



TOWN COUNCIL WORK SESSION

Monday, July 17, 2017 @ **6:00 PM** in Town Hall Conference Room

1. CLOSED MEETING – Interviews for Council Vacancy

Motion to Go Into Closed Meeting

Pursuant to Virginia Code Section 2.2-3711.A.1 of the Freedom of Information Act, I move that Town Council go into Closed Meeting to discuss, consider and interview prospective candidates for appointment to fill the vacancy on Town Council occasioned by the resignation of former Town Council Member Bebhinn Egger.

Motion to Certify Closed Meeting at its Conclusion *[At the conclusion of the Closed Meeting, immediately re-convene in open meeting and take a roll call vote on the following:]*

I move that Council certify that to the best of each member's knowledge, as recognized by each Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Act as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

Town/Staff Related Issues:

2. Continued Discussion of Proposed Ordinance Amendment - Flea Market Regulations Pertaining to Licensing Fees – *Town Manager*
3. Continued Discussion of Property Maintenance – *Director of Planning/ Zoning*
4. Continued Discussion on Charter Revisions – *Town Attorney*

Council/Mayor Related Items

5. Council Discussion/Goals *(time permitting)*
6. CLOSED MEETING – VML Issues and Council Vacancy Interviews Review

Motion to Go Into Closed Meeting

I move that Town Council convene and go into Closed Meeting for the following purposes regarding the VML issues pertaining to Randolph Avenue: **(1)** Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected, pursuant to Section 2.2-3711. A. 6. of the Code of Virginia; **(2)** Discussion of the award of public contracts involving the expenditure of public funds, and discussion of the terms or scope of such contract, where discussion in an Open Session would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2- 3711. A. 29. of the Code of Virginia; and, **(3)** Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 7. of the Code of Virginia AND Pursuant to Virginia Code Section 2.2-3711.A.1 of the Freedom of Information Act; AND **(4)** to discuss, consider and interview prospective candidates for appointment to fill the vacancy on Town Council occasioned by the resignation of former Town Council Member Bebhinn Egger.

Motion to Certify Closed Meeting at its Conclusion *[At the conclusion of the Closed Meeting, immediately re-convene in open meeting and take a roll call vote on the following:]*

I move that Council certify that to the best of each member's knowledge, as recognized by each Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Act as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

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Town of Front Royal, Virginia Work Session Agenda Form

Date: July 17, 2017

Agenda Item: Continued Discussion of Proposed Ordinance Amendment – Flea Market Regulations Pertaining to Licensing Fees

Summary: During the June 26, 2017 work session Council requested staff to review the Town's Flea Market Ordinance relating to the licensing fees.

Council Discussion: Council is requested to discuss if the Town should change licensing fees for flea markets to a flat annual licensing fee versus the per vendor fee that is currently associated with flea markets.

Staff Evaluation: Currently, Town of Front Royal municipal code 98-46 requires every vendor who is engaged in the sale or display of goods at a flea market to purchase a license and display the license. For every license to sell or display antiques or used or second-hand goods at a flea market there is a \$10 per year license tax or a \$1 per day license tax.

Frederick County does not have a per vendor fee for flea markets and charges the flea market an annual license fee of \$500 as a whole.

Budget/Funding: Revenue collected from business licensing may be effected

Legal Evaluation: Ms. Linda Henry had earlier asserted at a Town Council Work Session that her father and a previous Town Attorney had agreed years earlier that Town Code Section 98-46 was illegal and unenforceable, and as a result, she and her vendors had not been paying the license tax imposed therein since that time. Ms. Henry was unable to state the legal or factual basis for this assertion. I have researched this matter and have to been able to confirm that there is any illegality to Town Code Section 98-46, but rather, this ordinance does appear to meet the requirements of the Code of Virginia's enabling legislation and thus, Section 98-46 does appear to be legal and enforceable. Likewise, a flat \$500 flea market licensing fee would be legal and enforceable, as Va. Code § 58.1-3717.C states: *"Any tax imposed pursuant to § [58.1-3703](#) on peddlers and itinerant merchants shall not exceed \$500 per year."*

Staff Recommendations: Staff recommends to set a flat \$500 flea market licensing fee to the owner of the flea market that would cover all vendors who sell or display antiques or used or second-hand goods at the flea market.

Planning Commission Recommendation: (Input from Planning Commission, if applicable)

Town Manager Recommendation: (The Town Manager will provide input on the issue and make his recommendations to council.)

Council Recommendation:

☐ Additional Work Session
 ☐ Regular Meeting
 ☐ No Action



TOWN CODE

SECTION 98-46 FLEA MARKETS

A. As used in this section, the following terms shall have the meanings indicated:

FLEA MARKET - An assembly of vendors, selling new or used goods in the open air or within temporary structures, who display and sell their wares on the lands of another for a consideration.

B. Every vendor who is engaged in the sale or display of goods at a flea market shall be required to purchase a license and display the license in a prominent place visible to the public. For every license to sell or display antiques or used or second-hand goods at a flea market, there shall be paid a license tax of ten dollars (\$10.) per year or one dollar (\$1.) per day. Every vendor of new goods at the flea market shall be deemed a peddler or itinerant merchant and shall pay such license tax as is applicable to peddlers under the provisions of Section 98-61. Such license taxes shall not be prorated. Upon application to and approval by the Town Council, no license shall be required of a nonprofit organization that sells or displays goods at a flea market so long as the proceeds of sale are retained by the nonprofit organization and not shared with other persons, businesses or organizations. The following regulations shall govern the conduct of flea markets:

(Ord. No. 12-86 Added "Peddler" 7-28-86-Effective Upon Passage)

§ 58.1-3702. Authority of counties, cities and towns. — The provisions of this chapter shall be the sole authority for counties, cities and towns for the levying of the license taxes described herein.

Except as provided herein, the governing body of every county, city and town that levies such license tax may impose the tax on the gross receipts or the Virginia taxable income of the business. Virginia taxable income shall be calculated pursuant to the provisions of § 58.1-322 or 58.1-402, whichever is applicable to the business. Throughout this chapter, except in § 58.1-3731, wherever the term "gross receipts" is used, the term "Virginia taxable income" shall be substituted whenever a county, city or town selects it as the base on which to levy the license tax.

CODE OF VIRGINIA

Va. Code § 58.1-3710. Proration of license taxes. —

A. Notwithstanding any other provision of law, general or special, and regardless of the basis or method of measurement or computation, no county, city or town shall impose a license tax based on gross receipts on a business, trade, profession, occupation or calling, or upon a person, firm or corporation for any fraction of a year during which such person, firm or corporation has permanently ceased to engage in such business, trade, profession, occupation or calling within the county, city or town. In the event a person, firm or corporation ceases to engage in a business, trade, profession or calling within a county, city or town during a year for which a license tax based on gross receipts has already been paid, the taxpayer shall be entitled upon application to a

refund for that portion of the license tax already paid, prorated on a monthly basis so as to ensure that the licensed privilege is taxed only for that fraction of the year during which it is exercised within the county, city or town. The county, city or town may elect to remit any refunds in the ensuing fiscal year, and may offset against such refund any amount of past-due taxes owed by the same taxpayer. In no event shall a county, city or town be required to refund any part of a flat fee or minimum flat tax.

B. Notwithstanding subsection A and any other provision of law, general or special, in the event that a person, firm, or corporation ceases to engage in a business, trade, profession, or calling in one year for which a license is based on gross receipts, but the person, firm, or corporation indicates to the county, city, or town that it intends to settle outstanding, existing business accounts in the year following the year in which it ceased to do business, such person, firm, or corporation shall be authorized to pay a license tax based on an estimate of gross receipts for such year, instead of a license tax based on the previous year's gross receipts. Such tax shall be subject to adjustment to the correct tax at such time as all accounts are closed. If the estimate submitted pursuant to this subsection is found to be unreasonable under the circumstances, a penalty of 10 percent of the additional license tax assessed shall be assessed. If a person, firm, or corporation that is subject to an estimated license tax under this subsection is found to continue to operate the business, for which it gave notice of the cessation of operations, during the year for which it is subject to the estimated license tax, the person, firm, or corporation shall be required to pay the full amount of the license tax due based on the previous year's gross receipts plus a penalty of 10 percent of this amount, provided that the 10 percent penalty for an unreasonable estimate of gross receipts shall not be assessed.

Va. Code § 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of authority. —

A. The governing body of any county, city or town may charge a fee for issuing a license in an amount not to exceed \$100 for any locality with a population greater than 50,000, \$50 for any locality with a population of 25,000 but no more than 50,000 and \$30 for any locality with a population smaller than 25,000. For purposes of this section, population may be based on the most current final population estimates of the Weldon Cooper Center for Public Service of the University of Virginia. Such governing body may levy and provide for the assessment and collection of county, city or town license taxes on businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaged therein within the county, city or town subject to the limitations in (i) subsection C and (ii) subsection A of § [58.1-3706](#), provided

such tax shall not be assessed and collected on any amount of gross receipts of each business upon which a license fee is charged. Any county, city or town with a population greater than 50,000 shall reduce the fee to an amount not to exceed \$50 by January 1, 2000. The ordinance imposing such license fees and levying such license taxes shall include the provisions of § [58.1-3703.1](#).

B.

C. No county, city, or town shall impose a license fee or levy any license tax:

1. ...

2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of such county, city or town, provided such products are grown or produced by the person offering them for sale;

3. ...

4. ...

5. 6. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in such county, city or town. This subdivision shall not be construed as prohibiting any county, city or town from imposing a local license tax on a peddler at wholesale pursuant to § [58.1-3718](#);

7. ...

8. [Repealed.]

9. ...

10. ...

11. On any insurance company subject to taxation under Chapter 25 (§ [58.1-2500](#) et seq.) of this title or on any agent of such company;

12. ...

13. ...

14. ...

15. [Expired.]

16. [Repealed.]

17. ...

18. a. On or measured by receipts of a nonprofit organization described in Internal Revenue Code § 501(c)(3) or 501(c)(19) except to the extent the organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Code § 511 et seq. For the purpose of this subdivision, "nonprofit organization" means an organization that is described in Internal Revenue Code § 501(c)(3) or 501(c)(19), and to which contributions are deductible by the contributor under Internal Revenue Code § 170, except that educational institutions exempt from federal income tax under Internal Revenue Code § 501(c)(3) shall be limited to schools, colleges, and other similar institutions of learning.

b. ...

19. ...

20. ...

21. ...

D. ...

E. ...

Va. Code § 58.1-3717. Peddlers; itinerant merchants. —

A. For the purpose of license taxation pursuant to § [58.1-3703](#), any person who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same, or actually sell or barter the same, shall be deemed to be a peddler.

B. For the purpose of license taxation pursuant to § [58.1-3703](#), the term "itinerant merchant" means any person who engages in, does, or transacts any temporary or transient business in any

locality and who, for the purpose of carrying on such business, occupies any location for a period of less than one year.

C. Any tax imposed pursuant to § [58.1-3703](#) on peddlers and itinerant merchants shall not exceed \$500 per year. Dealers in precious metals shall be taxed at rates provided in § [58.1-3706](#).

D. This section shall not apply to a peddler at wholesale or to those who sell or offer for sale in person or by their employees ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale. A dairyman who uses upon the streets of any city one or more vehicles may sell and deliver from his vehicles, milk, butter, cream and eggs in such city without procuring a peddler's license.

E. The local governing body imposing such tax may by ordinance designate the streets or other public places on or in which all licensed peddlers or itinerant merchants may sell or offer for sale their goods, wares or merchandise.

F. Any locality that requires a peddler or itinerant merchant to display its license at its vehicle or temporary place of business shall provide to the peddler or itinerant merchant a decal, sticker, or other adhesive label that satisfies such requirement.

1999 Va. ATTORNEY GENERAL'S OPINION 199

Summary: Governing body may adopt by ordinance reasonable and uniformly applied definition of term "occasional" for purposes of food and beverage tax exemption.

November 30, 1999

You ask whether, pursuant to § [35.1-25](#)(3) of the *Code of Virginia*, an organization which holds five dinners a year to raise money for its charitable causes is exempt from a food and beverage tax levied under § [58.1-3833](#). You ask specifically for an interpretation of the word "occasional" in § [35.1-25](#)(3).

Section [58.1-3833](#)(A) provides:

Any county is hereby authorized to levy a tax on food and beverages sold, for human consumption, by a restaurant, as such term is defined in subdivision 9 of § [35.1-1](#) Such

tax shall not be levied on food and beverages sold . . . by any person described in subdivisions 1, 2, 3, and 5 of § 35.1-25 . . .

Section 35.1-25(3) contains the following description:

Churches, fraternal, school and social organizations, and volunteer fire departments and rescue squads which hold occasional dinners, bazaars, and other fund raisers of one or two days' duration, at which [Page 200] food prepared in the homes of members or in the kitchen of the church, school or organization is offered for sale to the public[.]

While the term “occasional” clearly implies an infrequent as opposed to a regular activity, neither § 58.1-3833 nor § 35.1-25 defines the term. Section 58.1-3833(A) does provide, however, that the food and beverage tax “shall be effective in an amount and on such terms as the governing body may by ordinance prescribe.” It is my opinion that this language permits the governing body to adopt a reasonable and uniformly applied definition of the term “occasional.” I note that the Department of Taxation has adopted regulations interpreting the term “occasional sale” for purposes of the exemption for an “occasional sale” under § 58.1-609.10(2) of the Virginia Retail Sales and Use Tax Act.¹ The regulations provide that a nonprofit organization “not regularly engaged in selling tangible personal property is not required to . . . collect the tax on its sales provided it makes sales on three or fewer separate occasions within the calendar year.”²

A locality likewise may establish a numerical definition of the term “occasional” for purposes of the food and beverage tax. The local standard need not be the same as the standard established by the Department of Taxation in defining “occasional sale.” The Department of Taxation's definition is consistent with the principle that statutes granting exemptions from the state sales and use tax are to be narrowly construed.³ On the other hand, statutes granting taxing power to localities are also to be narrowly construed.⁴ This distinction would justify a county establishing a standard less strict than the one established by the state sales and use tax regulations.⁵

FOOTNOTES

¹ Sections 58.1-600 to 58.1-639. Section 58.1-602 defines “occasional sale” as “a sale of tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration.” A nonprofit organization that regularly sells tangible personal property is required to register as a dealer, unless specifically exempted by statute. See 23 VAC 10-210-1070(A) (Law. Coop. 1996).

² 23 VAC 10-210-1072(C) (Law. Coop. 1996). This regulation further provides that “sales made at fairs, flea markets, festivals and carnivals are not considered occasional sales.” *Id.*

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TIMELINE

March 23, 2011 -Richard Wagner came into the Planning & Zoning who spoke with Richard Kurzenkabe who was concerned that he was required to obtain a \$500 peddler license but others at the flea market selling similar wares were not required to do so. Richard explained that every situation was different and that we have no way to enforce a failure to obtain the license at the flea market. Richard emails B.J. Wilson with the information & explains that Richard does not work weekends to be able to enforce at the flea market.

March 25, 2011 -B.J. Wilson speaks with Richard Wagner. Mr. Wagner requests a refund of his \$500 business license because the Town is not enforcing the license fee on anyone else. B.J. explains that no refund will be given because Mr. Wagner is doing business as a peddler and has been properly licensed.

