingly produces false books or papers who knowingly gives false testimony under oath in response to such summons or other process, shall be guilty of a violation of this section and, upon conviction, shall be subject to the same penalties therefore as provided by law for similar violations in the general district courts.

**State law references**—Process, Code of Virginia, §8.01-285 et seq.; who may serve process, Code of Virginia, §8.01-293; manner of serving process, Code of Virginia, §8.01-296 et seq.; investigations by councils, Code of Virginia, §15.2-1409; punishment for contempt in a district court, Code of Virginia §16.1-69.24; perjury, Code of Virginia, §18.2-434 et seq.; contempt of

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court, Code of Virginia, §18.2-456 et seq.; authority of law enforcement to issue summons; failure of witness to appear, Code of Virginia, §19.2-267.1.

### **Sec. 2-43. Members to receive no compensation for services.**

The members of the town council shall serve at all times without compensation.

### **Secs. 2-44 – 2-60. Reserved.**

## DIVISION 2. ORDINANCES AND RESOLUTIONS<sup>\*</sup>

### **Sec. 2-61. Must be in writing; amendment and repeal generally; effective date of ordinances.**

(a) Every ordinance and resolution presented to the town council shall be in writing. No ordinance shall be amended or repealed except by ordinance. No resolution shall be amended or repealed except by ordinance, which shall clearly state what terms are being repealed.

(b) Each ordinance shall take effect at the date set in the ordinance from its passage and, if no date set, following its passage.  
(§§15.2-1426; 15.2-1427)

### **Sec. 2-62. Enactment of ordinances generally.**

(a) Every ordinance, when introduced, shall be read by its title.

(b) Unless otherwise required by the Constitution or other special law, no ordinance shall be deemed to have passed unless it shall have been read two times by title only in open meeting and concurred in by not less than a majority of the quorum present, not counting the mayor; provided, that where by any provision of the town charter, state law or this Code, a greater number of concurring votes is required for the passage of an ordinance, such ordinance shall not be deemed to have been passed unless such greater number on concurring votes shall have been cast in favor of passage.

**\*State law references**—Ordinances, etc., not be inconsistent with constitution and laws, Code of Virginia, §248; declaratory judgments involving the interpretation of ordinances, Code of Virginia, §8.01-184 et seq.; town ordinances generally, Code of Virginia, §§15.2-1425; 15.2-1426; penalties for violation of ordinances, Code of Virginia, §15.2-1429 et seq.;

**State law references**—Ordinances to provide for issue of bonds for revenue-producing undertakings, Code of Virginia, §15.2-2636; ordinances levying taxes or contracting corporate debt, Code of Virginia, §§15.2-1427, 15.2-2604.

### **Sec. 2-63. Two-thirds vote required to pass certain ordinances, resolutions and proceedings; recording of yeas and nays.**

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Upon any vote on final passage of any ordinance, which involves or will require the appropriation of money in excess of \$500.00, or the levy of any tax, or the contracting of any debt on behalf of the town, the yeas and nays shall be entered in the minutes, and no such ordinance, resolution or proceeding shall be deemed to have been passed unless it shall have received the vote of two-thirds of the elected members of the town council.

**State constitution reference**—Procedures for adoption of certain ordinances and resolutions in excess of \$500.00, Art. VII, §7.

**State law reference**—Ordinances levying taxes §15.2-1104; generally and two-thirds requirement §15.2-1427; 15.2-2604; 58.1-3005; 58.1-3703; procedures for appropriating more than \$500.00, authorizing borrowing, §15.2-1428.

### **Sec. 2-64. Publication of certain ordinances.**

Each ordinance, for the violation of which a penalty is imposed, shall not be enacted until public notice and hearing and publication, as required by section 16 of the town charter.

### **Sec. 2-65. Ordinances amendatory of this Code; maintenance of Code in current status.**

It shall be the duty of the clerk of the council to maintain in his office one volume of this Code in current status at all times, with deleted portions omitted therefrom, amended portions included therein so as to replace the portions superseded by such amendments, and new portions included therein, each at its proper place; and he shall amend the index accordingly. In making each insertion in or removal from such volume, the clerk of the council shall make an appropriate note in the margin as to the number and date of passage of the amendatory ordinance and the effective date thereof and, if publications or a public hearing was required, the date and manner of such publication and the date of such public hearing.

