



REGULAR TOWN COUNCIL MEETING

September 10, 2018 @ 7:00pm
Warren County Government Center

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call
4. Approval of the Regular Council Meeting minutes of August 27, 2018 and Special Meeting Council Meeting minutes of September 4, 2018
5. Receipt of Petitions and/or Correspondence from the Public
6. Reports:
 - a. Report of special committees or Town officials and Town Manager
 - b. Requests and inquiries of Council members.
 - c. Report of the Mayor
 - d. Proposals for addition/deletion of items to the Agenda.
7. **CONSENT AGENDA ITEMS** – (ROLL CALL VOTE REQUIRED) - NONE
8. **COUNCIL APPROVAL** – FY2019-2020 Budget Calendar
9. **COUNCIL APPROVAL** – Budget Amendment to Accept DMV Grants
10. **COUNCIL APPROVAL** – Property Maintenance Code Enforcement Option
11. **COUNCIL APPROVAL** – Budget Amendment and Purchasing of Radio Communications System for the Police Department

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**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 8

Meeting Date: September 10, 2018

Agenda Item: COUNCIL APPROVAL – FY2019-2020 Budget Calendar

Summary: Council is requested to approve the FY2019-2020 budget calendar as presented.

Budget/Funding: None

Attachments: Budget Calendar

Meetings: Work Session held September 4, 2018

Staff

Recommendation: Approval ✓ Denial

Proposed Motion: I move that Council approve the FY2019-2020 budget calendar as presented.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JW

Fiscal Year 2019-2020 Budget Calendar

Sept 25, 2018	Finance Department distributes FY20 Budget forms to Departments (FY18 Figures provided will not be final/audited figures)
Sept 28 2018	Departments requests for 5 year CIP due to Finance with justifications
Oct 5, 2018	CIP related to properties sent to Planning Commission for Review
Oct 8 th -12 th	Review CIP with Departments
Oct 31, 2018	FY20 Departmental spending requests due back to Finance
Nov 12-16, 2018	Town Manager preliminary review spending with Departments
Dec 14, 2018	Mid-year FY19 Budget transfers due from departments
Jan 7, 2019	Work Session – review of capital projects & other possible major items that may be included in FY20 proposed budget
Jan 22, 2019	Revenue Forecast Review
Feb 1, 2019	Town Manager’s Recommended Budget to Town Council
Feb 4, 2019	Work Session. Revenues & General Fund Expenditures Review
Feb 19, 2019	Work Session – Review Enterprise Fund Expenditures and discuss tax rates to advertise for Real and Personal Property
Feb 20, 2019	Advertisement submitted for annual tax rate for Real and Personal Property – rate has to be set prior to April 1
March 4, 2019	Additional Budget Work Session (If requested)

Mar 11, 2019	Public Hearing & First Reading of Town Tax rates for both Real Estate and Personal Property
Mar 25, 2019	Second and Final Reading of Town Tax rates for both Real Estate and Personal Property
April 2, 2019	Advertisement submitted for Annual Appropriation Ordinance
April 22, 2019	Public Hearing & First Reading of Appropriations Ordinance and Rate Ordinances
May 6, 2019	Budget Work Session (If requested)
May 13, 2019	Second and Final Reading of Appropriation Ordinance and Rate Ordinances

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**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 9

Meeting Date: September 10, 2018

Agenda Item: COUNCIL APPROVAL – Budget Amendment to Accept DMV Grants

Summary: Council is requested to approve a budget amendment in the total amount of \$12,300 (\$3,850 + \$8,450) to accept two Division of Motor Vehicle (DMV) Grants passed through the National Highway Traffic Safety Administration (NHTSA) to be used for Alcohol Selective Enforcement and Speed Selective Enforcement in the Police Department. Both are 50% matching grants from the Town in the total amount of \$6,150 (\$1,925 + \$4,225).