March 25, 2011 -P & Z Director Bruce Drummond & Richard Kurzenknabe mention possibly switching Richard from a weekday to working a Saturday and walking the flea market to see if anyone requires a peddler's license. Richard mentions that 98-61(G) indicates that the police and other officers of the Town are responsible for enforcement. Richard explains that officers are empowered on the spot where as Richard would need to send notices and go to the magistrate, the process for Richard to enforce would be over a 30 day period.

March 29, 2011 -Police Chief Richard Furr proposes to assign a patrol officer to Saturday morning detail to work with Richard Kurzenknabe, the officer could come in with plain clothes on, scope out the flea market & come back with summons. Tom Robinette, Town Attorney, is copied on the email to see if there are any problems on issuing summons. Tom Robinette replied that he was unclear on the problem and requested a meeting

October 21, 2011 - Mr. Andricks purchased 500 flea market permits

January 9, 2012 -Steve Burke sends email with recommended modifications to peddler code, notes that 138-15G language was added requiring Flea Market Manager to check for merchant business licenses, many other changes to Town code for peddlers are also being recommended.

February 7, 2012 - Steve Burke sends email to town council of staff recommending increasing the BPOL for flea markets from \$500 to \$2,000.

February 8, 2012 -Kim Gilkey Breeden sends the legal office details on the BPOL fees paid by the flea market. The flea market is taxed as a retail license, not a peddler, and thoughts were floating to raise the daily flea market license fee from \$1.00 to \$10.00 per day, to be paid by the individual vendors.

February 21, 2012 -Flea market fees are discussed at work session, staff recommends raising business tax for flea markets from \$500 to \$2,000. After some discussion Mayor Darr requests that the issue return to the next work session with several options to address council concerns with appropriate amendments. The concerns were people not obtaining peddler licenses & not being fair to the brick & mortar businesses, possibly only allowing the sale of used merchandise at the flea market.

March 20, 2012 -Aletha Ross with Lee's Concession left B.J. Wilson a voice mail concerning a trailer parked at the flea market and the Town telling her the trailer must be moved at night. The new ordinance would require Mrs. Ross to move the trailer at night, Mrs. Ross was concerned that she paid an electrician to hard wire the trailer, so the trailer could not be moved. Jeremy Camp speaks with Mrs. Ross & explains that section 98-46.B.3 "currently" does not permit overnight trailers at the flea market.

March 26, 2012-April 9, 2012 -following emails transpire

From: George Sonnett [<mailto:gsonnett@frontroyalva.com>]
Sent: Monday, April 09, 2012 6:13 PM
To: Steve Burke <sburke@frontroyalva.com>
Cc: Kim Gilkey-Breeden <kgilkeybreeden@frontroyalva.com>; Doug Napier <dnapier@frontroyalva.com>; Jeremy Camp <jcamp@frontroyalva.com>
Subject: RE: Peddlers, etc

Steve,

The operator of the flea market is not a peddler, so the business is taxed on gross receipts. Kim will have to provide the rate currently being assessed per \$100 of gross receipts. §98-46 of the Town Code addresses the license fee to be paid by "vendors". The "vendors" are "peddlers" or "itinerant merchants", and are the licensees of the flea market operator. The license fees enumerated in §98-46 could be increased from \$1.00/day & \$10.00/annual to whatever Council passes, so long as it does not exceed \$500.00/year per §58.1-3717. My previous suggestion was to eliminate the daily rate option and increase the annual fee.

George

From: Steve Burke [<mailto:sburke@frontroyalva.com>]
Sent: Monday, April 09, 2012 4:47 PM
To: George Sonnett
Cc: 'Kim Gilkey-Breeden'; dnapier@frontroyalva.com; Jeremy Camp
Subject: Re: Peddlers, etc

George,

So, we proceed with a \$500 business tax for the operation of a flea market. There is no table fee.

Steve

Steven Burke, PE
Town Manager
Town of Front Royal
PO Box 1560
(540) 635-8007(O)
(540) 636-7475(F)
sburke@frontroyalva.com
<http://www.frontroyalva.com>
<http://www.discoverfrontroyal.com/>

On 4/9/2012 4:23 PM, George Sonnett wrote:

Steve,

Getting back to this issue, I believe §58.1-3706 governs. I believe that section requires that business license taxes be based on one of the enumerated gross receipt rates unless the business falls within one of the specified business types. I do not believe flea markets fall within any of those exceptions to the gross receipts requirement, but I defer to Kim. If I am correct, a \$2,000.00 annual tax on flea markets is not permitted.

George

From: George Sonnett [<mailto:gsonnett@frontroyalva.com>]

Sent: Wednesday, March 28, 2012 5:48 PM

To: Steve Burke <sburke@frontroyalva.com>

Cc: Kim Gilkey-Breeden <kgilkeybreeden@frontroyalva.com>; Doug Napier <dnapier@frontroyalva.com>

Subject: RE: Peddlers, etc-- legal opinion

Steve,

Yes, I believe §58.1-3706(A)(4) places a tax limit of thirty-six cents per \$100 of gross receipts. So, yes, I believe we are at \$30 for the license fee plus the gross receipts tax. I advocate doing away with the \$1.00 daily rate option and increasing the \$10.00 yearly rate.

George

From: Steve Burke [<mailto:sburke@frontroyalva.com>]

Sent: Monday, March 26, 2012 4:06 PM

To: George Sonnett

Cc: 'Kim Gilkey-Breeden'; dnapier@frontroyalva.com

Subject: Re: Peddlers, etc

George,

Is there any specific limit on the tax for a flea market operator. The operator is not a peddler or itinerant merchant, rather the offer leased space to other vendors?

I am still inclined to favor a \$2000 business tax for operating a flea market unless state legislation restricts. The \$30 license plus gross receipts takes us straight back to the \$1 a table fee.

Steve

Steven Burke, PE

Town Manager

Town of Front Royal

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<http://www.discoverfrontroyal.com/>

On 3/26/2012 3:49 PM, George Sonnett wrote:

Steve,

While researching other issues in the taxation chapter of state code, I came across §58.1-3703 which addresses local business license taxes and fees, and §58.1-3717 & §58.1-3719 addressing peddlers and itinerant merchants. I thought you should be aware of several provisions as the Town moves forward on peddlers/flea markets/farmers markets:

-generally, the fee charged by a locality for issuing a license is capped at \$30.00 for localities "with a population smaller than 25,000";

-no town shall impose a license fee or levy a license tax "for selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of such county, city or town, provided such products are grown or produced by the person offering them for sale";

-"any tax imposed pursuant to §58.1-3703 on peddlers and itinerant merchants shall not exceed \$500 per year" (emphasis added);

-"any license tax imposed on peddlers or itinerant merchants ... shall not apply to: ... 4. A farmer or producer of agricultural products who sells only the farm or agricultural products produced or grown by him".

I believe that the Town's only flea market operator was issued a \$30 business license and is subject to a gross receipts tax. I do not know which license class we are using for tax rate purposes.

Let me know if you have specific questions requiring research.

George

April 23, 2012 -Lynda Andricks speaks with Steve Burke regarding a vendor who wanted to sell new merchandise at the flea market. Mrs. Andricks was concerned that it took the vendor an hour to obtain a license and the vendor was charged a \$10 fee from planning & zoning. Steve emailed staff requesting a flowchart be developed to simplify the process for future businesses.

April 23, 2012 -B.J. Wilson speaks with Lynda Andricks, Mrs. Andricks B.J. explains to Mrs. Andricks that the \$10 zoning fee is necessary because the vendor is selling new merchandise and would be classified as a peddler. Mrs. Andricks then disputed the \$500 peddler charge for vendors selling new merchandise and/or food. Mrs. Andricks requested the Town provide her with a list of instructions for her vendors and we provide her with a list of specific items that would be prohibited at the flea market.

April 30, 2012 -A list of instructions for flea market vendors is created by Town staff. The list shows that a daily license for flea market vendors is required for the sale of second hand goods and the charge is \$1.00 per day. The list also goes into other categories such as perishable goods, new merchandise, fireworks, etc.

May 8, 2014 -Mr. Wagner, a vendor at the flea market, contacted Steve Burke regarding an incorrect tax assessment from the Commissioner of Revenue's Office, lack of enforcement by the Flea Market proprietor to require vendors to obtain a business license when necessary, not self policing issuance of single day permits, and that the Flea Market & Town are discriminating against his race. Steve Burke told Mr. Wagner that the Town would follow up on his complaint and scheduled a meeting with Town staff to discuss.

July 5, 2015 -Steve Burke receives complaint from a Councilman that a vendor appears to be operating from the flea market all week, Steve requests that Jeremy/Robbie check into the complaint.

March 31, 2017 -Richard Wagner, vendor at the flea market, contacts B.J. Wilson regarding a letter that Mr. Wagner received from the Town for not obtaining a business license. Mr. Wagner feels that the Town is discriminating against him as a Native American because the Town is attempting to enforce laws on him and not others. Mr. Wagner states that he will not obtain another business license from the Town until the Town enforces laws at the flea market equally. B.J. passes this information along to other Town staff because the planning commission was working on Mrs. Andrick's request to open the flea market on Fridays.

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Town of Front Royal, Virginia
Work Session Agenda Form

Date: July 17, 2017

Agenda Item: Continued Discussion of Property Maintenance and Rental Inspection Program
Director of Planning & Zoning

Summary: Attached with this coversheet is a DRAFT amendment to the Town Code (See Attachment A). This draft amendment would accomplish the following:

- Establishment of a maintenance code that is applicable Town-wide; and,
- Establishment of a rental inspection program, within the central portion of the Town, as identified on the attached map (Attachment B).
- The amendment also makes other minor code changes associated with the above, and reaffirms Warren County as the current building inspections department for the Town, something that the current Town Code does not adequately address.

On July 20, 2016, the Planning Commission held an initial public hearing/public information meeting regarding the possibility of establishing a property maintenance code and/or rental inspection district program within the Town. This public hearing was scheduled after the topic was referred to the Planning Commission by Town Council, and following development of a study area for a potential rental inspection program. During the initial public hearing, six (6) members of the public spoke in favor of the concept and one (1) member of the public spoke in opposition. Following this first public hearing, the Planning Commission created the attached DRAFT amendment to the Town Code with assistance from Town Staff and input from the Warren County/Town Building Official. The draft was created to comply with Virginia Code §36-105 and §36-105.1:1.

On November 30, 2016, the Planning Commission held a second public hearing with the draft ordinance. During this meeting the Planning Commission passed a motion to “*recommend adoption of Ordinance Amendment ORD16-09-227, to establish a rental inspection district in the Town, as identified on the map titled “Front Royal Downtown Rental Inspection District”; to establish a property maintenance code for the entire town; and other minor changes to Chapter 9, as submitted.*” The recommendation included the necessary findings of fact, as listed under Section 9-300 in the draft ordinance amendment, and a reference to the Virginia Code’s definition of blight. A draft set of guidelines is attached for information purposes (See Attachment C).

Council Discussion: This agenda item was in a work session review on July 3, 2017. It will be a continuation of discussions that were tabled earlier in the year.

Budget/Funding: Town Council included funds (\$58,000) for 1 FT and 1 PT position, for half of the year, in the FY 2017/2018 Budget. A comparison of similar Towns is attached (See Attachment D) with data on staffing levels.

Staff Evaluation: Town Staff will be available at the work session for questions.

Legal Evaluation: The Town Attorney will be available at the work session for questions.

Town Manager: The Town Manager will also be available at the work session for questions.

Council Recommendations:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
 Consensus Poll on Action: ____ (Aye) ____ (Nay)

Work Session



DRAFT AMENDMENT

"Building Code, Maintenance Code, and Rental Inspections" (4)

This draft amendment to the Town Code proposes the adoption of the Virginia Maintenance Code (2012); establishment of a Property Maintenance Code Official; and creation of a Residential Rental Inspection District. The following language also includes the existing provisions of Chapter 9 and language that reserves the Town's right to establish a Building Department and designates Warren County to administer the building code, as previously established by an agreement in 1983, until such time that the Town may establish a building department.

START -----

Chapter 9

BUILDINGS BUILDING CODE, MAINTENANCE CODE AND RENTAL INSPECTIONS

9-1 ~~REMOVAL, REPAIR, ETC., OF CERTAIN BUILDINGS AND STRUCTURES~~

[remove in full]

9-2 REMOVAL, REPAIR, ETC., OF BUILDINGS AND OTHER STRUCTURES HARBORING ILLEGAL DRUG USE

[relocate to Chapter 145-4 in full]

ARTICLE 1: BUILDING CODE REGULATIONS

9-100 BUILDING CODE

A. In accordance with the Code of Virginia § 36-105, the Town of Front Royal hereby reserves its authority to establish a Town Building Department, and a Local Board of Building Code Appeals (LBBCA), herein referred to generally as the "Board of Appeals," to administer and enforce the mandatory provisions of the Virginia Uniform Building Code, including Part I, Construction Code, and Part II, Rehabilitation Code, and including future amendments thereto, and all codes incorporated by reference therein. Such codes shall generally be referred to herein generally as the "Building Code."

B. Under the provisions of this Chapter, Town Council may elect to pass a resolution to officially establish a Town Building Department to administer and enforce the Building Code. Such resolution shall also include the establishment of a Board of

Appeals, as described further herein. Upon adoption of such resolution of Town Council the Town hereby adopts the Building Code, and all such duties and requirements specified therein.

C. Until such time that the Town elects to establish a Town Building Department and Town Board of Appeals, the Town shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or an approved state agency for such administration, enforcement and appeals resulting therefrom.

(1) The February 8, 1983 agreement with Warren County shall remain in effect at the passing of this ordinance until such time that the agreement is terminated, renewed or amended. This agreement establishes Warren County as the Building Department for the Town, including the Warren County Board of Building Code Appeals as the appeals board for the Town.

D. At such time that Town Council may establish a Building Department and Board of Appeals, the Town Manager shall appoint a Building Official to administer and enforce the Building Code. Such Building Official shall meet the required qualification and certification requirements, and shall maintain all permanent records of the Building Department, including applications received, permits, certificates, notices and orders issued, fees collected and reports of inspection in accordance with the Library of Virginia's General Schedule Number Six. The Building Official shall administer and enforce the Building Code, and may establish procedures and policies as may be necessary for such administration and enforcement. All codes and procedures shall be made available for the public to view and/or obtain copies from the office of the Building Official during established normal business hours.

E. As specified under Subsection B, Town Council shall appoint five (5) members to a Board of Appeals upon adoption of a Town Building Department. The membership of the Board shall be established in compliance with the following requirements, unless more stringent requirements are required by the Building Code.

(1) All members of the Board of Appeals shall live within Warren County, Virginia, and at least three (3) members shall reside within the Town.

(2) Town Council may appoint two (2) alternate members who shall be called by the board chair to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

(3) At least three (3) members shall have no less than five (5) years knowledge and experience in the construction industry. Members that do not have knowledge and experience in the construction industry shall have an

equivalent experience in the real estate, law, architecture, or engineering professions.

(4) No employee or official of the Town may serve as a Board Member.

(5) Compensation, meeting dates, voting procedures, officers, term limits and other procedures of the Board of Appeals shall be established in by-laws that are approved by Town Council.

(6) The Board of Appeals shall be used as the appeals board for the Virginia Maintenance Code and Rental Inspection Program.

(7) The Board of Appeals shall be reviewed by the Virginia Department of Housing and Community Development.