**State law reference** – Supplements for Code of Ordinances, Code of Virginia, §15.2-1433.

### **Sec. 2-66. Filing of Ordinances and resolutions.**

The clerk of the council shall preserve the original copies of all ordinances and resolutions of the town council in appropriate files in his office and shall maintain a record thereof in the form of an index so as to facilitate ready access to each ordinance and resolution. He shall transcribe such originals in the minutes of the meetings at which they were adopted or, if the town council so orders, in appropriate ordinance and resolution books, in which case the council minutes shall clearly indicate the book and page number where each ordinance or resolution is transcribed.

### **Sec. 2-67. Rules of Council; committees.**

The town council may from time to time adopt and amend resolutions for the transaction of its business; the procedure and order of business at its meetings; the appointment and jurisdiction, powers and duties of standing and special committees; the official conduct of its members; the manner of calling and conducting hearings and investigations and the issuance of subpoenas for the attendance of witnesses and the production of books and papers; the presentation of petitions and other communications to the council and recognition of nonmembers to address the council thereon; and such other matters not inconsistent with state

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law, this Code or other ordinances as may be deemed appropriate to facilitate the execution of the powers and the performance of the duties of the town council as provided by state law and the town charter.

**State law references**—Investigations by councils, Code of Virginia, §15.2-1409; authority of town to adopt rules for the regulation of its proceedings Charter.

### **Sec. 2-68. Implied License in Materials Submitted to the Town.**

(a) Notwithstanding any other provisions of this Code, any person submitting materials for approval (hereinafter, “the Applicant”) to any branch, department, or body of the Town shall be deemed to have granted the Town a license in those materials on the terms provided by this ordinance. No Applicant may submit materials for approval unless he, she or it has the right to grant the license provided in this ordinance. The approval of the Town is conditioned on the grant of the license as provided in this ordinance, and the approval shall be void if the applicant lacked the right or power to grant the license provided in this ordinance.

(b) The implied license granted upon submission for approval shall serve to grant the Town the right to use the submitted materials in the manner described in this ordinance regardless of any claim of copyright, trade secret, trademark, service mark, patent, or other intellectual property right.

(c) The term “materials” as used in this section means any words, drawings, or other work authorship, ideas, expressions of ideas, distinctive likeness, trade dress, color, pattern, appearance, or other original or unoriginal work in which intellectual property rights may inhere.

(d) The license granted under this ordinance allows the Town to use the materials in the ordinary course of business, including, but not limited to:

- (1) Copying for review by boards, committees, commissions, officers, employees, elected officials and (if approval requires a public hearing or notice to third parties) interested citizens in relation to the approval sought by the person making the submission,
- (2) Copying in response to Freedom of Information Act (FOIA) requests,
- (3) Preparation of exhibits for enforcement actions or litigation relating to the submitted materials or to the property to which the submitted materials relate,
- (4) Construction, completion, reconstruction, or modification of any improvements shown on the materials,
- (5) Preparation of documents for recordation in public land records relating to the property which is the subject of the submitted materials,
- (6) Responses to regional, state, or federal governmental entities which request the materials, and
- (7) Preparation of plans, maps, and illustrations relating to the property which is the subject of the submission.

(e) The license granted under this ordinance does not allow the Town to:

- (1) Transfer any rights in the materials to any third party,
- (2) Make commercial use of the materials for profit.

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(f) The license granted under this ordinance is perpetual and irrevocable.  
**Code of Virginia**, §§59.1-501.5; 59.1-503.1; Town Charter Section 21.

**Secs. 2-69—2-85. Reserved.**

### ARTICLE III. TOWN OFFICERS

#### DIVISION 1. GENERALLY

**Sec. 2-86. Concurrent office holding; designation of deputies and assistants.**

(a) Except where prohibited by law, the town council, or the mayor with the approval of the town council, may designate one person to hold two or more appointive town offices concurrently.