Budget/Funding: 1000-3310012 – Community Policing -\$12,300 – Alcohol Selective Enforcement & Speed Selective Enforcement
3102-41002 – Police Patrol Overtime - \$12,300 – Alcohol Selective Enforcement & Speed Selective Enforcement

Attachments: Memo from Captain Ryman and Letter from DMV

Meetings: None

Staff

Recommendation: Approval ✓ Denial _____

Proposed Motion: I move that Council approve a budget amendment in the total amount of \$12,300 (\$3,850 + \$8,450) to accept two Division of Motor Vehicle (DMV) Grants passed through the National Highway Traffic Safety Administration (NHTSA) to be used for Alcohol Selective Enforcement and Speed Selective Enforcement in the Police Department.

ROLL CALL VOTE REQUIRED

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proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JW



TOWN OF FRONT ROYAL

POLICE DEPARTMENT
23 E. JACKSON STREET
FRONT ROYAL, VIRGINIA 22630-1560

K. L. Magalis
Chief of Police
(540) 635-2111
(540) 635-6160 (Fax)

Date: August 31, 2018
To: Tina Presley
From: Capt. Jason Ryman
Subject: Council Acceptance of Approved DMV Grant Funding

During the annual DMV Grant workshop this week, the department received initial approval of two matching grants through DMV and NHTSA.

The first grant is for Alcohol Selective Enforcement which involves specified patrols and check-points to enforce drunk and impaired driving laws. The Federally obligated amount is \$8,450.00. This is a 50% matching grant. The match of \$4,225.00 would come from our currently budgeted vehicle maintenance and fuel costs bringing the total grant funding amount to \$12,675.00.

The second grant is for Speed Selective Enforcement which involves specified patrols in selected areas to enforce speed and seat-belt laws. The Federally obligated amount is \$3,850.00. This is also a 50% matching grant. The match of \$1,925.00 would come from our currently budgeted vehicle maintenance and fuel costs bringing the total grant funding amount to \$5,775.00.

Through the use of both of these grants, the department can continue to place specific efforts toward pushing down the crash rates with the town. I respectfully request that Council approve receipt and use of both grants.



COMMONWEALTH of VIRGINIA

Department of Motor Vehicles
2300 West Broad Street

Richard D. Holcomb
Commissioner

Post Office Box 27412
Richmond, VA 23269-0001

August 1, 2018

Mr. Steve Mauck
Master Police Officer
Front Royal Town
23 E. Jackson Street
Front Royal, VA 22630

Dear Mr. Mauck:

Safety has been and will continue to be a high priority in Virginia's overall transportation system. The Northam administration is committed to ensuring that safety is the highest priority in the development of the Commonwealth's multi-modal transportation system.

I am pleased to inform you that the highway safety project proposal(s) listed below has been approved for pass-through grant funding from the National Highway Traffic Safety Administration for Federal Fiscal Year (FFY) 2019.

<u>Project Number</u>	<u>Project Title</u>	<u>Amount Approved</u>
FSC-2019-59140-9140	Selective Enforcement - Speed	\$ 3,850.00
154AL-2019-59136-9136	Selective Enforcement - Alcohol	\$ 8,450.00

The availability of funds under this grant is contingent upon two conditions: (1) the project director and the fiscal contact responsible for the financial management of your grant must attend a grantee workshop and (2) the release of federal funds to the Commonwealth. Your assigned grant monitor will be contacting you to provide the dates and locations for this mandatory training.

You will receive the project agreement(s), scope of work, special conditions, and project budget during the training session. As the recipient of a FFY 2019 grant award, it is important that you read and follow the information carefully. If you have any questions regarding the conditions, please contact the grant monitor assigned to your grant.

Thank you for your commitment and participation in improving highway safety. We look forward to the positive impact that your project will have on making our roadways safer.

Sincerely,

Richard D. Holcomb

RDH/sm
Grant Monitor: Staunton Region - Doug Stader

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**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 10

Meeting Date: September 10, 2018

Agenda Item: COUNCIL APPROVAL – Property Maintenance Code Enforcement Option

Summary: On January 8, 2018 Council voted NO unanimously to amend and re-enact Chapter 9 of the Front Royal Municipal Code to adopt a Property Maintenance Code and to Establish a Rental Inspection District. On June 4, 2018 Council asked for a discussion on addressing blighted and derelict structures in Town. A few more work sessions followed in which Council was given four options (A – D) by staff to consider. Tonight, Council is requested to approve Property Maintenance Enforcement Option B or Option C and authorize staff to advertise for public hearing on the selected Option.