ARTICLE 2: MAINTENANCE CODE REGULATIONS

9-200 ADOPTION OF MAINTENANCE CODE

A. To ensure the protection of the public health, safety and welfare, the Town hereby adopts the optional provisions of the Virginia Uniform Building Code, including Part III, Virginia Maintenance Code, future amendments thereto, and including codes incorporated by reference therein, herein also generally referred to generally as the "Maintenance Code," as related to building regulations that facilitate the maintenance, rehabilitation, development and reuse of existing buildings at the least possible cost to ensure the protection of the public health, safety and welfare of Town residents. Furthermore, in accordance with §36-99 of the Code of Virginia, the purpose of this code is to protect the health, safety and welfare of the residents of the Commonwealth of Virginia, provided that buildings and structures should be permitted to be maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provision necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for the physically handicapped and aged.

B. The Town Manager shall appoint a Maintenance Code Official to administer and enforce the Virginia Maintenance Code. The Maintenance Code Official shall meet the required qualifications, certification requirements, and training requirements of the Maintenance Code. All codes, policies and procedures shall be made available for the public to view and/or obtain copies from the office of the Maintenance Code Official during established normal business hours.

C. The Town shall appoint a Board of Appeals to consider all appeals that may arise from the provisions of this Article. Such Board of Appeals shall be established

under the criteria found within Chapter 9, Section 100, Subsection E. Alternatively, the Town may elect to use the Board of Appeals used by another county or municipality, or with some other agency, provided that an agreement is entered into with the appropriate local government board, or an approved state agency.

ARTICLE 3: RENTAL INSPECTIONS

9-300. FINDINGS.

Town Council has found that within the residential rental inspection districts established herein, each of the following conditions exist:

- A. There is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the residential rental inspection district described and established herein;
- B. The residential rental dwelling units in the residential rental inspection district are in need of inspection to prevent deterioration, taking into account the number, age and condition of the residential dwelling rental units inside the residential rental inspection district; and
- C. The inspection of residential rental dwelling units inside the residential rental inspection district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the residential rental inspection district.
- D. The Town Council has further found that, for each of the individual residential rental dwelling units described in section 9-301 of this article, one (1) of the following conditions exists:
 1. There is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit;
 2. The individual dwelling unit is either blighted or in the process of deteriorating; or
 3. There is evidence of violations of the Building Code that affect the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit

9-301. APPLICABILITY.

- A. The provisions of this article shall apply to all rental dwelling units within a residential rental inspection district designated by Town Council and to individual residential dwelling units outside designated residential rental inspection districts made subject to this article, as provided by Virginia Code § 36-105.1:1(B)(3).
- B. A residential rental inspection district, as shown on the map labeled "Rental Inspection Districts 20__" and filed in the Town Clerk's office on _____, 20__,

is hereby established and made subject to the requirements of this article. Maps detailing this residential rental inspection district shall be available in the office of the Maintenance Code Official.

- C. The following individual rental dwelling units that are outside the residential rental inspection district are hereby made subject to this article:

(1) *Reserved*

- D. Town council may designate additional residential rental inspection districts or make other individual residential rental units outside the residential rental inspection district subject to this article after notice and a public hearing thereon, as provided by Virginia Code § 36-105.1:1. A separate finding for each individual dwelling unit shall be made by the local governing body prior to designation of individual residential rental units outside of a residential rental inspection district that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit; (ii) the individual dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the Building Code that affect the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit.

9-302. IMPLEMENTATION; NOTIFICATION REQUIREMENT FOR OWNERS.

- A. The owner of any dwelling unit within a residential rental inspection district shall notify the Maintenance Code Official in writing if such dwelling unit is used for rental purposes. Such notice shall be provided within ninety (90) days of adoption of this chapter; or within ninety (90) days of the transfer of ownership or a change. No fee shall be required for such notification by the owner; nor shall there be a penalty for not providing said notification within the ninety (90) days period.

- B. The Maintenance Code Official may develop a form for such notification requirement that includes the following information: (i) the address and a brief description of the rental dwelling unit; (ii) the name, street address and telephone number of the owner of the property; (iii) the name, street address and telephone number of the managing agent, if any; (iv) the number of people who occupy each dwelling unit, and (v) the family status of the occupants. Such form shall not require the name or social security number of any tenant.

- C. If the Maintenance Code Official has reason to believe that an owner has failed to provide the required notice of a residential rental dwelling unit within the residential rental inspection district, or any other individually designated properties subject to this article, he or she shall provide a written notice to the owner setting a seven (7) day deadline for the owner to provide such written notification. The penalty for the willful failure of an owner of a dwelling unit who is using the dwelling unit for residential rental purposes to comply with the written notification requirement shall be a civil penalty of fifty dollars (\$50.00) per unit. For purposes of this section, notice from the Maintenance Code Official sent by regular first class mail to the last known address of the owner as shown on the current real estate tax assessment

books or current real estate tax assessment records shall be deemed compliance with this requirement.

9-303. RENTAL CERTIFICATE OF COMPLIANCE REQUIRED.

No owner or managing agent shall rent or offer to rent a residential rental dwelling unit within a residential rental inspection district or an individual residential rental dwelling outside a residential rental inspection district that is subject to this article without a rental certificate of compliance therefor, issued after a satisfactory inspection of the property by the building official or his or her designee.

9-304. INSPECTIONS, GENERALLY.

A. The Maintenance Code Official shall cause an inspection to be made of each rental dwelling unit located within a residential rental inspection district, within four (4) years of the designation of the residential rental inspection district for compliance with the provisions of the Maintenance Code that affect the safe, decent and sanitary living conditions for the tenants of such property. The Maintenance Code Official is hereby authorized to establish schedules to accomplish the inspection of dwelling units in different areas within the residential rental inspection district. The Maintenance Code Official shall inspect any individual residential rental dwelling unit that is outside a residential rental inspection district within ninety (90) days of the date the dwelling unit is made subject to this article. After such inspection, the owner and the managing agent, if any, will be provided with a list of any violations found and the date by which such violations must be corrected. Following the initial inspection of a residential rental dwelling unit subject to this article, the Maintenance Code Official may inspect any residential rental dwelling unit in a residential rental inspection district, not otherwise exempted, annually.

B. Upon a determination that a rental dwelling unit is in compliance with the provisions of the existing structure regulations of the Maintenance Code, a rental certificate of compliance shall be issued to the owner. No certificate shall be issued until all inspection fees are paid. The certificate shall be valid for a term of four (4) years. Upon the initial or periodic inspection of a residential rental dwelling unit subject to this article for compliance with the Maintenance Code, the property shall be exempt from this article's inspection requirements for four (4) years, provided there are no building code violations that affect the safe, decent and sanitary living conditions for the tenants of the residential rental dwelling unit. However, upon the sale of a residential rental dwelling unit, the Maintenance Code Official may perform an inspection of the dwelling unit. Residential rental dwelling units shall be exempt from the inspection requirement of this article for four (4) years from the date of issuance of a certificate of occupancy or rental certificate for the unit by the Maintenance Code Official. Any inspection exemption granted for a rental dwelling unit prior to _____, 20____, shall be valid for the period as initially granted, unless revoked as provided herein.

C. There shall be no fee for the initial inspection required by this article or the first re-inspection. If all violations are not corrected at the time of the first re-inspection, then the fee for the second and any subsequent re-inspection for the original violation shall be one hundred dollars (\$100.00).

D. The Maintenance Code Official, or his or her duly authorized agent, shall have the right to inspect any rental dwelling unit within a residential rental inspection district or other individual residential dwelling units subject to this article at any reasonable time, in order to carry out an inspection required by this section. The owner, managing agent, occupant, or other person in charge of the premises shall permit the Maintenance Code Official, or his or her duly authorized agent, access to any dwelling unit within a residential rental inspection district or any individual residential dwelling unit subject to this article for the purpose of conducting an inspection authorized by this article. In the event the Maintenance Code Official or his or her authorized agent is denied access to a dwelling unit, he or she may apply for an administrative search warrant in order to gain access to the premises.

E. Nothing in this article shall prohibit an inspection of any residential rental dwelling unit or individual residential dwelling unit subject to this article for a violation of the Virginia Uniform Statewide Building Code, pursuant to a complaint, as required herein.

F. The owner or managing agent may appeal the Maintenance Code Official's determination of a violation of the Maintenance Code to the Board of Appeals.

9-305. INITIAL AND PERIODIC INSPECTIONS OF MULTI-FAMILY DWELLING UNITS.

A. If a multi-family development has more than ten (10) dwelling units, in the initial and periodic inspections, the Maintenance Code Official shall inspect not less than two (2) and not more than ten (10) percent of the dwelling units of that multi-family development, which includes all of the multi-family buildings which are part of that multi-family development. However, no inspection fee shall be charged for more than ten (10) dwelling units. Two (2) family dwellings and multi-family dwelling units with three (3) to nine (9) dwelling units are not exempt from the inspection requirements of this article.

B. The inspected dwelling units of a multi-family development shall be selected by the Maintenance Code Official. At the time of inspection, no violations of the Virginia Uniform Statewide Building Code shall exist. If the Maintenance Code Official determines upon inspection of the sampling of dwelling units that there are violations of the Maintenance Code that affect the safe, decent and sanitary living conditions for the tenants of such multi-family dwelling unit, the Maintenance Code Official may inspect as many dwelling units as necessary to enforce the Maintenance Code.

C. If the dwelling units that are inspected are in compliance with the provisions and all other applicable codes and ordinances, then a rental certificate of compliance shall be issued as provided herein.

D. Nothing in this section shall serve to exempt the owner, managing agent, or tenant of a multi-family dwelling unit from compliance with all applicable statutes, laws, and ordinances, including the Virginia Uniform Statewide Building Code.

9-306. REVOCATION OF EXEMPTION FROM INSPECTION.

A. The Maintenance Code Official may revoke an inspection exemption granted pursuant to Chapter 9-307(b) upon finding that the residential rental dwelling unit is in violation of the building code during the exemption period.

B. Before revoking an exemption, the Maintenance Code Official shall notify the owner, managing agent, and tenant of the violation, in writing, via first class mail, specifying the nature of the violation; establishing a deadline for correction of the violation, which shall be no less than seven (7) and no greater than thirty (30) days; and stating that the exemption will be revoked on a date certain unless the Maintenance Code Official's determination of the existence of a Maintenance Code violation is appealed to the Board of Appeals. The notice shall also set forth the appeal process as herein established.

9-307. APPEAL.

A. The Board of Appeals designated by Town Council for the Maintenance Code shall serve as the Board of Appeals for all appeals under this article.

B. The owner, managing agent or tenant may appeal a notice of revocation, or other determination related to the Maintenance Code that is made by the Maintenance Official. Such appeals shall be considered by the Board of Appeals designated for the Maintenance Code under Article 2 of this Chapter.

B. If an appeal is filed, inspection exemptions shall remain in effect until the appeal is resolved by the Board of Appeals.

ARTICLE 4: GENERAL

9-400 NONLIABILITY OF PERSONNEL ENFORCING CHAPTER.

Nothing in this chapter or in any code adopted by this chapter shall be construed as imposing upon any Town officer or employee duly authorized to administer or enforce the provisions of this chapter any liability or responsibility for damages to any person injured by a defect in any building construction or other work mentioned herein, or by the installation thereof, nor shall the Town government or any official or employee thereof be held as assuming any such liability or responsibility by reason of inspections authorized by this chapter or certificates of approval issued by the building official or property maintenance code official.

9-401 VIOLATIONS

A. It shall be unlawful for any owner or any other person, firm or corporation to violate any provision of this chapter. Any violation shall be deemed a misdemeanor and any owner or any other person, firm or corporation convicted of a violation shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00). In addition, each day the violation continues after conviction or the expiration of the court-ordered abatement period shall constitute a separate offence. If the violation remains uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation in order to comply with the applicable Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six (6) months of the date of conviction. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute as separate offence. Any person convicted of a second offense, committed within less than five (5) years after a first offence under this chapter shall be punished by confinement in jail for not more than five (5) days and a fine of not less than \$1,000 nor more than \$2,500, either or both. Provided, however, that the provision for confinement in jail shall not be applicable to any person, firm or corporation, when such violation involves a multiple-family dwelling unit. Any person convicted of a second offense committed within a period of five (5) to ten (10) years of a first offense under this chapter shall be punished by a fine of not less than \$500 nor more than \$2,500. Any person convicted of a third or subsequent offense involving the same property committed within ten (10) years of an offense under this chapter after having been at least twice previously convicted, shall be punished by confinement in jail for not more than ten (10) days and a fine of not less than two thousand five hundred dollars (\$2,500.00) nor more than five thousand dollars (\$5,000.00), either or both. No portion of the fine imposed for such third or subsequent offense committed within ten (10) years of an offense under this chapter shall be suspended.

B. Any prosecution under this section shall be commenced within the time specifications provided under Virginia Code § 19.2-8.

9-402 PERMIT FEES.

A. Town Council reserves the right to adopt and publish a schedule of fees for services rendered by either the Building Code Official and/or Maintenance Code Official, and to amend the schedule by separate resolution. Such schedule of fees and any amendment shall be in lieu of any permit fees set forth in any technical code adopted by the Town.

B. No permit as required by the Town by ordinance or regulation shall be issued unless the fee prescribed for the service shall have been paid, nor shall any amendment to such a permit be approved until any additional fee, if any, due to an increase in the estimated cost of the building or structure, shall also have been paid.

9-403 AUTHORITY TO REQUIRE REMOVAL, REPAIR, ETC., OF BUILDING AND OTHER STRUCTURES.

- A. Owners of real property within the Town shall remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the Town.
- B. If an owner fails to do so, the building official may send the owner notice of his or her obligations under this section. Such notice shall be:
- (1) In writing, mailed by certified mail, return receipt requested, sent to the last known address of the property owner; and
 - (2) Published in a newspaper having general circulation in the locality in accordance with the applicable provisions of Code of Virginia §§ 15.2-1426, 15.2-1427.
- C. The Town, through its own agents or employees, may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the Town if the owner and lien holder of the property fails to do so within thirty (30) days following the later of the return of the certified mail receipt or newspaper publication. However, if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice, the Town may take action to prevent unauthorized access to the building within seven days of such notice. Repair of the structure may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings.
- D. In the event the Town, through its own agents or employees removes, repairs or secures any building, wall or any other structure pursuant to this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the Town as taxes and levies are collected.
- E. Every charge authorized by this section which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided Code of Virginia (1950), Title 58.1, Chapter 39, Articles 3 and 4, as amended.
- F. The remedies provided by this section are in addition to, and not in lieu of, any other remedy provided by general law or by the Building Code.

9-404 THROUGH 9-409. Reserved

9-410 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building Code means the applicable provisions of the Virginia Uniform Building Code, Part I, Construction Code, and Part II, Rehabilitation Code, including future amendments thereto, and all codes incorporated by reference therein.

Building Code Official means the person that is employed, contracted, or designated with an agreement from another county, municipality or other agency, that has been appointed by the Town to administer and enforce the applicable provisions of the Building Code, as defined herein.

Conditions which immediately affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit, means physical conditions of a residential rental dwelling unit that violate fire safety; lack of or poor condition of sanitary facilities; absence of implied or expressed heating systems or equipment; items which affect the safe operation of electrical and mechanical systems; items which affect structural integrity of the building and/or the ability of the building envelope to keep out weather, or one or more other conditions that if not corrected would be reasonably expected to become conditions that affect the safe, decent and sanitary living conditions of the occupants.

Day means a calendar day.

Disqualifying violation includes those conditions which affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit, or other conditions that violate the provisions of the Virginia Uniform Statewide Building Code, or multiple Building Code violations that indicate in their totality that the dwelling unit is not being properly maintained.