(b) Any deputy or assistant to any town officer who holds two or more offices concurrently shall be designated according to the office or offices in which he is to serve as such deputy or assistant. For example, should the town clerk at any time be also the town treasurer, his assistant should be designated as “assistant town clerk-treasurer”, if he is in fact the assistant in both of those offices; otherwise, he should be designated as “assistant town clerk” or as “assistant town treasurer” according to the fact.

**State constitution reference**—Multiple offices, Art. VII, §6.

**State law reference**—Certain officers not to hold more than one office, Code of Virginia, §15.2-1534.

**Sec. 2-87. Limited authority to administer oaths; false swearing.**

(a) The mayor, the presiding officer of the town council, the town clerk, the town treasurer and each other officer, deputy or assistant officer of the town to whom any sworn statement, whether oral or in writing, is required to be made or submitted by any person pursuant to an provision of this Code or other ordinance or resolution of the town council shall have the authority to administer the oath so required; provided, that nothing in this section shall be construed as purporting to authorize the administration of any oath which, by law, is required to be administered by a judicial officer, notary public or other officer authorized by statute to administer oaths, nor shall this section be construed as purporting to authorize the taking of any acknowledgment of any signature or seal for the purpose of recording elsewhere than in the office of the town clerk or some other office of this town.

**\*State law references**—State and Local Government Conflict of Interests Act, Code of Virginia, §2.2-3100 – 2.2-3131 et seq.; town officers generally, Code of Virginia, §§15.1-38 et seq.; §15.2-1525; form of general oath required of officers, Code of Virginia, §49.1

(b) It shall be unlawful for any person to whom an oath has been administered pursuant to this section to knowingly make any false certificate, affidavit or statement, oral or written, concerning any matter whatsoever in violation of such oath.

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**State law references**—Who may administer oaths to officers, code of Virginia, §49-3; power of clerk of a court of record to administer oaths, Code of Virginia, §17-53; perjury, Code of Virginia, §18.2-434 et seq.

### **Sec. 2-88. Property and property insurance inventories.**

(a) The town clerk shall maintain on file in his office an inventory of all real property owned by or leased to the town. This inventory shall be maintained in current status and during January of each year shall be revised, as may be appropriate, to show changes in value due to depreciation or to repairs, renovations, etc. For each building or lot such inventory shall also show:

- (1) A brief description;
- (2) A reference to the deed, devise, lease or other instrument whereby the city acquired title to or the use thereof;
- (3) The department, office or agency charged with custody;
- (4) The purpose or use;
- (5) The insurance of all types thereon, together with notes as to premiums payable and anniversary dates; and
- (6) For property owned by the town and leased to other persons, copies of such leases and appropriate notes as to the revenues derived therefrom.

(b) Each town officer having custody of items of nonexpendable personal property of value greater than \$25.00 owned by or leased to the town shall, during January of each year, prepare and file with the town clerk an itemized inventory of such property, showing for each item:

- (1) Its value and a brief description, together with identification (by serial number, where applicable);
- (2) A reference to the instrument, if any, whereby title or use was acquired;
- (3) The department, office or agency having custody;
- (4) The purpose or use; and
- (5) The insurance of all types, if any, together with notes as to premiums payable and anniversary dates.

### **Sec. 2-89. False entries or destruction of records by officers.**

If an officer of the town shall fraudulently make a false entry, or erase, alter, secrete or destroy any record, including electronic copies, in his keeping and belonging to this office, he shall be guilty of a class 1 misdemeanor and shall forfeit his office and be forever incapable of holding any office of honor, profit or trust under the Constitution of Virginia. Any records destroyed in accordance with the Virginia Public Records Act are exempt from this section

**State law reference**—Similar provisions, Code of Virginia, §18.2-472.

### **Secs. 2-90—2-105. Reserved.**

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### DIVISION 2. SPECIFIC OFFICERS.