OPTION B: Adopt Sections 104, 105, and 106 of the Property Maintenance Code only as presented.

OPTION C: Adopt the Property Maintenance Code in full without a Rental Inspection Program as presented.

Budget/Funding: None

Attachments: Various Options, Proposed Code Amendments and Virginia Uniform Building Code Sections 104, 105, and 106

Meetings: Work Sessions held June 14, July 16, August 20, August 27, 2018

Staff

Recommendation: Approval ✓ Denial

Proposed Motion 1: I move that Council approve Property Maintenance Enforcement Option B – Adopt Sections 104, 105 and 106 of the Property Maintenance Code Only and authorize the advertisement of a public hearing on the amendment of the Town Code as presented.

Proposed Motion 2: I move that Council approve Property Maintenance Enforcement Option C – Adopt the Property Maintenance Code in full without a Rental Inspection Program and authorize the advertisement of a public hearing on the amendment of the Town Code as presented.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JW

PROPERTY MAINTENANCE ENFORCEMENT OPTIONS

OPTIONS		PROS/CONS	ESIMATED STAFFING
A	<u>OPTION A:</u> No change.	N/A	N/A
B	<u>OPTION B:</u> Adopt Sections 104, 105 and 106 of the Property Maintenance Code Only. <i>Example: Town of Culpeper</i>	PROS: Additional legal path for enforcing unsafe structures. CONS: Does not expand powers beyond unsafe structures which can already be enforced by the public nuisance code.	.5 - 1 Requires Code Official.
C	<u>OPTION C:</u> Adopt the Property Maintenance Code in full without a Rental Inspection Program. <i>Example: Town of Strasburg (not enforced)</i>	PROS: Addresses all structures in the Town. Addresses maintenance issues. Can be enforced on a complaint basis or proactive enforcement. CONS: Legal costs from challenges from landlords.	1 – 1.5 Requires Code Official.
D	<u>OPTION D:</u> Adopt the Property Maintenance Code in full with a Rental Inspection Program . <i>Example: Planning Commission Draft</i>	PROS: Addresses property maintenance town-wide and addresses the condition of rental units inside of the designated Rental Inspection District. CONS: Moderate cost from higher staffing level need. Size of Rental Inspection District controls staffing level to some extent. Legal costs from challenges from landlords.	1.5 – 2 Requires Code Official.
E	<u>OPTION E:</u> Adopt the Property Maintenance Code in full with a Rental Inspection Program and a Building Inspections Department . <i>Example: City of Winchester, VA</i>	PROS: Addresses property maintenance town-wide and addresses the condition of rental units inside of the designated Rental Inspection District. Permit fees from building permits generate more income. Better communication link and control between property maintenance violations and building permits. All services in-house. CONS: Higher cost from higher staffing level need. Legal costs from challenges from landlords. Redundant services argument.	3 + outsourcing Requires Code Official.

DRAFT AMENDMENT

"Building and Maintenance Codes" OPTION B (1)

This draft amendment to the Town Code proposes the adoption of the Virginia Maintenance Code (2012); establishment of a Property Maintenance Code Official. Establishment of a Rental Inspection Program is NOT included. The draft includes the existing provisions of Chapter 9, and language that reserves the Town's right to establish a Building Inspections Department. Furthermore, this draft 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 AND MAINTENANCE CODES

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.

(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, including only the sections titled enforcement generally, unsafe structures or structures unfit for human habitation and appeals (Sections 104, 105 and 106 respectfully).

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: GENERAL**9-300 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.

9-301 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.

9-302 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.

9-303 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.

9-304 THROUGH 9-309. Reserved

9-310 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.

Day means a calendar day.

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.

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.