Dwelling unit, means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation; or, means a building or structure, or part thereof, that is used for a home or residence by one or more persons who maintain a household. The term dwelling unit shall not include hospitals, nursing homes, convalescent homes or similar facilities providing medical care to the aged, infirm or disabled.

Family means one (1) or more persons related by blood, marriage, or adoption, or under approved foster care.

Follow-up inspection, means the inspection of a property made to determine if violations previously cited have been abated.

Group home means a facility for social rehabilitation or substance abuse or mental health problems that contains a group housing arrangement that provides custodial care but does not provide medical care.

Initial inspection, means the first inspection of a residential rental dwelling unit subject to this article.

Maintenance Code means the applicable provisions of the Virginia Uniform Building Code, Part III, Maintenance Code, and all codes incorporated by reference therein.

Maintenance Code Official means the person that is employed, contracted, or designated with an agreement from another county, municipality or other agency, that has been appointed by the Town to administer and enforce the applicable provisions of the Maintenance Code, as defined herein.

Managing agent means any person having the authority, singly or in combination with another, to enter into an agreement for the occupancy of property subject to this article.

Multi-family dwelling, means a building or structure, or part thereof, that is used by three (3) or more families, each in an individual dwelling unit and living independently of each other.

Multiple-family development, means a building or structure, or part thereof, that is used by ten (10) or more dwelling units on the same premises.

Owner, means the person or entity shown on the current real estate assessment books or current real estate assessment records of the Town or the fee simple owner of the property if ownership has changed since such tax assessment records were last updated.

Periodic inspection, means an inspection of a residential rental dwelling unit conducted upon the exemption period for the unit, or after a follow-up inspection which revealed abatement of cited violations.

Premises, a single lot of record under ownership, or multiple contiguous lots of record that are under the same ownership.

Rent means to lease, sublease, let or otherwise grant for consideration the right to occupy a dwelling unit.

Residential rental inspection district, means a rental inspection district designated by the Town council pursuant to this article.

Residential rental dwelling unit, or as generally referred to as a *rental*, means a dwelling unit that is leased or rented to one or more tenants on a month to month basis or for any period in excess of 30 days including, but not limited to, condominiums, manufactured or mobile homes, single-family detached dwellings, duplex dwellings, townhouse dwellings or multifamily dwellings (which shall include efficiency apartments and condominiums). However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom, unless otherwise provided in chapter 175, Zoning, by the Town.

Violations. As applicable to the Maintenance Code, means conditions which affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit include items that violate fire safety; lack of or poor condition of sanitary facilities; absence of adequate heating systems or equipment; items which affect the safe operation of electrical and mechanical systems; items which affect structural integrity of the building and/or the ability of the building envelope to keep out weather, or one or more other conditions that, if not corrected, would be reasonably expected to become conditions that affect the safe, decent and sanitary living conditions of the occupants, or other conditions that violate the provisions of the Maintenance Code, or multiple Maintenance Code violations that indicate, in their totality, the dwelling unit is not being properly maintained. As applicable to the Building Code, means conditions which are in violation of the Building Code, as defined herein.

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Editorial Notes: All language shown in yellow highlight is proposed new text. Text shown in [brackets] is a note to the editor. All language shown in ~~strikethrough~~ is existing language that is proposed to be removed. Regular text shown is existing language with no changes proposed.

Rough Draft 9/7/16 (JFC/dm); 9/9/16 (JFC/dm); (JFC/db); (JFC/dn)

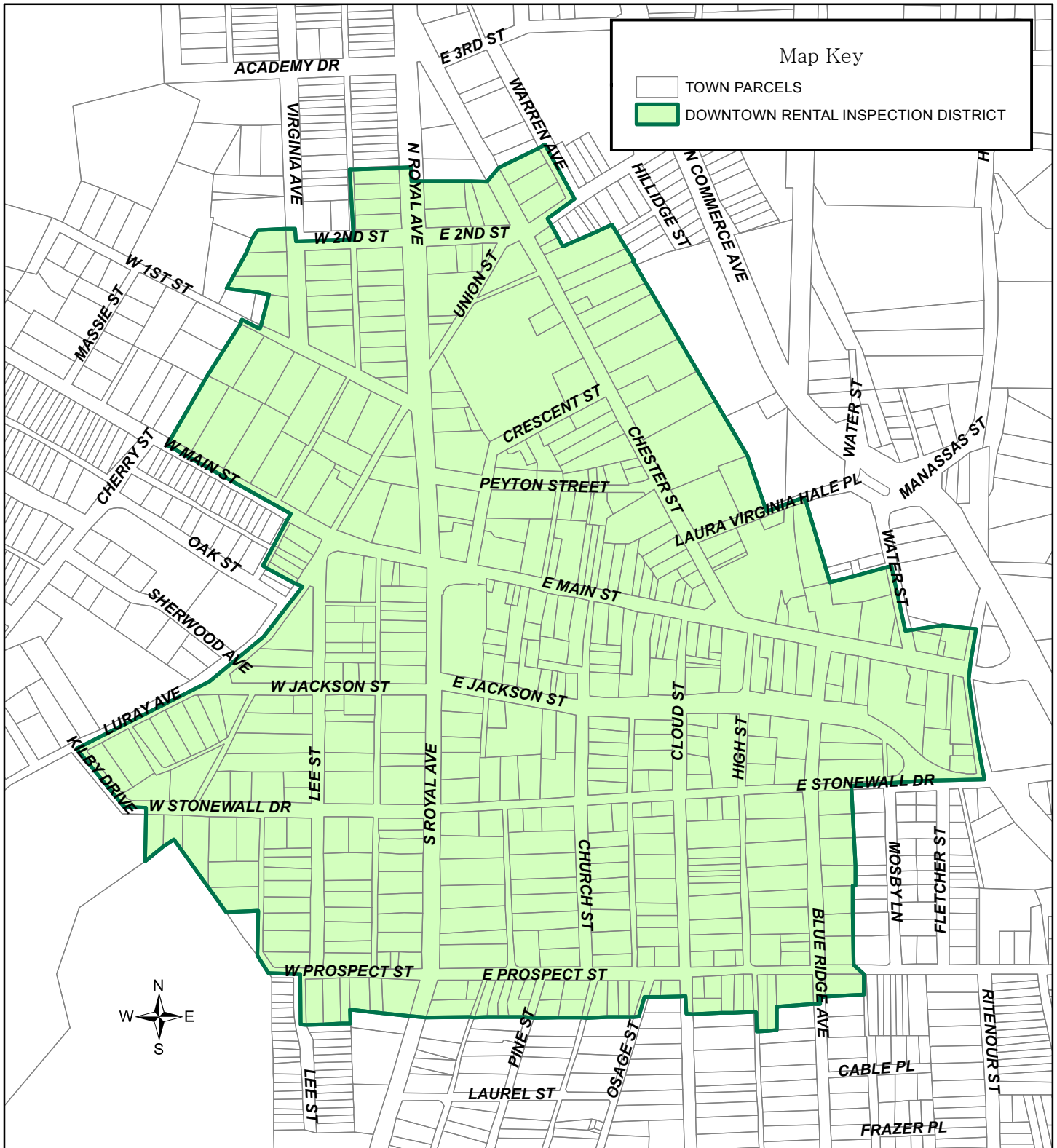
FOR REFERENCE PURPOSES ONLY - Virginia Code §36-3, Definitions.

"Blighted area" means any area that endangers the public health, safety or welfare; or any area that is detrimental to the public health, safety, or welfare because commercial, industrial, or residential structures or improvements are dilapidated, or deteriorated or because such structures or improvements violate minimum health and safety standards. This definition includes, without limitation, areas previously designated as blighted areas pursuant to the provisions of Chapter 1 (§36-1 et seq.) of this title.

"Blighted property" means any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards, or any structure or improvement previously designated as blighted pursuant to §36-49.1:1, under the process for determination of "spot blight."

DRAFT

FRONT ROYAL DOWNTOWN RENTAL INSPECTION DISTRICT



DRAFT

400 200 0 400 Feet

NOVEMBER 2016

PREPARED BY THE TOWN OF FRONT ROYAL
DEPARTMENT OF PLANNING & ZONING

D.G. Merchant, Cartographer

Virginia Maintenance Code Requirements

Town of Front Royal, Virginia

NOVEMBER 2016

THE VIRGINIA MAINTENANCE CODE

The Town of Front Royal has adopted and enforces the Virginia Maintenance Code (VMC) on all existing structures located in the Town. This code is used in enforcement of the city's Rental Inspection Program and also used to address other structures that are not being adequately maintained. The VMC is part of the Virginia Uniform Statewide Building Code (USBC) and is based on the ICC International Property Maintenance Code, but with amendments made by the state.

Most of the requirements of the VMC are common sense, and a close look at a building usually will tell where repairs or maintenance are needed. This booklet contains a list of items based on the VMC that a Code inspector is likely to check when inspecting an existing building. This simple list is meant to be informative and help the owner or occupant get an idea whether a building meets the VMC requirements.

All buildings must be maintained to meet VMC requirements. However, some buildings constructed many years ago may be well maintained yet still not meet current VMC requirements because of the way they were designed. If the Property Maintenance Code official decides those conditions do not endanger life or health, the code official may choose not to require modifications to bring the building to current Code standards. There are, however, some design or construction features that are considered unsafe and will have to be changed. Some of these features are identified in the description of VMC requirements in this booklet. Some of the more common conditions where alterations or changes may be required are:

- Smoke Detectors
- Electrical service
- Number of electrical outlets required per room
- Windows and means of emergency exit
- Ceiling clearance (mainly in basement or attic spaces) used as living space
- Fire separation between units

In these instances, either the conditions must be corrected or the occupants must leave for their own safety. Depending on the circumstances, the occupants may be allowed to stay for a short period of time, ranging from a few hours to a few days, while repairs are made.

PROVISIONS OF THE VIRGINIA MAINTENANCE CODE

Exterior of Building

The exterior of all buildings must be kept in good repair and the building must be structurally sound and sanitary. Even vacant buildings must meet the provisions of the Maintenance Code, particularly with regard to exterior maintenance.

- **Street Numbers** – Each building should have the street numbers visible so they can be read easily from the street. The numbers should be at least 4 inches tall, placed on the front of the building, and contrast with the background. All units must be identified.
- **Yards** should be free from trash, garbage or inoperable vehicles, and graded so that rainwater drains away from the building and not directly onto adjoining properties.
- **Sidewalks and Driveways** should be kept in good repair, and maintained free from hazardous conditions that could cause someone to trip or fall. Damaged or uneven stair treads may need to be repaired or replaced.

- **Accessory Buildings** like garages, fences and utility buildings should be securable and kept in good repair, free from peeling paint and roof leaks.

- **Foundation Walls** should be straight; corners should be tied in with the rest of the foundation, not cracked and separated. Small cracks are common on old houses and are acceptable. Wide cracks should be sealed to block the entry of water, wind, insects and rodents. Foundations that do not properly support the house load may cause the entire building to be condemned.

- **Exterior Walls and Trim** should be weather tight. Wood surfaces should be painted or stained or have other protective covering or treatment. Brick walls should have no wide cracks that allow rain or wind to pass inside. Aluminum or vinyl siding, shingles or other protective coverings or treatment should not be missing pieces that would allow water to get in the wall or behind the siding.

- **Soffits and Fascia** (or overhangs) should be rot-free and prevent the nesting of birds and insects. Trim or decorative pieces should be securely fastened. As with siding and other trim, bare wood should be painted or stained.

- **Roofs** - The obvious function of the roof is to keep water out of the inside of the building. Roof problems are usually spotted from inside the house. Water stains on ceilings are a good indication that a roof might be leaking (if there is not a leak in the plumbing). Leaks usually occur first in valleys or around flashing. All roofs should be weather tight, properly flashed and maintained in good condition.

- **Chimneys** - Many roofs leak around a chimney. Close attention should be given to the flashing in this area. Older chimneys frequently have loose bricks, which could fall off the roof or inside the chimney, or even cause the chimney to collapse. Chimneys should be maintained with no loose bricks or mortar, free from obstructions, and operate as intended.

- **Gutters and Downspouts** - If gutters are in place they should be securely fastened and work properly. Gutters need to catch the roof water and channel it to a downspout, which then releases the water away from the house. They should not drain directly against the foundation. Rain water from the roof should be diverted away from any exterior entry door.

- **Stairs** of more than 4 steps should have handrails between 34 and 38 inches high and guardrails not less than 36 inches high, that are strong and secure enough to support a person. Treads and risers should be intact and firmly attached. Installation of new stairs, rails or guards may require a building permit.

- **Porches** - Porch roofs must be maintained just like the main roof. Columns should be rot-free and standing straight. Wood columns should be painted or stained. If the porch is more than 30 inches above the ground, it should have railings or guardrails at least 36 inches high that are strong enough to keep a person from falling. Decking and ceiling boards should not be loose, rotten or missing.

- **Exterior Doors** should close tightly so that the weather, rain, snow and wind cannot pass through. The door hardware should latch securely, lock and unlock from the inside easily. They should be strong enough to secure the building. Exterior doors may not have double keyed (key required on both sides) deadbolts. Interior deadbolts must have thumb latches or other hardware for the door. Interior grade doors may not be used for entrances from the exterior.

- **Windows** are for light, ventilation, and emergency escape. They should keep out the weather and be securable. All windows shall be easily operable and capable of being held open by

window hardware. Habitable rooms (bedroom, living room, eating area, bathroom, and kitchen) should have a window that opens, however mechanical ventilation to the exterior is allowed as an alternative in bathrooms. Any window that is required for ventilation or escape must be operable. A small tight crack in the glass might not be cited as a violation, but an exposed broken edge would. Storm windows are not required but if present should be in a safe condition and operate as designed. Windows that have been nailed or screwed shut or painted and caulked, such that the window no longer operates as intended must be returned to a working condition.

- **Insect Screens** - Every window or door required for ventilation is also required to have an insect screen in place from April 1 through December 1. The screens should be small mesh to keep out insects. Full window screens or adjustable sliders meet code. Screen doors must be self-closing.

- **Vacant Buildings** must be kept secure from entry and kept in good repair with no exterior violations of the code.

- **Swimming Pools, Spas and Hot Tubs** - Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. Swimming pools, hot tubs and spas containing more than 24 inches of water must be completely surrounded by a fence or barrier at least 48 inches in height. Gates or doors in such barriers shall be self-closing and self-latching.

Basic Systems

Every living unit must have water, electricity and heat. Absence of any of these may cause the unit to be condemned.

- **Water System** - Every resident must have access to a bathtub or shower and sink supplied with hot and cold water of enough volume and pressure for the fixtures to operate properly and a working toilet. All plumbing fixtures must work properly and be securely anchored. Drains should drain freely. Water heaters should have a pressure relief valve and discharge pipe, and supply adequate hot water of at least 110 degrees Fahrenheit to every required faucet. Gas water heaters must be installed properly, including the gas supply line and exhaust vent, and should not be located in any bathroom, bedroom or any other occupied room that is normally closed.

- **Electrical System** - This is probably the most potentially dangerous part of a dwelling and deserves close attention. Each dwelling unit or apartment must be served by electrical service of at least 60 amperes, three wires (120/240 volt), and possibly more if the electrical load requires it. Any service of less than 60 amps per unit is considered unsafe and unacceptable. The size of all wires must be adequate to safely carry the current that may be demanded. Insulation on all wires, including service entrance cables, should be intact. Use of extension cords should be avoided and in some cases may be so dangerous as to be prohibited. Every bedroom, living room, dining room and kitchen must have at least two working electrical outlets. Bathrooms must have one outlet. Laundry areas should have one grounded outlet. Fuse panels should not be over-fused, and fuse stats may be required. Tenant access to fuse or breaker panels is encouraged but not required if 24- hour maintenance service is available. All GFCI (ground fault circuit interrupter) receptacles must test and reset properly. Receptacles should not be painted over, covers must be intact, and should be firmly attached to structure.