#### **Sec. 2-106. Mayor—Official head of town; powers and duties.**

(a) The mayor shall be the official head of the town government. He shall be responsible for the enforcement within the town of all applicable provisions of state law and the provisions of this Code and other ordinances and resolutions of the town council and, in case of any breach of the peace, tumult, riot or resistance of law, or imminent danger thereof, or in case of any disaster wherein the lives or property of citizens are imperiled, he may call upon the governor for aid on behalf of the town council as provided in Code of Virginia, §44-78.1.

(b) The mayor shall have final authority over the town officers and department and units of the town government; and he shall have control of the police force for the purpose of enforcing peace and order and executing the laws of the state and the ordinances of the town as provided in section 13 of the town charter.

(c) The mayor shall be responsible for the preparation of the annual town budget and the timely submittal thereof to the town council and publication thereof; and he shall submit such other reports and recommendations to the town council from time to time as he may deem appropriate in the best interests of the town and its inhabitants.

(d) The mayor shall exercise such other powers and perform such other duties as may be prescribed for his office by the town charter, state law, this Code and other ordinances, resolutions and orders of the town council.

**State law references**—Powers of mayor §15.2-1423; local budgets, Code of Virginia, §15.2-2500 et seq.;

#### **Sec. 2-107. Same—To serve without compensation.**

The mayor shall serve at all times without compensation.  
(Code 1975, §2-29)

**State law reference**—*Salary of mayor, Code of Virginia, §15.2-1414.7.*

#### **Sec. 2-108. Town Manager.**

The town manager shall be the chief executive officer of the town.

(a) The duties of the town manager shall be to:

- (1) Attend all meetings of the town council with the right to speak, but not to vote, and further to recommend for adoption such measures as he may deem necessary or expedient.

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- (2) Coordinate those procedures and functions necessary for the operation of the business of the town with the governing bodies and officials of neighboring counties, cities and towns.
- (3) Make application for and receipt of grants and subsidies from the federal government or other governmental authorities. Final approval or disapproval will be decided by the council.
- (4) Assist the various committees of the council in the preparation of reports and proposals, including the budget.
- (5) Supervise the preparation of an agenda for all council meetings.
- (6) Appoint or dismiss such employees, except those appointed by the town council pursuant to the town charter or this Code.
- (7) Have day to day supervisory authority of the town office, including the coordination of work and vacation schedules of town officers and employees, including members of the town police force. Vacation schedules and hours of employment will be subject to approval by the town council. The town manager shall be responsible for the issuance and collection of a weekly time sheet on all town employees under his supervision. The town manager will be responsible for filling out his own time sheet and for submitting it to the mayor for his signature along with the copies for other employees.
- (8) Supervise and monitor all encumbrances, expenditures and disbursement to ensure that budget appropriations are not exceeded and to purchase such miscellaneous supplies and equipment as are necessary for the day-to-day operation of the town and to disburse by check monies payable therefore, not exceeding the amount of \$100.00.
- (9) Have general supervision of all construction, maintenance and repair in the town, to the extent of the town's interest therein; coordinate with the state department of transportation or others the care and repair of the streets, highways and sidewalks; prevent and arrange for the correction of the blocking of drainage ditches and culverts; review and authorize the issuance of all permits including those for buildings, water and sewer connections, erosion and sedimentation control, and those involving streets and highways pending action of the town council; supervise the preservation and maintenance of the water and sewer facilities and other town properties. He shall have a supervisory role to inspect each and every new water and sewer service connection at a fee to be paid to the town at a rate determined by the town council.
- (10) Act as agent and administrator of the subdivision ordinance. In all cases any variances will be brought before the town council for action.



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- (11) Under the overall direction of the mayor, administer and supervise the town's contracts with franchise holders or others dealing with the town.
- (12) See that the provisions of the town's laws, ordinances and resolutions are faithfully enforced.
- (13) Perform such other duties as may be prescribed or requested by the town council.
- (14) Submit a monthly report at each regular monthly meeting consisting of the prior month's activities that occurred under his supervision.

(b) All actions and decisions of the town manager are subject to approval by the council.

(c) Nothing in the foregoing provisions removes any authority from the council to approve, disapprove, alter or overrule any hiring, firing of any employee, or any action of the town manager.