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

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

280 more other conditions that, if not corrected, would be reasonably expected to become
281 conditions that affect the safe, decent and sanitary living conditions of the occupants, or
282 other conditions that violate the provisions of the Maintenance Code, or multiple
283 Maintenance Code violations that indicate, in their totality, the dwelling unit is not being
284 properly maintained. As applicable to the Building Code, means conditions which are in
285 violation of the Building Code, as defined herein.

286 -----END

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

290

291 Rough Draft 8/27/18 (JFC/dn)

DRAFT AMENDMENT

"Building and Maintenance Codes" OPTION C (1)

This draft amendment to the Town Code proposes the adoption of the Virginia Maintenance Code (2012); establishment of a Property Maintenance Code Official. Establishment of a Rental Inspection Program is NOT included. The draft includes the existing provisions of Chapter 9, and language that reserves the Town's right to establish a Building Inspections Department. Furthermore, this draft 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 AND MAINTENANCE CODES

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.

(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: GENERAL

9-300 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.

9-301 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.

9-302 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.

9-303 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.

9-304 THROUGH 9-309. Reserved

9-310 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.

Day means a calendar day.

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.

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.

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

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.

-----END

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.

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safe, decent and sanitary living conditions for the tenants of such property.

If a multifamily development has more than 10 dwelling units, in the initial and periodic inspections, the building department shall inspect only a sampling of dwelling units, of not less than two and not more than 10% of the dwelling units, of a multifamily development, that includes all of the multifamily buildings that are part of that multifamily development. In no event, however, shall the building department charge a fee authorized by this section for inspection of more than 10 dwelling units. If the building department determines upon inspection of the sampling of dwelling units that there are violations of this code that affect the safe, decent and sanitary living conditions for the tenants of such multifamily development, the building department may inspect as many dwelling units as necessary to enforce these provisions, in which case, the fee shall be based upon a charge per dwelling unit inspected, as otherwise provided in the fee schedule established pursuant to this section.

Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental inspection ordinance, the building department has the authority under these provisions to require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the building department deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of this code that affect the safe, decent and sanitary living conditions for the tenants.

Except as provided for above, following the initial inspection of a residential rental dwelling unit subject to a rental inspection ordinance, the building department may inspect any residential rental dwelling unit in a rental inspection district, that is not otherwise exempted in accordance with this section, no more than once each calendar year.

Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental inspection ordinance for compliance with these provisions, provided that there are no violations of this code that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, the building department shall provide, to the owner of such residential rental dwelling unit, an exemption from the rental inspection ordinance for a minimum of four years. Upon the sale of a residential rental dwelling unit, the building department may perform a periodic inspection as provided above, subsequent to such sale. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four years, an exemption shall be granted for a minimum period of four years from the date of the issuance of the certificate of occupancy by the building department. If the residential rental dwelling unit becomes in violation of this code dur-

ing the exemption period, the building department may revoke the exemption previously granted under this section.

A local governing body may establish a fee schedule for enforcement of these provisions, which includes a per dwelling unit fee for the initial inspections, follow-up inspections and periodic inspections under this section.

The provisions of this section shall not in any way alter the rights and obligations of landlords and tenants pursuant to the applicable provisions of Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of Title 55 of the Code of Virginia.

The provisions of this section shall not alter the duties or responsibilities of the local building department under § 36-105 of the Code of Virginia to enforce the USBC.

Unless otherwise provided for in § 36-105.1:1 of the Code of Virginia, penalties for violation of this section shall be the same as the penalties provided for violations of other sections of the USBC.

SECTION 104 ENFORCEMENT, GENERALLY

104.1 Scope of enforcement. This section establishes the requirements for enforcement of this code in accordance with § 36-105 of the Code of Virginia. The local governing body may also inspect and enforce the provisions of the USBC for existing buildings and structures, whether occupied or not. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

If the local building department receives a complaint that a violation of this code exists that is an immediate and imminent threat to the health or safety of the owner, tenant, or occupants of any building or structure, or the owner, occupant, or tenant of any nearby building or structure, and the owner, occupant, or tenant of the building or structure that is the subject of the complaint has refused to allow the code official or his agent to have access to the subject building or structure, the code official or his agent may present sworn testimony to a magistrate or court of competent jurisdiction and request that the magistrate or court grant the code official or his agent an inspection warrant to enable the code official or his agent to enter the subject building or structure for the purpose of determining whether violations of this code exist. The code official or his agent shall make a reasonable effort to obtain consent from the owner, occupant, or tenant of the subject building or structure prior to seeking the issuance of an inspection warrant under this section.