Heating is required from October 15 to May 1. In normal winter conditions the heating system must be able to maintain a temperature of at least 65 degrees within the unit. When the temperature is below the designated outdoor design temperature requirements for our area, requirements may be lowered, provided the heating system is operating at full capacity. The ability of the heating system to keep the unit warm will also be affected by the building's

insulation and weather-tightness of windows and doors. Fuel supply lines must be safely installed and free of leaks. Furnace exhaust must be safely vented without leaks. Space heaters may not be used as the sole means of heat for a unit or apartment.

- **Cooling** if supplied, must operate as designed from May 15 to October 1.
- **Changes** in materials or design features of buildings may be prohibited in Historic Districts.

Interior of Building

The interior of a building must be kept sound, sanitary and in good repair. The occupant of each living unit is responsible for keeping it clean, sanitary and free of garbage and trash.

- **Interior Doors** are for privacy and should close and latch properly. Bathrooms and bedrooms require doors with working hardware. Double keyed deadbolts are not allowed. There should be no hasps or padlocks on interior doors.
- **Interior Walls and Ceilings** should be free of holes, wide cracks, loose or falling plaster, and flaking or peeling paint. Settlement cracks in older houses are common and acceptable. All repairs/patches must be painted.
- **Floors** must be solid, intact, sanitary and free of holes. Large cracks, uneven surfaces and decayed areas must be repaired. Floors must be capable of bearing normal loads.
- **Clearances** - Ceiling heights of kitchens, bedrooms, bathrooms and hallways should be at least 7 feet or the originally built height. Kitchens should have at least 3 feet of passageway between cabinets. All other rooms should be at least 7 feet wide.
- **Bedrooms** need a door for privacy, at least two electrical outlets, and a window that opens for ventilation and light. Each bedroom should be at least 70 square feet for one occupant, or 50 square feet for each occupant if more than one. Bedrooms should be arranged so that occupants do not pass through one bedroom to get to another bedroom, bathroom, or living space.
- **Bathrooms** should have a door for privacy, an electrical outlet (newly installed outlets must be a ground fault circuit interrupter), toilet, sink and tub or shower with hot and cold water, and an operable window or mechanical ventilation to exhaust moisture.
- **Kitchens** should have two electrical outlets, a sink and a window that can be opened for ventilation or an exhaust fan. Any appliances such as a stove, refrigerator, or garbage disposal unit must be installed correctly and work properly, including the gas line to a gas stove. A kitchen may not be used for sleeping.
- **Pest Extermination** - The owner of any structure is responsible for extermination within the structure prior to renting or leasing a unit and all common areas. The occupant of any structure is responsible for the *continued* rodent and pest-free condition of the structure. If the infestation was caused by defects in the structure, the owner is responsible for pest extermination. In multifamily properties, both the owner and the tenant may be responsible.
- **Common Areas** like public hallways and stairs should be properly lighted for safety and security. The owner is responsible for the condition of the common areas. Common areas should be kept free of excessive clutter or storage that might block emergency egress.

• **Emergency Exits** – Every story above the second story should be provided with at least two different exits to the ground unless third story rooms are part of a second story unit. Any bedroom in a basement must either have an operable window large enough to get through, or have easy access to two independent exits out of the building. If locked, exit doors should be easy to open without keys in an emergency. Dead bolts keyed from both sides are not allowed. Doors cannot have hasps capable of being padlocked. Exits should not lead through other apartments or bathrooms. Exit paths should not be restricted by anything that could prevent a person from escaping during an emergency.

• **Smoke Detectors** must be operable and are required on every floor level including basements, in each bedroom, and in the immediate area of the bedrooms. Battery-powered smoke detectors are acceptable. The property owner is responsible for providing functioning smoke detectors at the beginning of a tenancy, and the resident generally is responsible for their continue operation by replacing old batteries. Visual alarms should be provided for the hearing-impaired. Hard wired smoke detectors, if installed, must be maintained in working order.

• **Fire Hazards** – the area around water heaters, furnaces and other heat producing devices should be free from storage or accumulations of flammable materials.

ITEMS NOT REQUIRED or covered by the Virginia Maintenance Code include cable television, telephones, intercoms, microwave ovens, antennas, window blinds or draperies, or the color of ceilings, walls, carpet or floors.

The preceding is a summary of the Code and is offered only for general guidance. If you need more detailed information the Department of Planning and Zoning staff will gladly explain or elaborate on any Code requirement.

You may also wish to get your own copy of the VMC. This Code is based on the ICC International Property Maintenance Code and is available at their web site (www.iccsafe.org) or booksellers.

RENTAL CERTIFICATE OF COMPLIANCE PROGRAM

The Rental Inspection program is designed to protect and enhance the quality of the town's housing stock and eliminate dangerous living conditions. The VMC provides the standards for these inspections. Inspections are intended to:

- Help protect the health, safety and welfare of the occupants through identifying conditions that could be dangerous or injurious.
- Help prevent decaying rental properties and the resulting negative impact they have on neighborhoods through identifying conditions that are damaging to the building.
- Provide for compliance with the VMC.

Once notified, residential rental property owners are required to inform the city of any units they own that are within the rental inspection districts.

RENTAL INSPECTION

During the inspection, the inspector will do a thorough check of the building. It will not always be possible to verify that every item is installed and working properly. (For example, a vacant unit in the summer may not have fuel for the heating system to be tested. However, water and electricity must be available for the unit to be inspected.) The inspector will identify conditions that must be corrected and the owner will be given a reasonable amount of time to make necessary repairs.

When the inspection is completed, the inspector will do one of three things:

- Issue a Certificate of Exemption, meaning no violations of the VMC were found. The owner will also be given a copy of the Certificate of Exemption. However, if the unit becomes in violation of the Maintenance Code during the exemption period the certificate may be revoked.
- Issue a Notice of Violation which will give a period of time to correct the violations. The length of time given will depend on several factors, such as extent of the repairs, seriousness of the conditions, and time of year.
- Issue a Notice of Unsafe/Unfit Structure. The time given to make repairs or vacate the unit may range from a matter of hours to several days, depending on the seriousness or danger of the code violations.

When the owner has made the needed repairs, the owner will notify the inspector and the unit will be re-inspected to verify that violations have been corrected. Note: Many repairs require a building permit. Not getting a building permit when required is against the law. If the conditions cited aren't corrected in the time given, the owner may be summoned to General District Court.

BUILDING PERMITS

There are several types of permits – building, electrical, plumbing and mechanical are the most common. In this booklet, all of these types are referred to as “building permits” unless stated otherwise. A permit authorizes specific work to be performed as provided by the USBC and are issued by the Warren County Building Inspections Department. A Zoning Permit issued by the Town of Front Royal is also required for most building permits.

When Permits are Required

Building permits are required before most major work to a building can be carried out but not usually for “ordinary repairs.”

Examples of major work that requires a permit include:

- Removing any part of a wall
- Cutting any structural support
- Altering or replacing a water supply, sewer line, gas line, furnace, electrical wiring or venting
- Work affecting public health or general safety
- Change of use
- Adding dwelling units or rooms
- Changing fuel supply type for comfort heat or water heaters
- Moving or demolishing a structure

Examples of ordinary work that would not require a permit include:

- Painting
- Roof patching or replacement (except in a historic district)
- Replacement of plumbing or electrical appliances or fixtures with similar equipment, including water heaters (Gas appliances require a permit)
- Repair or replacement of doors and windows of similar size in the same location (except in a historic district)
- Siding repairs or vinyl siding (except in a historic district)

Who May Get a Permit

A building permit may be obtained by the property owner or a licensed contractor qualified to do the work.

Who May do the Work Under a Permit

A property owner or qualified contractor may perform the work.

If you have any questions, please contact:

Building Permits

Code Enforcement

Planning & Zoning

Locality	Population	Prop Maint Code	Rental Insp Code	Bldg Insp Department	Total Staff/ Inspectors	Fees ³ Initial/Reinsp
Culpeper¹	17,145	No	No	No	N/A	N/A
Winchester	26,203	Yes	Yes	Yes	6/4 ²	35/0/50
South Boston	7,989	Yes	Yes	No	1 /1	50/0/0
Williamsburg	14,068	Yes	Yes	Yes	6/1	50/0/0
Blacksburg	42,620	Yes	Yes	Yes	5/1	0/0/100
Herndon	23,292	Yes	Yes	Yes	6/3	70/30/60
Pulaski	8,948	Yes	Yes	Yes	3/1	0/0/100

1. The Town of Culpeper did not adopt the full property maintenance code, opting to only adopt the dilapidated structure portion of Part III of the PMC. Building permits and inspection are handled by Culpeper County.
2. The City of Winchester is divided into 4 Rental Inspection areas, each with its own inspector.
3. Rental Inspection Fees are shown for: Initial Inspection/1st Reinspection/ 2nd Reinspection.

4



Town of Front Royal, Virginia
Work Session Agenda Form

4

Date: July 17, 2017

Agenda Item: Proposed Town Charter Amendments

Summary: On November 26, 2012, Town Council passed certain proposed Town Charter amendments which Council requested the General Assembly to pass at the then upcoming 2013 Session. The most significant of these proposed changes are as contained in the attached letter dated November 30, 2012, to the Town's then General Assembly Senator and Delegates, and include: The change in the Town's elections for Town Council and Mayor from the first Tuesday in May in even numbered years, to the general election day in November in even numbered years (this has now been codified in the Town Code in Section 10-1; however, the General Assembly can undo this by change to State Code). Other proposed changes to the Town Charter include: Allowing the Town Council to designate additional Town officers by ordinance; to cause elections to Town Council and Mayor to be non-partisan (so that federal employees, to be able to hold local public office — historically, all Town elections, as are most local elections nation-wide, have always been non-partisan); to allow minutes to be kept in electronic format in lieu of hard-copy minute books; to allow the publication of proposed ordinances and other notices by any method allowed by law; to combine the duties of the town treasurer with that of town manager or town finance director; and for the provision of a number of other minor or clerical amendments to the Charter.

A copy of a summary of the proposed Charter amendments (the proposed additions are underlined, and the proposed deletions are ~~interlined~~) that was sent to the Town's General Assembly delegation, together with the letter dated November 30, 2012, sent to the Town's General Assembly delegation, is attached.

For reasons that are not completely clear, while in committee in the House of Delegates, the Town's proposed Charter amendments were significantly altered, to the extent that it largely defeated what the Town wanted to see happen, so the Town caused the House of Delegates to "pull" the proposed Charter amendments from further consideration during that Session of the General Assembly.

In addition, at the fall 2015 VML Dinner, a number of issues were presented by VML to present to our representatives in the General Assembly. They included the following:

- 1) State Corporation Commission jurisdiction over local utilities – As a result of the electric rate issue in Danville, the General Assembly was lobbied to consider legislation to grant the SCC regulatory powers over local utilities. Local oversight of utilities is necessary to maintain citizen involvement in establishing rates that the community feels are appropriate. This may be an issue to come up again.
- 2) State Assistance to Local Police Departments (HB 599) - "599" funding for our Police Department was reduced during the economic downturn in 2008 and has never been restored to its original level or increased as the Commonwealth realized increased revenue as the original HB

599 legislation required. Recognizing the increased need for trained Police Officers to respond to both routine calls as well as critical response events such as active shooter or terrorism events, increased funding from the Commonwealth is very important.

3) Business, Professional, & Occupation License Tax (BPOL) - The Town currently realizes over \$650,000 in revenue from BPOL tax. Elimination of this revenue source by Richmond without providing an equivalent revenue source would result in a significant shortfall in our General Fund operating budget. Any substitute revenue source must be sustainable and realize increase as business development occurs. This could occur during any session of the General Assembly.

4) Unfunded Mandates – The legislature should prevent any State-mandated burden being placed on local government that results in an increased local tax burden by our citizens. These often result when environmental legislation is approved or when State service provisions are transferred from the Commonwealth to local governments, without any State funding provided to offset the suddenly increased local tax funding.

5) Transportation Funding – Appropriate funding sources from VDOT for the Town to continue expansion and improvement of our transportation infrastructure is critical to the Town's ability to attract and sustain new residential, commercial, and industrial development.

6) Wastewater Discharge/Pollutant Allocation Limits – The Town currently relies upon the Nutrient Credit Exchange to offset our nutrient treatment requirements until the completion of the \$50,000,000 improvement at our plant to meet the current regulations. Any legislation considered that would unfairly direct treatment credits to a single community would drastically affect the utility rates of our customers.

7) Line of Duty Act – The ever increasing costs for local government to provide Line of Duty Act coverage for our Police Officers is not sustainable. The Legislature should consider the recommendations and options developed by the Joint Legislative Audit and Review Committee to ensure fiscal sustainability of the program.

8) Workers Compensation – The Legislature should consider adopting a Medicare-based fee schedule, or something similar, for setting medical provider fees associated with Worker's Compensation cases.

9) Synthetic Plastic Microbeads – The synthetic plastic microbeads used in personal care products have been determined to contain toxins including PCB's which contaminate water sources. Wastewater Treatment Plants are not capable of removing microbeads from sewage.

10) Asset Forfeiture - The Town supports resurrection/reintroduction of a bill similar to HB 1287 regarding the requirement that forfeiture of any property or money to the Commonwealth or other law enforcement agency by reason of a violation of any law shall only occur after conviction and final judgement of the offense authorizing the forfeiture. If no such judgement is entered, all property seized shall be released from seizure. HB 1287 passed in the House of Delegates 92-6 but died in the Senate Finance Committee which approved to pass by the bill definitely by a vote

of 9-5. Any seizure of assets associated with a criminal act should only be confirmed once the legal system has convicted an individual for their actions.

11) Dilapidated Buildings – The Code of Virginia provides authority to address dilapidated buildings to Counties and Cities that are not extended to Towns. The Town has a number of structures that are dilapidated but are not structurally deficient. This limits the Town’s ability to pursue rehabilitative actions to remove the blight from our community. However, if the Town enacts the Property and Rental Maintenance Code currently being contemplated, that may mitigate some of that concern.

Council Discussion: Town Council is requested to consider and discuss any other amendments it would like to see to the Town’s Charter.

There has been some sentiment expressed about going back to May elections in the future. This can be done, with the correct timing, by repealing Town Code Section 10-1, which would restore the effect of the current Town Charter which calls for May elections.

Staff Evaluation: With the expected appointment of a new Town Council Member to replace the upcoming vacancy of Bébhinn Egger, Council may want to consider the timing of discussion of Charter issues to take in consideration the thoughts of this new Council Member.

Additional considerations of the Town Attorney include: the Town might include whether the Town wishes to be able to retain its zoning authority over pending State directives regarding Airbnb; cleaning up the present Charter provisions regarding zoning and planning, as they are outdated and conflict with current State law and current zoning and planning best practices; provisions for more local flexibility on taxation; etc.

Additionally, staff, such as Planning & Zoning, might be requested to also evaluate the Town Charter and give its recommendations to Town Council as to what staff recommends might be considered amended.

Budget/Funding: No recommendations or known impacts expected at this time.