### **Sec. 2-109. Town clerk.**

(a) The clerk of the town council shall attend all meetings of the council and keep the journal of the council and enter therein a record of the proceedings of the council. He shall publish all ordinances, resolutions and notices required to be published by state law, the town charter, this Code or other ordinance or resolution of the council. He shall give timely notice to all members of the council when any special meeting is called. He shall keep a minute record of all petitions presented to the council and of the action taken thereon. He shall keep records of all committee meetings and of actions taken by council committees. He shall perform such other secretarial duties for the council and its committees as may from time to time be imposed upon him by ordinance, resolution or order of the council.

**State law reference**—Appointment §§15.2-1536; 15.2-1538; 15.2-1539; Officers who may administer oaths and take affidavits, Code of Virginia §49-4.

(b) The town clerk shall be the custodian of all town records, maps, documents and other papers belonging to the town for which no other custodian is designated. He shall keep them secure against all hazards and make them available to those having an interest therein for inspection and use in his office during all regular business hours as provided in The Virginia Freedom of Information Act (Code of Virginia, §2.2-3700 et seq.).

(c) The town clerk shall issue all licenses and permits granted by the town council, and all other licenses and permits for which no other issuing officer is designated.

(d) All money belonging to the town collected by the office of the town clerk or otherwise coming into the hands of the town clerk shall be turned over promptly by him to the town treasurer, with a statement as to the source and purpose and the date of receipt thereof, on such form as may be required by the town treasurer for such purpose.

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(e) The office of the town clerk is the principal point of contact between the public and the town government. The town clerk shall render reasonable assistance to persons affected by the provisions of this Code or other ordinances or resolutions of the town council and to persons seeking to do business with the town. He shall exercise such other powers and perform such other duties as may from time to time be prescribed for his office by ordinance, resolution or order of the town council.

(f) Any oath of town council members and the mayor, taken before an officer authorized to administer the oath, shall be returned to the clerk of the town who shall enter the same record in the minute book for the town. §15.2-1522.

### **Sec. 2-110. Town sergeant.**

The town sergeant shall have the powers and perform the duties prescribed for his office by the town charter, state law, this Code and other ordinances, resolutions and orders of the town council.

**Cross reference**—Police, ch. 15.

**State law references**—Town Chief of Police/Sergeant §15.2-1701; police and public order generally, Code of Virginia, §15.2-1700 et seq.;

### **Sec. 2-111. Town treasurer; signatures on checks; books and accounts.**

(a) The town treasurer shall collect all the taxes, revenues and assessments which may be levied by the town council, and all license fees, permit fees and other money belonging or due to the town for which no other town officer is designated as collector thereof; and he shall prepare the tax bills and bills for water and sewer services provided by the town. The town treasurer shall make a charge of \$35.00 against any person responsible for the payment of any amounts due the Town for any check or draft given to the Town which is dishonored for any reason, as provided for in Section 1-10 of the Town Code. This charge will be per instrument, and shall be in addition to any other right the Town may have regarding action as a result of the dishonor or charge back.

(Ord 11/2/2010)

(b) All money received by the town treasurer on any special levy or assessment, or for any special purpose, shall be held by him on separate accounts and shall be applied only for the purposes designated therefore.

(c) The town treasurer shall refuse payment of any town warrant presented to him when the payee thereof is indebted to the town or is delinquent in the payment of taxes or other fees, charges or obligations due the town.

(d) All money received by the town treasurer shall be deposited by him in a depository designated by the town council, except such funds as may be authorized by the council as a petty cash fund; and money so deposited shall be in an account in the name of the Town of Stephens City, Virginia.

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(e) The treasurer shall pay out town money only as authorized by the town council and from funds available as appropriated for the purpose for which paid. All checks drawn on a town depository shall be signed by the town treasurer and countersigned by the mayor, or by persons authorized by the town council to act for the town treasurer or mayor in the case of their absence or disability.

(f) The town treasurer shall be ex officio a member, without vote, of the finance committee of the town council and he shall, unless excused, attend all meetings of such committee.