Note: Generally, official action must be taken by the local government to enforce the VMC. Consultation with the legal counsel of the jurisdiction when initiating or changing such action is advised.

104.1.1 Transfer of ownership. In accordance with § 36-105 of the Code of Virginia, if the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement action shall continue to be enforced against the owner.

104.2 Fees. In accordance with § 36-105 of the Code of Virginia, fees may be levied by the local governing body in order to defray the cost of enforcement and appeals.

104.3 State buildings. In accordance with § 36-98.1 of the Code of Virginia, this code shall be applicable to state-owned buildings and structures. Acting through the Division of Engineering and Buildings, the Department of General Services shall function as the building official for state-owned buildings.

104.3.1 Certification of state enforcement personnel. State enforcement personnel shall comply with the applicable requirements of Sections 104.4.2 through 104.4.4 for certification, periodic maintenance training, and continuing education.

104.4 Local enforcing agency. In jurisdictions enforcing this code, the local governing body shall designate the agency within the local government responsible for such enforcement and appoint a code official. The local governing body may also utilize technical assistants to assist the code official in the enforcement of this code. A permanently appointed code official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. DHCD shall be notified by the appointing authority within 30 days of the appointment or release of a permanent or acting code official and within 60 days after retaining or terminating a technical assistant.

Note: Code officials and technical assistants are subject to sanctions in accordance with the VCS.

104.4.1 Qualifications of code official and technical assistants. The code official shall have at least five years of building experience as a licensed professional engineer or architect, building, fire or trade inspector, contractor, housing inspector or superintendent of building, fire or trade construction or at least five years of building experience after obtaining a degree in architecture or engineering, with at least three years

in responsible charge of work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The code official shall have general knowledge of sound engineering practice in respect to the design and construction of structures, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

A technical assistant shall have at least three years of experience and general knowledge in at least one of the following areas: building construction, building, fire or housing inspections, plumbing, electrical or mechanical trades, fire protection, elevators or property maintenance work. Any combination of education and experience which would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The locality may establish additional certification requirements.

104.4.2 Certification of code official and technical assistants. An acting or permanent code official shall be certified as a code official in accordance with the VCS within one year after being appointed as acting or permanent code official. A technical assistant shall be certified in the appropriate subject area within 18 months after becoming a technical assistant. When required by a locality to have two or more certifications, a technical assistant shall obtain the additional certifications within three years from the date of such requirement.

Exception: A code official or technical assistant in place prior to April 1, 1995, shall not be required to meet the certification requirements in this section while continuing to serve in the same capacity in the same locality.

104.4.3 Noncertified code official. Except for a code official exempt from certification under the exception to Section 104.4.2, any acting or permanent code official who is not certified as a code official in accordance with the VCS shall attend the core module of the Virginia Building Code Academy or an equivalent course in an individual or regional code academy accredited by DHCD within 180 days of appointment. This requirement is in addition to meeting the certification requirement in Section 104.4.2.

104.4.4 Requirements for periodic maintenance training and education. Code officials and technical assistants shall attend periodic maintenance training as designated by DHCD. In addition to the periodic

maintenance training required above, code officials and technical assistants shall attend 16 hours of continuing education every two years as approved by DHCD. If a code official or technical assistant possesses more than one BHCD certificate, the 16 hours shall satisfy the continuing education requirement for all BHCD certificates.

104.4.5 Conflict of interest. The standards of conduct for code officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

104.4.6 Records. The local enforcing agency shall retain a record of applications received, permits, certificates, notices and orders issued, fees collected and reports of inspections in accordance with The Library of Virginia's General Schedule Number Six.

104.5 Powers and duties, generally. The code official shall enforce this code as set out herein and as interpreted by the State Review Board and shall issue all necessary notices or orders to ensure compliance with the code.