Legal Evaluation: Legal evaluation of proposed Charter amendments will be on-going as they are proposed.

Staff Recommendations: See above. If Council wishes to wait until the new Council member is aboard, that might be a good time to begin work on proposed Charter amendments, as final proposals could be sent to our General Assembly representatives in time for the 2019 Session.

Town Manager Recommendation: See above.

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
Consensus Poll on Action: ____ (Aye) ____ (Nay)

November 30, 2012

Honorable C. Todd Gilbert
Member, Virginia House of Delegates
P.O. Box 309
Woodstock, VA 22664 (*via mail*)

35 North Royal Avenue
Front Royal, VA 22630 (*via hand delivery*)
DelTGilbert@house.virginia.gov (*via e-mail*)

Honorable Beverly J. Sherwood
Member, Virginia House of Delegates
P.O. Box 2014
Winchester, VA 22604 (*via mail*)
DelBSherwood@house.virginia.gov (*via e-mail*)

Honorable Michael J. Webert
Member, House of Delegates
P.O. Box 631
Marshall, VA (*via mail*)
DelMWebert@house.virginia.gov (*via e-mail*)

Honorable Mark D. Obenshain
Senator, Senate of Virginia
P.O. Box 555
Harrisonburg, VA 22803 (*via mail*)
District126@senate.virginia.gov (*via e-mail*)

Dear Delegates Gilbert, Sherwood and Webert, and Senator Obenshain:

The Town Council of the Town of Front Royal passed several proposed amendments to its Town Charter at its November 26, 2012 regular meeting, which it respectfully requests the General Assembly to enact at its upcoming session. In order to assist the General Assembly in following the progression of the proposed changes to the Town's charter, please find enclosed copies of the following: The existing Town Charter, headed "*Section 200-1 Charter of the Town of Front Royal, Virginia*"; a black-lined copy of the proposed Charter changes the Front Royal Town Council passed, titled "*Version 3-Even Year Elections Beginning 2014 (Final)*", showing the portions removed as interlined, and the amended portions underlined; and finally, a clean version of what Town Council passed, titled "*11-27-12 Final Version, Charter Amendments*"

2012”.

The most significant proposed amendment is the change in its elections for Town Council and Mayor from the first Tuesday in May in even numbered years, to the general election day in November in even numbered years.

There are a few other changes as well; generally, they are:

To allow the Town Council to designate additional Town officers by ordinance; to cause elections to Town Council and Mayor to be non-partisan (so that federal employees, such as our present Mayor, the Honorable Timothy W. Darr, who is employed by the United States Department of Defense as Supervisor Physical Security Specialist for the Pentagon Force Protection Agency, to be able to hold local public office—historically, all Town elections have always been non-partisan); to allow minutes to be kept in electronic format in lieu of hard-copy minute books; to allow the publication of proposed ordinances and other notices by any method allowed by law; to combine the duties of the town treasurer with that of town manager or town finance director; and for the provision of a number of other minor or clerical amendments to the Charter.

The Town of Front Royal asks our Delegates help the Town sponsor these amendments to its Town Charter at the upcoming session of the General Assembly. As each one of you Honorable Delegates and Senator have been responsive and effective representatives for the Town of Front Royal, the Town would be very pleased if you would lend your support and assistance to sponsor the Town’s obtaining passage of these amendments to its Charter.

In accordance with the relevant provisions of Va. Code § 15.2-202, you will also find enclosed the publishers’ certificates of publications showing that the public hearing was properly advertised, and a certified copy of the Front Royal Town Council’s minutes taken at the advertised public hearing on this matter.

On behalf of the Mayor, Town Council, and citizens of the Town of Front Royal, I will be honored and delighted to answer any questions you or your staff, or any member of the General Assembly or any member of their staff, assist in any manner, obtain any other documentation, or otherwise help facilitate the process of securing passage of these proposed Charter amendments.

With kind regards,

Sincerely,

Douglas W. Napier

cc: Mayor, Members of Town Council and Town Manager, Town of Front Royal Virginia

VERSION 3- EVEN YEAR ELECTIONS BEGINNING 2014

(FINAL)

[SUMMARY OF CHANGES WANTED BY TOWN COUNCIL IN DECEMBER, 2012]

Chapter 200 CHARTER

CHAPTER I. CORPORATE EXISTENCE; ADMINISTRATION GENERALLY

SEC.1. CORPORATE ENTITY; POWERS AS A CORPORATION; POWERS DELEGATED TO INCORPORATED TOWNS UNDER STATE CONSTITUTION OR LAWS.

SEC. 2. DEFINITION OF CORPORATE LIMITS.

SEC. 3. VESTING OF TOWN POWERS, ADMINISTRATION AND GOVERNMENT.

SEC. 4. ENUMERATION OF TOWN OFFICERS; WHAT OFFICERS TO BE ELECTED AND WHAT TO BE APPOINTED.

SEC. 5. POWERS AND AUTHORITY OF COUNCILMEN GENERALLY.

SEC. 6. ELECTION TERM, QUALIFICATIONS AND SALARY OF MAYOR AND COUNCILMEN; FILLING VACANCY IN MEMBERSHIP OF COUNCIL.

SEC. 7. TOWN OFFICERS TO BE SWORN IN; EFFECT OF FAILURE TO TAKE OATH OR TO GIVE REQUIRED BOND.

CHAPTER II. MAYOR AND VICE MAYOR

SEC. 8. POWERS AND DUTIES OF MAYOR GENERALLY.

SEC. 9. ELECTION, POWERS AND DUTIES OF VICE MAYOR; FILLING VACANCY IN OFFICE OF MAYOR.

CHAPTER III. COUNCIL

SEC. 10. COMPOSITION AND ELECTION.

SEC. 11. MEETING; EFFECT OF VOLUNTARY ABSENCE OF COUNCILMAN FROM THREE CONSECUTIVE REGULAR MEETINGS.

SEC. 12. APPOINTMENT OF CLERK OF COUNCIL; POWERS OF COUNCIL WITH REFERENCE TO PROCEEDINGS AND TRANSACTION OF BUSINESS; APPOINTMENT, POWERS AND DUTIES OF TOWN CLERK; MINUTE BOOK.

SEC. 13. QUORUM; ORDINANCES APPROPRIATING MONEY OR LEVYING TAXES OR LICENSES; RECONSIDERATION OF MATTERS AT SPECIAL MEETINGS.

CHAPTER IV. TOWN MANAGER

SEC. 14. APPOINTMENT, QUALIFICATIONS, TERM, REMOVAL OR SUSPENSION; ELECTION OF MEMBER OF COUNCIL AS TOWN MANAGER.

SEC. 15. POWERS AND DUTIES GENERALLY; COUNCIL TO APPOINT CHIEF CONSERVATOR OF THE PEACE AND TO SEE THAT ORDINANCES AND LAWS ARE ENFORCED.

SEC. 16. POWERS AS TO TOWN OFFICERS, EMPLOYEES, ETC.

CHAPTER V. POWERS OF COUNCIL

SEC. 17. AS TO TOWN OFFICERS AND EMPLOYEES.

SEC. 18. CONTROL OF TOWN AFFAIRS AND PROPERTY; ENUMERATION OF POWERS.

SEC. 19. CEMETERY.

SEC. 20. SINKING FUNDS.

SEC. 21. PENALTY FOR VIOLATION OF ORDINANCES; IMPRISONMENT FOR FAILURE TO PAY FINE.

SEC. 22. ACQUISITION OF PRIVATE PROPERTY FOR PUBLIC PURPOSES; EMINENT DOMAIN.

SEC. 23. REMOVAL OF ENCROACHMENTS ON STREETS; SETTLEMENT OF DISPUTE AS TO LOCATION OF STREET LINE; ENCROACHMENT NOT TO CONSTITUTE ADVERSE POSSESSION OR TO CONFER RIGHTS.

SEC. 24. DEDICATION OF STREETS.

SEC. 25. BOARD OF SINKING FUND COMMISSIONERS; INVESTMENT OF SINKING FUNDS; DUTIES OF BOARD; MEMBERS OF BOARD TO GIVE BOND.

SEC. 26. APPOINTMENT AND COMPENSATION OF TOWN ATTORNEY;

SEC.26.A. APPOINTMENT, DUTIES AND COMPENSATION OF ADDITIONAL OFFICERS AND CLERKS; OFFICERS MAY BE REQUIRED TO GIVE BOND.

SEC. 27. DUTIES OF THE CLERK OF THE COUNCIL.

SEC. 28. ANNUAL TAX LEVY.

SEC. 29. SPECIAL OR LOCAL ASSESSMENTS FOR LOCAL IMPROVEMENTS.

SEC. 30. TAXES OR LICENSES MAY BE REQUIRED OF TRADES, BUSINESSES, ETC.

SEC. 31. CREDIT OF DELINQUENT TAXES PAID BY TENANT.

SEC. 32. LICENSES FOR MOTOR VEHICLES, TRAILERS AND SEMITRAILERS.

SEC. 33. DISTRAINT AND SALE OF GOODS AND CHATTELS FOR TAXES.

SEC. 34. MAJORITY VOTE REQUIRED FOR LEVY OF TAX OR FOR CONTRACTING DEBT ABOVE ONE HUNDRED DOLLARS; EXCEPTION.

SEC. 35. LIEN ON REAL ESTATE FOR TOWN TAXES; SALE OF REAL ESTATE FOR NONPAYMENT OF TAXES; REDEMPTION OF REALTY SO SOLD.

SEC. 36. FIRE DEPARTMENT.

SEC. 37. FIRE LIMITS; BUILDING REGULATIONS; UNSAFE BUILDINGS; ZONING REGULATIONS; DISPOSITION OF GARBAGE AND WASTE; FIRE PROTECTION; REMOVAL OF UNLAWFUL BUILDINGS; PUBLIC HEALTH AND SAFETY.

SEC. 38. EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS GENERALLY; EMERGENCY ORDINANCES.

SEC. 39. PUBLICATION OF PENAL ORDINANCES; ORDINANCES IN EVIDENCE; CODIFICATION OF ORDINANCES.

SEC. 40. POLICE POWERS; POLICE FORCE.

SEC. 41. CONTRACTING DEBTS, ISSUING BONDS, ETC., BORROWING MONEY; GRANTING CREDIT OF TOWN.

CHAPTER VI. TOWN OFFICERS

SEC. 42. COMBINING OFFICES.

SEC. 43. SALARIES AND COMPENSATION.

SEC. 44. PROPERTY, BOOKS AND PAPERS BELONGING TO TOWN OR APPERTAINING TO TOWN OFFICE.

SEC. 45. ELECTION AND TERMS OF ELECTIVE CHARTER OFFICERS.

SEC. 46. APPLICATION OF LAW TO TOWN AND OFFICERS.

SEC. 47. APPOINTMENT OR ELECTION OF MEMBER OF COUNCIL TO OFFICE UNDER JURISDICTION OF COUNCIL; EXCEPTION.

SEC. 48. JURISDICTION BEYOND CORPORATE LIMITS.

CHAPTER VII. TOWN TREASURER

SEC. 49. BONDS; DUTIES; APPOINTMENT AND DUTIES OF TOWN COLLECTOR.

SEC. 50. TREASURER TO RECEIVE, PAY OUT, KEEP AND ACCOUNT FOR TOWN MONEY.

SEC. 51. DEPOSITORIES OF TOWN FUNDS; ACCOUNTS; PROHIBITED USES OF TOWN MONEY.

SEC. 52. INSPECTION OF BOOKS, ETC.; TRANSFER OF BOOKS, BALANCES TO SUCCESSOR OR TO COUNCIL.

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AN ACT TO PROVIDE A NEW CHARTER FOR THE TOWN OF FRONT ROYAL, VIRGINIA, AND TO REPEAL ALL ACTS AND PARTS OF ACTS IN CONFLICT WITH THIS ACT

Be it enacted by the General Assembly of Virginia, as follows:

Section 200-1 CHARTER OF THE TOWN OF FRONT ROYAL, VIRGINIA

SEC 2 DEFINITION OF CORPORATE LIMITS*.

~~The corporate limits of the Town of Front Royal, Virginia, as heretofore established, are hereby reestablished, as follows:~~

[NOTE: THIS DESCRIPTION OF THE TOWN'S BOUNDARIES IS UNDOUBTEDLY INCORRECT. THE CURRENT LAW ON THIS POINT IS AS FOLLOWS:

§ 15.2-207. Boundaries of municipal corporations continued; charters not to contain metes and bounds; incorporated by reference. — The boundaries of municipal corporations remain as now established unless changed as provided in this title. No charter of any municipal corporation shall contain the metes and bounds of such municipal corporation, but the boundaries shall be incorporated therein by reference to the recordation in the clerk's office of the court where deeds are admitted to record of the final decree or order of the court establishing such boundaries or the act of the General Assembly by which they are defined. The part of the charter of a municipal corporation defining its boundaries hereafter amended shall not contain the metes and bounds of the municipal corporation, but the boundaries shall be incorporated therein by reference to the recordation of a final decree or order of court or to a General Assembly act. (Code 1950, § 15.1-908; 1958, c. 328; 1962, c. 623, § 15.1-836.2; 1979, c. 297; 1997, c. 587.)]

~~Beginning at a point where the west bank of Happy Creek and north lane of Eighth Street intersect, thence along the north side of Eighth Street to east side of Royal Avenue, thence along east line of Royal Avenue to a point opposite north line Eighth Street extended, thence crossing Royal Avenue and following north side of Eighth to east side of Shenandoah Avenue, thence along east side of Shenandoah Avenue to north side of Kendrick Lane, thence southeast along the north side of Kendrick Lane to west side of Villa Avenue, thence crossing Kendrick's Lane and following the line of Colonel Millar's property, and Randolph Macon property to Mistress Katie Buck's property, thence westward along line between Mistress Buck and Randolph Macon for one hundred and thirty two feet, thence crossing Mistress Buck's property south thirty four~~

~~west five hundred and twenty-eight feet to a point opposite her house, thence south forty-one west three hundred and seventy-three feet to north side of road leading to Doctor Garrison's property, thence eastward along north side of road four hundred and twelve feet to a point opposite corner E.H. Hoffman's property, thence along his line to corner Doctor White's property, thence along Doctor White's line to Mister Thornton Leach's property, thence along Mister Leach's line to corner Mistress Davis Roy's lot a large white oak tree formerly known as Beecher's corner, thence along line between Mistress Roy and E.H. Hoffman to center of lane between Mistress Roy and Druid Hill property, thence southward with center of lane to Luray Road, thence crossing Luray Road and continue line south twenty five east five hundred and fifty feet to a small sassafras tree in cemetery line, thence following the eastern boundary of cemetery by its several courses to Beatty Lane, thence east along north side of Beatty's Lane, cross Manor Avenue, extended, a distance of nine hundred and thirty-nine feet to a point opposite Beeden's Lane, thence with Beeden's Lane south seven hundred and forty-five west one thousand and seventy-eight feet to the northern boundary of a road, thence with the northern boundary of said road and through the lands of John Carter south eighty-five minutes east eight hundred and sixteen feet to western boundary of W.E. Rudacille's land, thence with the western boundary of said W.E. Rudacille's land north ten and forty-five minutes east one thousand and sixty-four feet to the northern boundary of Beatty's Lane, continued, thence with northern boundary of Beatty's Lane in an easterly direction twelve hundred and twenty-one feet to the west bank of Happy Creek, thence continuing along west bank of Happy Creek to the beginning.~~

SEC 3 VESTING OF TOWN POWERS, ADMINISTRATION AND GOVERNMENT. ***

SEC 4 ENUMERATION OF TOWN OFFICERS; WHAT OFFICERS TO BE ELECTED AND WHAT TO BE APPOINTED.