(g) The books and accounts of the town treasurer shall at all times be open to the mayor and to the town council for inspection; and the town treasurer shall render to the town council at its first meeting in July of each year a true and complete financial report covering the preceding 12 months, and such special reports as may be required of him from time to time by the mayor or the town council. The town council may cause to be conducted, an audit of the books and accounts of the town treasurer at the close of each fiscal year and at such other times as the town council may require.

(h) The town treasurer shall at all times be subject to the control of the town council.

(i) The town treasurer shall have such other powers and perform such other duties as may be provided for his office by the town charter, state law, this Code or other ordinance, resolution or order of the town council.

(j) Secrecy of information; penalties.

A) Except in accordance with a proper judicial order or as otherwise provided by law, the Town Treasurer or any person to whom tax information is divulged pursuant to §58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;
2. Acts performed or words spoken or published in the line of duty under the law;
3. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;

B) Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Treasurer may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name.

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C) Notwithstanding the provisions of subsection A or B or any other provision of this title, the Town Treasurer is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income, filing status, number and type of dependents, and whether a federal earned income tax credit has been claimed as reported by persons on their state income tax returns who have applied for public assistance or social services benefits as defined in §63.2-100; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in §55-210.2; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Director of the Department of Charitable Gaming such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xi) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§59.1-270 et seq.), and the Enterprise Zone Grant Program (§59.1-538 et seq.); (xii) provide current name and address information to private collectors entering into a written agreement with the Town Treasurer, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Town Treasurer is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiii) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xiv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under §40.1-29; (xv) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary

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to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by §65.2-712; and (xvi) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax. The Town Treasurer is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for the town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit the Treasurer from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

D) Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, or C of this section. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

Secrecy of information; penalties. §58.1-3

**State law references**—local treasurer receives and is credited for state taxes, Code of Virginia, §§58.1-1800, 58.1-1801; powers and duties of local treasurers with respect to taxation, Code of Virginia, §58.1-3123 et seq.; collection of local taxes by treasurers, Code of Virginia, §58.1-3910 et seq.

### **Sec. 2-112. Town attorney and assistant.**

(a) The town attorney shall be a member in good standing of the bar of this county, who shall perform such professional services and receive such compensation as may be agreed upon by him and the town council at the time of his appointment, subject to the following: the town attorney shall be legal counsel for the town council and its committees, and for town officers, boards and agencies, and he shall render opinions to them upon request. He shall prepare contracts, bonds and other instruments to which the town is a party or in which the town has an interest. He shall attend, upon request, all regular meetings of the town council and, at the request of the mayor or councilmen issuing the call, he shall attend special meetings of the town council. He shall, upon the request of the mayor or the town council, represent the town in court

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with respect to any proceeding to which the town is a party. At the request of the mayor or the town council, he shall commence and prosecute actions suits and proceedings to be brought by the town and defend the rights and interests of the town and of any officer or employee of the town acting in line of duty in any action, suit or proceeding against the town or any town officer or employee. He shall draft ordinances for introduction in the town council at the request of any member of the council. He shall promptly account for and pay over to the town treasurer any and all funds belonging to the town, collected or received by him, together with an itemized statement showing from whom and for what accounts the money was received. He shall, whenever requested, prepare and duly deliver to the town council a report showing the conditions of all cases handled by him and the conditions of all cases pending in which the town is interested.

(b) For the prosecution of any person for violation of an provision of this Code or other ordinance, resolution, rule, regulation, notice or order of the town in the general district court or the juvenile and domestic relations district court, or in the circuit court or the supreme court on appeal, the town attorney shall receive and retain, in addition to an other compensation to which he may be entitled, such fees and costs as may be allowed a commonwealth's attorney in the prosecution of a person charged with a misdemeanor.

(c) The town attorney, with the consent of the town council, may appoint an assistant town attorney, who shall be a member in good standing of the bar of this county, and who shall perform the duties of the town attorney when the town attorney is absent, disabled or otherwise unavailable.

**State law references**—Fees in criminal cases, Code of Virginia, §15.2-1627.3, appoint of counsel to defend town or its governing body, officers or employees in certain proceedings, Code of Virginia, §15.2-1520; Attorneys, Code of Virginia, §54.1-3900 et seq.; review of contracts, §15.2-1237.