104.5.1 Delegation of authority. The code official may delegate powers and duties except where such authority is limited by the local government. When such delegations are made, the code official shall be responsible for assuring that they are carried out in accordance with the provisions of this code.

104.5.2 Issuance of modifications. Upon written application by an owner or an owner's agent, the code official may approve a modification of any provision of this code provided the spirit and intent of the code are observed and public health, welfare and safety are assured. The decision of the code official concerning a modification shall be made in writing and the application for a modification and the decision of the code official concerning such modification shall be retained in the permanent records of the local enforcing agency.

104.5.2.1 Substantiation of modification. The code official may require or may consider a statement from a professional engineer, architect or other person competent in the subject area of the application as to the equivalency of the proposed modification.

104.5.3 Inspections. The code official may inspect buildings or structures to determine compliance with this code and shall carry proper credentials when performing such inspections. The code official is authorized to engage such expert opinion as deemed neces-

sary to report upon unusual, detailed, or complex technical issues in accordance with local policies.

104.5.3.1 Observations. When, during an inspection, the code official or authorized representative observes an apparent or actual violation of another law, ordinance, or code not within the official's authority to enforce, such official shall report the findings to the official having jurisdiction in order that such official may institute the necessary measures.

104.5.3.2 Approved inspection agencies and individuals. The code official may accept reports of inspections or tests from individuals or inspection agencies approved in accordance with the code official's written policy required by Section 104.5.3.3. The individual or inspection agency shall meet the qualifications and reliability requirements established by the written policy. Reports of inspections by approved individuals or agencies shall be in writing, shall indicate if compliance with the applicable provisions of this code have been met, and shall be certified by the individual inspector or by the responsible officer when the report is from an agency. The code official shall review and approve the report unless there is cause to reject it. Failure to approve a report shall be in writing within five working days of receiving it, stating the reasons for rejection.

104.5.3.3 Third-party inspectors. Each code official charged with the enforcement of this code and who accepts third-party reports shall have a written policy establishing the minimum acceptable qualifications for third-party inspectors. The policy shall include the format and time frame required for submission of reports, any prequalification or preapproval requirements before conducting a third-party inspection, and any other requirements and procedures established by the code official.

104.5.3.4 Qualifications. In determining third-party qualifications, the code official may consider such items as DHCD inspector certification, other state or national certifications, state professional registrations, related experience, education, and any other factors that would demonstrate competency and reliability to conduct inspections.

104.5.4 Notices, reports and orders. Upon findings by the code official that violations of this code exist, the code official shall issue a correction notice or notice of violation to the owner or the person responsible for the maintenance of the structure. Work done to correct violations of this code subject to the permit,

inspection and approval provisions of the VCC shall not be construed as authorization to extend the time limits established for compliance with this code.

104.5.4.1 Correction notice. The correction notice shall be a written notice of the defective conditions. The correction notice shall require correction of the violation or violations within a reasonable time unless an emergency condition exists as provided under the unsafe building provisions of Section 105. Upon request, the correction notice shall reference the code section that serves as the basis for the defects and shall state that such defects shall be corrected and reinspected in a reasonable time designated by the code official.

104.5.4.2 Notice of violation. If the code official determines there are violations of this code other than those for unsafe structures, unsafe equipment or structures unfit for human occupancy under Section 105, the code official may issue a notice of violation to be communicated promptly in writing to the owner or the person responsible for the maintenance or use of the building or structure in lieu of a correction notice as provided for in Section 104.5.4.1. In addition, the code official shall issue a notice of violation for any uncorrected violation remaining from a correction notice established in Section 104.5.4.1. A notice of violation shall be issued by the code official before initiating legal proceedings unless the conditions violate the unsafe building conditions of Section 105 and the provisions established therein are followed. The code official shall provide the section numbers to the owner for any code provision cited in the notice of violation. The notice shall require correction of the violation or violations within a reasonable time unless an emergency condition exists as provided under the building provisions of Section 105. The owner or person to whom the notice of violation has been issued shall be responsible for contacting the code official within the time frame established for any re-inspections to assure the violations have been corrected. The code official will be responsible for making such inspection and verifying the violations have been corrected. In addition, the notice of violation shall indicate the right of appeal by referencing the appeals section of this code.