The municipal officers of said Town shall, beginning with the effective date of this Act and thereafter, consist of a mayor, six Councilmen, a Town Manager, a Town Treasurer (who may, by ordinance duly enacted, be the Town's Finance Director), and a Town Clerk (who will be the Clerk of Council), and such other officers as may be designated by ordinance duly enacted from time to time. The Mayor and Councilmen shall be elected by the qualified voters of said Town. The Town Manager, Town Treasurer and Town Clerk shall be appointed by the Council as is herein provided. (Acts 1993, ch. 479, p. 572)

SEC 5 POWERS AND AUTHORITY OF COUNCILMEN GENERALLY.

SEC 6 ELECTION TERM, QUALIFICATIONS AND SALARY OF MAYOR AND COUNCILMEN; FILLING VACANCY IN MEMBERSHIP OF COUNCIL.

A. — The present Mayor and Town Council members shall continue in office until the expiration of the terms for which they were respectively elected. The positions of three (3)

~~Town Council members, whose present terms were to end, prior to adoption of this present Charter, on June 30, 2014, shall be elected on the first Tuesday in May, 2014 for a single term of office to begin July 1, 2014, and to end December 31, 2014, and such three (3) Town Council members positions thereafter shall be elected on the November, 2014 general election date and every four (4) years thereafter. The positions of three (3) Town Council members, those whose terms were to end, prior to adoption of this present Charter, on June 30, 2016, shall be elected on the first Tuesday of May, 2016, for a single term of office to begin on the first day of July, 2016, and to end on December 31, 2016, and such three (3) Town Council members positions thereafter shall be elected on the November, 2016 election date and every four (4) years thereafter. The Mayor shall be elected on the first Tuesday in May, 2014, for a term of office to end on December 31, 2014 and the Mayor thereafter shall be elected on the November, 2014 election date and every two (2) years thereafter.~~

A. The Mayor and Town Council shall be elected on the Tuesday following the first Monday in November in even numbered years in the manner provided by Virginia general election laws, except insofar as they are otherwise herein provided by this Charter. The Mayor and members of Town Council in office at the effective date of this Charter amendment shall have their terms extended and shall continue in office until December 31 of the year in which their respective terms were to expire.

B. The terms of office for all Town Council members shall begin on the first day of January next following their election, and each shall serve for a term of four (4) years or until his or her successor shall have been elected and qualified. The term of office for the Mayor shall begin on the first day of January next following his or her election, and the Mayor shall serve for a term of two (2) years. The Town Council members and Mayor may succeed themselves as often as the voters may choose.

C. Candidates for Town Council and Mayor shall be nominated only by petition in the manner prescribed by general law. Candidates for Town Council and Mayor shall not be nominated or identified on the ballot by political party affiliation or in any other manner that would disqualify them for candidacy under any law of the United States or the Commonwealth of Virginia.

~~The present Mayor and Town Councilmen shall continue in office until the expiration of the terms for which they were respectively elected. On the first Tuesday in May, nineteen hundred ninety four, there shall be elected by the qualified voters of the Town of Front Royal, four Councilmen, who shall be electors of the Town, and whose terms of office shall begin on the first day of July, succeeding their respective elections. The three elected Councilmen with the highest vote totals shall serve for a terms of four (4) years, and until their duly elected successors shall have qualified. The fourth elected Councilman with fewer votes than the other three Councilmen so elected, shall serve a term of two (2) years, and until his duly elected successor shall have qualified.~~

~~In the event that the fourth-elected Councilman cannot be determined because of a tie in the vote, the Councilmen who have tied in the votes received shall draw lots to determine who shall serve the two-year term.~~

~~On the first Tuesday in May, nineteen hundred ninety six, and every two (2) years thereafter, there shall be elected by the qualified voters of the Town of Front Royal, three (3) Councilmen, who shall be electors of the Town, and whose terms of office shall begin on the first day of July, succeeding their respective elections and shall continue for four (4) years thereafter, and until their duly elected successors shall have qualified.~~

~~On the first Tuesday in May, nineteen hundred ninety six, , and every two (2) years thereafter, there shall be elected by the qualified voters of the Town of Front Royal, a Mayor, who shall be one of the electors of the Town, and whose term of office shall begin on the first day of July, succeeding his election and continue for two (2) years thereafter, and until his duly elected successor has qualified.~~

D. The Council may fill any vacancy that occurs in the membership of the Council for the unexpired term, **provided that such vacancy is taken within 45 days of the office becoming vacant. If a majority of the remaining members of the Council cannot agree, or do not act, the judges of the circuit court having jurisdiction shall make the appointment. The person so appointed shall hold office only until the qualified voters of the Town fill the vacancy by special election pursuant to Virginia Code § 24.2-682, 1950, as amended, or its successor enactment(s), and the person so elected has qualified. Any person so appointed shall hold office the same as an elected person and shall exercise all powers of the elected office.**

If a majority of the seats on the Council are vacant, the remaining members shall not make interim appointments and the vacancies shall be filled as provided in Virginia Code § 24.2-227, 1950, as amended, or its successor enactment(s).

E. Each member of the Council shall receive a salary in an amount established by Council, payable as the Council may direct, **provided that no increase in salary of a Council member shall take effect during the incumbent council member's current term in office,** but this restriction shall not apply when the council members are elected for staggered terms.

F. The Mayor shall receive a salary in an amount established by Council, payable as the Council may direct, **but no increase in the Mayor's salary shall take effect during the incumbent mayor's current term in office.** (Acts E.S. 136-37, ch. 44, p. 143; Acts 1944, ch. 209, p. 300; Acts 1954, ch. 405, p. 495; Acts 1975, ch. 348, p. 579; Acts 1987, ch. 235, p. 315; Acts 1993, ch. 479, p. 572)

SEC 7 TOWN OFFICERS TO BE SWORN IN; EFFECT OF FAILURE TO TAKE OATH OR TO GIVE REQUIRED BOND. ***

CHAPTER II MAYOR AND VICE MAYOR.

SEC 8 POWERS AND DUTIES OF MAYOR GENERALLY.

SEC 9 ELECTION, POWERS AND DUTIES OF VICE-MAYOR; FILLING VACANCY IN OFFICE OF MAYOR.

The council shall at its first meeting ~~after the effective date of this Act choose one of its members as vice mayor who shall serve until August thirty first, nineteen hundred and thirty eight; and at its first meeting in September, nineteen hundred and thirty eight,~~ in January, following the regular municipal election, and biennially thereafter, shall choose one of its members as vice-mayor. The vice-mayor shall perform the duties of the mayor during his absence or disability.

In the event of the death, removal or resignation of the mayor, the council shall choose one of the councilmen or some other qualified voter of the Town of Front Royal who shall serve as mayor until the next succeeding municipal election, at which time a successor shall be elected by the qualified voters of the Town of Front Royal to fill the office of mayor for the remainder of the unexpired term.

CHAPTER III COUNCIL

~~SEC 10 COMPOSITION AND ELECTION~~

~~The Council of the Town shall be composed of four (4) members. Effective July 1, 1994, the Council of the Town shall be composed of six (6) members. Council members shall be elected by the popular vote of the qualified voters of the Town, as provided in Section 6 hereof. (Acts 1993, ch. 479, p. 572)~~

SEC 10 MEETINGS; EFFECT OF VOLUNTARY ABSENCE OF COUNCILMAN FROM THREE CONSECUTIVE REGULAR MEETINGS.

The Council shall, by ordinance, fix the time for their stated meetings. Special meetings shall be called by the Clerk of the Council upon the written request of the Mayor, or any ~~three~~ four (4) members of the Council. ~~Effective July 1, 1994, special meetings shall be called by the Clerk of the Council upon the written request of the Mayor, or any four (4) members of the Council.~~ No business shall be transacted at any special meeting but that for which it shall be called, unless the Council be unanimous. The meetings of the Council shall be open to the public, except when the public welfare shall require executive sessions. ***

SEC 12 APPOINTMENT OF CLERK OF COUNCIL; POWERS OF COUNCIL WITH REFERENCE TO PROCEEDINGS AND TRANSACTION OF BUSINESS; APPOINTMENT, POWERS AND DUTIES OF TOWN CLERK; MINUTE BOOK.

The council shall keep a minute book, or its electronic equivalent, in which the clerk shall note the proceedings of the council, and shall record said proceedings at large on the record book, and keep the same properly indexed.

SEC 13 QUORUM; ORDINANCES APPROPRIATING MONEY OR LEVYING TAXES OR LICENSES; RECONSIDERATION OF MATTERS AT SPECIAL MEETINGS.

A majority of the members of Council shall constitute a quorum for the transaction of business.

~~Effective July 1, 1994, no~~ No ordinance shall be passed or resolution adopted having for its object the appropriation of money, or the levy of taxes and licenses, except by the concurrence of at least ~~three (3)~~ four (4) members, one of whom may be the Mayor in case of a tie vote as provided in Section 8 hereof. No vote or question decided at a stated meeting shall be reconsidered at a special meeting unless all members are present, and ~~three (3)~~ four (4) of them concur. (Acts 1993, ch. 479, p. 572)

CHAPTER IV TOWN MANAGER.

SEC 14 APPOINTMENT, QUALIFICATIONS, TERM, REMOVAL OR SUSPENSION; ELECTION OF MEMBER OF COUNCIL AS TOWN MANAGER.

SEC 15 POWERS AND DUTIES GENERALLY; COUNCIL TO APPOINT CHIEF CONSERVATOR OF THE PEACE AND TO SEE THAT ORDINANCES AND LAWS ARE ENFORCED.

SEC 16 POWERS AS TO TOWN OFFICERS, EMPLOYEES, ETC.

CHAPTER V POWERS OF COUNCIL.

SEC 17 AS TO TOWN OFFICERS AND EMPLOYEES.

SEC 18 CONTROL OF TOWN AFFAIRS AND PROPERTY; ENUMERATION OF POWERS.

The council of the town shall have, subject to the provisions of this Act, the control and management of the fiscal and municipal affairs of the town and of all property, real and personal, belonging to said town and may make such ordinances and bylaws relating to the same as they shall deem proper. The council shall in addition to other powers given by law, have power to make such ordinances, orders, bylaws and regulations as they may deem proper and necessary to carry out the following powers, which are hereby vested in them:

1. Market. To establish a market **or markets** in and for said town, provide for the appointment of proper officers therefor, prescribe the time and places for holding the market, provide suitable grounds and buildings therefor, and enforce such regulations as shall be necessary and proper to prevent ~~huckstering, forestalling, or regrating~~ **illegal or unsanitary conditions or activity therein**.
2. ***
 3. B. Rates and charges for water, gas, electric and sewer service, etc.; deposit as prerequisite to service. To establish, impose and enforce water, gas, electricity, and sewerage rates and rates and charges for public utilities or other service, products or conveniences, operated, rendered or furnished by the town; and to assess, or cause to be assessed, water, gas, electricity and sewerage rates and charges against the proper tenant or tenants or such persons, firms or corporations as may be legally liable therefor; and the council may by ordinance require a deposit of such reasonable amount as it may by such ordinance prescribe, before furnishing any of said services to any person, firm or corporation. **When the town furnishes water, gas, electric, sewer, or other utility services to users thereof located outside the town's corporate limits, notwithstanding any provision of law to the contrary, the town may collect such compensation and service fees therefor as may be contracted for between the town and such user, and the town shall not thereby be obligated to provide such utility services to any other users outside its corporate boundaries. Any compensation and service fees received by the town for the furnishing of such utility services to users outside the town's corporate limits may, in the discretion of the town council, be paid into the town's general fund.**
 4. Streets and sidewalks-Generally. To open, extend, widen, or narrow, lay out, graduate, curb, and pave and otherwise improve streets, sidewalks, and public alleys in said town, and have them in good order and properly lighted; in order to properly light the streets of said town, the council may erect and operate such number of lamps and fixtures thereto belonging as they may deem necessary; they may build bridges in and culverts under said streets, and may prevent or remove any structure, obstruction, or encroachment over, or under, or in any street, sidewalk, or alley in said town, and may **cause to be planted or** permit shade trees **or other plants** to be planted along said streets; but no person shall occupy with his works, or any appurtenances thereof, the streets, sidewalks, or alleys of the town, without the consent of the council, duly entered upon its records; provided that so long as the said town shall, at its own expense,

maintain and keep its streets in good order and repair, it shall be exempt from all labor and tax for county road purposes.

5. Same-Prevention of cumbering. To prevent the cumbering or blockage of, or encroachment upon streets, sidewalks, alleys, lanes, or bridges in the town in any manner whatever.

8. Contagious diseases; hospitals; board of health. To secure the inhabitants from contagious, infectious, or other dangerous diseases; to establish, erect, and regulate hospitals or other medical or health-related facilities; to provide for and enforce the removal of patients to said hospitals or other medical or health-related facilities; to appoint and organize a board of health for said town, with the necessary authority for the prompt and efficient performance of its duties.

9. Nuisances; dangerous, offensive, etc., ~~business~~ activities or enterprises, etc.; transportation of coal, explosives, garbage, etc., through streets; speed of locomotives. To require and compel the abatement and removal of all nuisances within the said town, at the expense of the person or persons causing the same or the owner or owners of the ground where on the same shall be; ~~to regulate or prevent soap factories and candle factories within the town,~~ and the exercise of any dangerous, offensive or unhealthy activity, enterprise, business, trade or employment therein; and to regulate the transportation of coal, explosives, garbage and other articles through the streets of the town, and to restrain and regulate the speed of locomotive engines and cars upon the railroads within the town.

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11. Gunpowder, explosives, combustibles, kerosene oil, gasoline, fireworks; discharge of firearms; lights in barns, etc.; bonfires. To regulate and direct the location and construction of all buildings for the storage of gunpowder, explosives and combustible substances; to regulate the sale and use of gunpowder, explosives, firecrackers, fireworks, kerosene oil, gasoline, or other combustible material; to regulate or prohibit the exhibition of fireworks, the discharge of firearms, the use of lights, fires, ~~or candles in barns and stables and other outbuildings~~ buildings and structures within the town, and to restrain and regulate the making of bonfires or other outdoor fires within the town.

12. Animals at large; keeping hogs. To prevent hogs, cows, horses, dogs, and other animals from running at large in the said town, and to subject the same to such confiscation, regulations, licenses, fees, and taxes as they may deem proper, and to prevent the keeping of ~~hogs~~ such livestock or other animals as by ordinance may be prohibited within the limits of the town.

13. Riding and driving animals; operation of vehicles; dangerous or annoying sports; cruelty to animals. To regulate the riding and driving of horses and other animals and the operation of motor and other vehicles, but not in conflict with state law; to prevent the throwing of stones or other objects or engaging in any employment or sport on the streets, sidewalks or public alleys,

dangerous or annoying to persons; and to prohibit and punish the abuse or cruel treatment of horses and other animals in said town.

17. [NOTE: THIS PARAGRAPH HAS BEEN MOVED TO BECOME PARAGRAPH 3.A---PARAGRAPHS AND SECTIONS WILL BE RENUMBERED APPROPRIATELY WHEN TOWN COUNCIL HAS AGREED UPON A VERSION IT WISHES TO VOTE ON]

18. [NOTE: THIS PARAGRAPH HAS BEEN MOVED TO BECOME PARAGRAPH 3.B.]