### **Sec. 2-113. Town engineer.**

The town council may appoint a town engineer, who shall serve at the pleasure of the council and for such compensation as may be agreed upon by and between him and the council, or the town administrator may serve as town engineer. The town engineer shall perform such professional duties and render such professional services as may be required of him by this Code or other ordinance or by order of the town council.

### **Sec. 2- 250 – 2-260. Planning Commission Requirements**

#### **Sec. 2- 250 Planning Commission**

The Town hereby creates a Planning Commission in order to promote the orderly development of the locality and its environs. In accomplishing the objectives of § 15.2-2200 the Planning Commissions shall serve primarily in an advisory capacity to the Town Council.

Virginia Code Section 15.2-2210 requires Towns to create Planning Commissions

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### **Sec. 2-251 Composition: Appointment. Term and Removal of Members: Filling Vacancies**

The Town Planning Commission shall consist of seven members appointed by council, all of whom shall be residents of the town qualified by knowledge and experience to make decisions on questions of community growth and development; at least one-half of the members so appointed shall be owners of real property in the town. One member of the commission shall be a member of the Town Council; whose term shall be coextensive with the term of office which they have been elected or appointed, unless the Council, at the first regular meeting each year, appoints another to serve as their representative. The remaining members of the commission shall serve for terms of four years each. Vacancies shall be filled by council appointment for the unexpired term only. Members may be removed for malfeasance in office or by Council if they are absent from any three consecutive meetings of the commission, or absent from any four meetings of the commission within any 12- month period.

Virginia Code Section 15.2-2212  
(Ord 6/5/2018)

### **Sec. 2-252 Compensation of Members**

All members of the town planning commission shall serve as such without compensation. This does not preclude the Town from covering their expense for attending training.

Virginia Code Section 15.2-2212

### **Sec. 2-253 Chair; Other Officers**

The town planning commission shall elect its Chair and Vice- Chair from among its appointed members for a term of one year, with eligibility for reelection, and may create and fill such other offices as it may determine.

Virginia Code Section 15.2-2217

### **Sec. 2-254 Meetings**

The town planning commission shall hold regular meetings each year, and must meet at least once per year.

Virginia Code Section 15.2-2214

### **Sec. 2-255 Rules and Regulation**

The town planning commission may adopt rules and regulations for the transaction of business. A majority of the members shall constitute a quorum and no action of the planning commission shall be valid unless authorized by a majority vote of those present and voting.

Virginia Code Section 15.2-2215; 15.2-2217

### **Sec. 2-256 Record of Resolutions, Transactions, etc.**

The town planning commission shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record. The Town shall, through it Town Clerk, provide facilities for the holding of meetings and the preservation of plans, maps, documents and accounts.

Virginia Code Section 15.2-2216

### **Sec. 2-257 Limitation on Expenditures**

The expenditures of the town planning commission shall be within the amounts duly appropriated by the town council for that purpose.

Virginia Code Section 15.2-2216

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### **Sec. 2-258 Powers Generally**

The town planning commission shall exercise, long term planning, coordination of transportation plans, responsibility for working with Town officials on the Zoning Code, Subdivision Ordinance, Transportation Plan, Comprehensive Plan, Capital Improvements Plan and in general, such powers as may be necessary to enable it to fulfill its function, promote planning and carry out the purposes of the law, as well as those provided by 15.2-2221 and its successor statutes.

Virginia Code Section 15.2-2221; 15.2-2221. 15.2-2223

### **Sec. 2-259 Report**

In January of each year the town planning commission shall make an annual report to the town council concerning its activities during the preceding year.

### **Sec. 2-260 Recommendations of Programs for Public Structures and Improvements**

By March 1 of each year the town planning commission shall recommend programs for public structures and improvements and for the financing thereof for use in preparing a Capital Improvements Plan.

Virginia Code Section 15.2-2239

**Note-** Ordinance for Planning Commission 2-250 – 2-260 became in effect on its third and final reading on 6-5-2018.