26. Control and regulation of municipal public utilities; sale of electricity within distance of fifteen miles; sewer connection and operation of sewer system; election on question of proposed sale of public utilities. The council shall have full control and regulation over the public utilities now owned or that may hereafter be acquired by the said town, and to this end it shall have full authority to employ from time to time such **employees, agents, and consultants** as it deems necessary to properly maintain, conduct and operate the same; and it shall have full authority to incur indebtedness, unless otherwise prohibited by law, whenever the said council may deem it necessary for the proper conduct, management and maintenance of the public utilities now owned by the said town, or such as may hereafter be acquired by it; and the council is hereby authorized and empowered to supply electric current to persons, firms, associations and corporations not further distant than fifteen miles from the corporate limits of the town, and to charge therefor for which purpose the said council is specifically authorized and empowered to construct, purchase, lease or otherwise acquire necessary transmission lines, and to purchase, lease or otherwise acquire such rights of ways as may be necessary for such purposes.

The said council, however, shall have no authority to sell its public utilities, without first submitting the question of such sale at a special election to be called for that purpose only, to the qualified voters of the Town of Front Royal, which election shall be conducted as now provided by general law governing special elections. The circuit court of Warren County, or the judge thereof in vacation, shall order such special election upon the petition of two hundred qualified voters of the Town of Front Royal, or upon a resolution passed by a majority of the council of said town. For a period of not less than four weeks prior to said special election, the substantial terms of any proposed sale shall be published over the signature of the clerk of the said town, once a week for four successive weeks in some newspaper ~~published~~ **of general circulation within the County of Warren, or by publication for not less than once per week for four successive weeks in some other manner permitted by the general laws of the Commonwealth** of Virginia for the publication of proposed ordinances of the town. The qualifications of voters in said special election shall be determined by existing statutes governing other special elections.

SEC 19 CEMETERY.

SEC 20 SINKING FUNDS.

SEC 21 PENALTY FOR VIOLATION OF ORDINANCES; IMPRISONMENT FOR FAILURE TO PAY FINE.

PROPERTY FOR PUBLIC PURPOSES; EMINENT DOMAIN.

SEC 23 REMOVAL OF ENCROACHMENTS ON STREETS; SETTLEMENT OF DISPUTE AS TO LOCATION OF STREET LINE; ENCROACHMENT NOT TO CONSTITUTE ADVERSE POSSESSION OR TO CONFER RIGHTS.

SEC 24 DEDICATION OF STREETS.

SEC 25 BOARD OF SINKING FUND COMMISSIONERS; INVESTMENT OF SINKING FUNDS; DUTIES OF BOARD; MEMBERS OF BOARD TO GIVE BOND.

SEC 26 APPOINTMENT AND COMPENSATION OF TOWN ATTORNEY;

SEC 26. A. APPOINTMENT, DUTIES AND COMPENSATION OF ADDITIONAL OFFICERS AND CLERKS; OFFICERS MAY BE REQUIRED TO GIVE BOND.

The council may appoint ~~and in addition to those herein provided for,~~ such officers and clerks as they may deem necessary, and define their powers, prescribe their duties and fix their compensation. The council may take from any officer, whether elected or appointed by them, a bond, with surety, to be approved by the council, in such penalty as it may deem proper payable to the town, with condition for the faithful discharge by the said officer of the duties of his office.

SEC 27 DUTIES OF THE CLERK OF THE COUNCIL.

SEC 28 ANNUAL TAX LEVY.

In addition to all the other powers mentioned in this Charter, the town shall have power to raise annually, **semi-annually, or such other periods permitted by general law,** by taxes and assessments in said town on all subjects the taxation of which by incorporated towns is not forbidden by general law, such sums of money as the council herein provided for shall deem

necessary for the purposes of said town, and in such manner as said council shall deem expedient, in accordance with the Constitution and laws of this state and of the United States.

SEC 37 FIRE LIMITS; BUILDING REGULATIONS; UNSAFE BUILDINGS; ZONING REGULATIONS; DISPOSITION OF GARBAGE AND WASTE; FIRE PROTECTION; REMOVAL OF UNLAWFUL BUILDINGS; PUBLIC HEALTH AND SAFETY.

For the purpose of guarding against the calamities of fire, and based upon the advice of a fire marshall or building official or other person with expertise in the prevention of fires or explosion, the town council may, from time to time, designate such portions and parts of the town as it deems proper within which buildings ~~of wood~~ or other structures deemed by town council as unreasonably dangerous from or susceptible to fire or explosion, may or may not be erected. It may prohibit the erection of ~~wooden buildings or~~ buildings or structures or additions of inflammable material in any portion of the town without its permission, and may provide for the removal of such buildings or structures or additions which shall be erected contrary to such prohibition at the expense of the builder or owner thereof; or if any building in process of erection or already built appears clearly to be unsafe the council may cause such building to be taken down, after reasonable notice to the owner; and the council may, by proper ordinance, divide the town into zones; specify the kind and character of buildings which may be erected in the different zones; provide for the disposition of garbage and waste; provide precautionary measures against danger from fires; provide for the removal of buildings or structures of any kind, erected in violation of ordinances, at the expense of the builder or owner; and may do all other things lawful to be done, looking to the health and safety of the inhabitants of the town.

SEC 39 PUBLICATION OF PENAL ORDINANCES; ORDINANCES IN EVIDENCES; CODIFICATION OF ORDINANCES.

All ordinances hereafter passed by the council for the violation of which any penalty is imposed, shall be published once, at least, in one of the newspapers of general circulation in said town, to be designated by the council, or shall be published in any other manner permitted by general law for the publication of proposed ordinances. A record or entry made by the clerk of said council, or a copy of said record or entry, duly certified to by him, shall be prima facie evidence of the publication of any such ordinance; and all laws, regulations and ordinances of the council may be read in evidence in all courts of justice, and in all proceedings before any officer, body or board in which it shall be necessary to refer thereto, from a copy thereof, certified by the clerk of said council, provided, however, that whenever, the council of the town of Front Royal shall codify, in whole or in part, and print at one time, or from time to time, in book or pamphlet form, the general ordinances of the Town of Front Royal, or any part thereof, it shall be unnecessary to publish any new or changed ordinances therein contained, or such codification, or codifications, in a newspaper or otherwise, ~~and all new or changed ordinances therein contained, and such~~

~~codification or codifications, shall take effect at such time, but not less than thirty days after such codification or codifications shall have been printed in book or pamphlet form, as may be prescribed by the council by ordinance; provided, notice of such publication and the availability of such book or pamphlet at the town hall is published in a newspaper as hereinabove required. (Acts E.S. 1936-37, ch. 44, p. 143, Acts 1964, ch. 105.)~~

been sold; provided, however, if there shall be omitted from this Act any provision essential to the valid authorization, sale, execution and issuance of any of the bonds of said town, the provisions of general law with reference to similar bonds shall supply said omission.

e. Any bonds issued by the town under this Act shall be signed by the mayor and attested by the clerk under the seal of the town, and shall be made payable in the office of the town treasurer or such other place in or out of the state as the council may provide in the ordinance authorizing the issuance of the particular bonds. Such bonds shall be advertised by the mayor and sold by the town treasurer, or by the town manager as may be provided in such ordinance, under supervision of the mayor, town manager and clerk, and the sale reported to and approved by the council, and the proceeds from said sale shall be paid to the town treasurer.

SEC 44 PROPERTY, BOOKS AND PAPERS BELONGING TO TOWN OR APPERTAINING TO TOWN OFFICE.

If any person, having been an officer of such town, shall not within ten days after he shall have vacated, or removed from office, and upon notification or request of the clerk of the council, or within such time thereafter as the town council shall allow, deliver over to his successor in office all property, books, and papers belonging to the town, or appertaining to such office in his possession or under his control, he shall forfeit and pay to the town the sum of five hundred dollars, ~~to~~ **and may** be sued **therefor** in the name of the town and recovered with costs; and all books, records and documents used in any such office by virtue of any provision of this Act, or of any ordinance or order of the town council, or any superior officer of the said town, shall be deemed the property of the said town and appertaining to said office, and the chief officer thereof shall be responsible therefor.

SEC 60 DUTIES MAY BE COMBINED WITH THOSE OF TOWN MANAGER.

The council may at any time in its discretion combine the duties of town treasurer, or any part of such duties, with those of the duties of town manager, **or with the town's finance director,** and if and when the council places the duties of the town treasurer, or any part of such duties, upon the town manager **or with the finance director,** the town manager, **or the finance director, as the case may be,** shall have all of the power, authority, duties, obligations and responsibilities which are set forth in this Act for the town treasurer to the extent of the combination of the duties of town treasurer with the duties of town manager by the town council.

CHAPTER VIII TOWN PLANNING.

SEC 63 AMENDMENT OF PLAN.

The council may at any time, after a public hearing, amend the town plan, **including, but not limited to,** by widening, relocating, or closing existing streets and highways, and by altering any existing park or by laying out new streets and highways and establishing new parks. Before amending the town plan, the council shall refer the proposed amendment to the town planning commission for a report thereon, and shall not act on such amendment until a report has been received from said commission, unless a period of thirty days has elapsed after the date of reference to the commission. Any amendment of the town plan, upon its adoption by the council, shall be final unless changed as herein provided as to the location, length, and width of any street and highway, and the location and dimension of any park. Any widening, relocation, closing or laying out of streets and highways proposed under the provisions of law other than those contained in this article shall be deemed an amendment of the town plan, and shall be subject in all respects to the provisions of this chapter.

SEC 64 PLATS TO BE APPROVED BY COUNCIL; DUTIES OF PLANNING COMMISSION AS TO PLATS; STREETS AND PARKS; REGULATIONS AS TO FILING PLATS.

No plat showing a new street or highway within the town, shall be filed or recorded in the office of the clerk of the town or of any county until such plat has been approved by the council. Before giving any approval, the council shall refer every such plat to the town planning commission for a report, and shall not act on any plat so referred until a report has been received from the commission, unless a period of forty-five days has elapsed after the date of reference to the commission. Before reporting to the council on any plat, the commission shall hold a public hearing thereon. If any plat is disapproved by the commission, it shall report the reasons for such disapproval to the council. The council shall not approve any plat unless the streets and highways provided in such plats are of sufficient width, of proper grades, and suitably located to meet the probable traffic needs; to afford adequate light, air, and access of fire apparatus to such buildings as may be erected along the proposed streets and highways; and to insure healthful conditions on the land adjacent to such streets and highways. The council may, in appropriate cases, require that a plat, before being approved, shall provide adequate open spaces for parks, playgrounds, or other recreational uses; but the inclusion of such open spaces upon a plat does not require their dedication to public use. After a plat has been approved by the council, the streets, highways, parks, and other open spaces shall be a part of the town plan. The council, after a public hearing, may adopt general regulations in regard to the filing of plats.

SEC 64-A PREREQUISITES TO APPROVAL OF PLAT BY COUNCIL.*

b. ~~And~~, Before approving such plat, and thereby accepting the dedication of the streets and alleys thereon, the council shall require the owner thereof to execute and deliver to the Town of Front Royal, a release and waiver of any claim or claims for damages which such owner, his heirs, successors or assigns may have or acquire against the Town of Front Royal by reason of establishing proper grade lines on and along such streets and alleys and by reason of doing necessary grading or filling for the purpose of placing such streets and alleys upon the proper grade and releasing the Town of Front Royal from building any retaining wall or walls along the streets and alleys and property lines; and the council may require such release and waiver to be written and executed on said plat and recorded therewith or by an instrument of writing to be executed and recorded in the clerk's office of the circuit court of Warren County.

~~And~~ The council may in its discretion, require the owner of such platted lands to submit profiles of such streets and alleys, showing the contour thereof, together with the proper grade lines laid thereon, and if and when the council is satisfied that the proper grade lines are laid on such profiles, the profiles shall be approved by the council and recorded by the owner or at his expense in the record of the profiles of the streets and alleys of the town, and the council may, in its discretion, require such release and waiver to be made with reference thereto.

SEC 65 ERECTION OF BUILDINGS WITHIN STREET LINES.

For the purpose of preserving the integrity of the plan, no permit shall hereafter be issued for the construction of any building within the street lines of any mapped street or highway, as laid down in the town plan, within the town. ~~Provided, however, if the land within any mapped street or highway is not yielding a fair return to the owner, the board of appeals, provided for in chapter nine hereof, by a majority vote of all its members, may issue a permit for a building within the street line of such street or highway, upon such conditions as will increase as little as possible the cost of opening such street or highway, and will protect as far as possible the rights of the public and the integrity of the town plan. The board of appeals, hereinafter authorized, before taking any action under the provisions of this section, shall hold a public hearing, of which adequate notice shall be given to all persons deemed to be affected. Any decision by the board of appeals, rendered under the provisions of this section, shall be subject to the same court review as provided for zoning decisions of the board.~~

CHAPTER IX ZONING.

SEC 67 GENERALLY.

For the purposes stated in Chapter 197 of the Acts of Assembly, approved March eighteenth, nineteen hundred and twenty-six, the town council is hereby empowered to pass zoning ordinances in conformity with the said Act, as amended, subject, however, to the following modifications thereto:

a. The council shall not adopt any zoning ordinance or map until it shall have appointed a town planning commission, as provided for in chapter eight hereof and shall have received from said commission its recommendations as to a zoning ordinance and map, and shall have held a public hearing thereon.

b. Any zoning ordinance, regulations, restrictions, and boundaries of districts may be changed from time to time by the council, either upon its own motion or upon petition, under such conditions as the council may prescribe, after a public hearing and adequate notice to all owners and parties affected. ~~If a protest or protests be filed with the council, signed by the owners of twenty per centum or more of the area of the land included in the proposed change, or by the owners of twenty per centum or more of the area of the land immediately adjacent to the land included in the proposed change, within a distance of one hundred feet therefrom, or by the owners of twenty per centum or more of the area of the land directly opposite across any streets or streets from the land included in the proposed change, within a distance of one hundred feet from the street lines directly opposite, then no such change shall be made except by the majority vote of all of the members of the council.~~ No change shall be made by the council in any zoning ordinance or map until such change has been referred to the town planning commission for a report thereon, and no action shall be taken by the council until a report has been received from the commission, unless a period of thirty days has elapsed after the date of reference to the commission.

~~c. Within thirty days after the adoption of any zoning ordinance and map, the council shall appoint a board of appeals, consisting of five members, none of whom shall hold any other positions with the town.~~

~~—The council may remove any member of the board for cause, after a public hearing. If a vacancy occurs otherwise than by the expiration of the term of the different members, it shall be filled by the council for the unexpired term.~~

~~—Unless the council designates some member of the board as chairman, the board shall select a chairman from among its own members, and may create and fill such other offices as it may choose. The board may employ such persons as the council may approve, and may expend such sums as are appropriated by the council for its work.~~

CHAPTER X GENERAL PROVISIONS.

SEC 70-a EDUCATIONAL SYSTEM IN EVENT OF ESTABLISHMENT AS CITY.

In the event the Town of Front Royal is established as a city, it is hereby authorized to enter into contract with the county school board of Warren County, Virginia, for furnishing public school facilities for the city, in which event, with the approval of the state board of education, the county and city shall be constituted as one school system for the establishment, operation, maintenance and management of the public schools within the county and city; and provided

further that representation on the county school board of Warren County for the City of Front Royal shall consist of one representative from each magisterial district (or ward) of the City of Front Royal to be appointed as provided in Section 653-a1 and 653-a2, Acts 1942, chapter 422. (Acts 1944, ch. 209, p. 301.)

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