104.5.5 Coordination of inspections. The code official shall coordinate inspections and administrative orders with any other state or local agencies having related inspection authority and shall coordinate those inspections required by the Virginia Statewide Fire Prevention Code (13VAC5-51) for maintenance of fire protection devices, equipment and assemblies so

that the owners and occupants will not be subjected to numerous inspections or conflicting orders.

Note: The Fire Prevention Code requires the fire official to coordinate such inspections with the code official.

104.5.6 Further action when violation not corrected. If the responsible party has not complied with the notice of violation, the code official shall submit a written request to the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or structure involved. In cases where the locality so authorizes, the code official may issue or obtain a summons or warrant.

104.5.7 Penalties and abatement. Penalties for violations of this code shall be as set out in § 36-106 of the Code of Virginia. The successful prosecution of a violation of the code shall not preclude the institution of appropriate legal action to require correction or abatement of a violation.

SECTION 105 UNSAFE STRUCTURES OR STRUCTURES UNFIT FOR HUMAN OCCUPANCY

105.1 General. This section shall apply to existing structures which are classified as unsafe or unfit for human occupancy. All conditions causing such structures to be classified as unsafe or unfit for human occupancy shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured against public entry or razed and removed. Vacant and secured structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure or a structure unfit for human occupancy constitutes such a hazard that it should be razed or removed, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirements of this code.

Note: Structures which become unsafe during construction are regulated under the VCC.

105.2 Inspection of unsafe or unfit structures. The code official shall inspect any structure reported or discovered as unsafe or unfit for human habitation and shall prepare a report to be filed in the records of the local enforcing agency and a copy issued to the owner. The report shall include the use of the structure and a description of the nature and extent of any conditions found.

105.3 Unsafe conditions not related to maintenance. When the code official finds a condition that constitutes a

serious and dangerous hazard to life or health in a structure constructed prior to the initial edition of the USBC and when that condition is of a cause other than improper maintenance or failure to comply with state or local building codes that were in effect when the structure was constructed, then the code official shall be permitted to order those minimum changes to the design or construction of the structure to remedy the condition.

105.3.1 Limitation to requirements for retrofitting.

In accordance with Section 103.2, this code does not generally provide for requiring the retrofitting of any structure. However, conditions may exist in structures constructed prior to the initial edition of the USBC because of faulty design or equipment that constitute a danger to life or health or a serious hazard. Any changes to the design or construction required by the code official under this section shall be only to remedy the serious hazard or danger to life or health and such changes shall not be required to fully comply with the requirements of the VCC applicable to newly constructed buildings or structures.

105.4 Notice of unsafe structure or structure unfit for human occupancy. When a structure is determined to be unsafe or unfit for human occupancy by the code official, a written notice of unsafe structure or structure unfit for human occupancy shall be issued by personal service to the owner, the owner's agent or the person in control of such structure. The notice shall specify the corrections necessary to comply with this code, or if the structure is required to be demolished, the notice shall specify the time period within which the demolition must occur. Requirements in Section 104.5.4 for notices of violation are also applicable to notices issued under this section to the extent that any such requirements are not in conflict with the requirements of this section.

Note: Whenever possible, the notice should also be given to any tenants of the affected structure.

105.4.1 Vacating unsafe structure. If the code official determines there is actual and immediate danger to the occupants or public, or when life is endangered by the occupancy of an unsafe structure, the code official shall be authorized to order the occupants to immediately vacate the unsafe structure. When an unsafe structure is ordered to be vacated, the code official shall post a notice with the following wording at each entrance: "THIS STRUCTURE IS UNSAFE AND ITS OCCUPANCY (OR USE) IS PROHIBITED BY THE CODE OFFICIAL." After posting, occupancy or use of the unsafe structure shall be prohibited except when authorized to enter to conduct inspections, make required repairs or as necessary to demolish the structure.

105.5 Posting of notice. If the notice is unable to be issued by personal service as required by Section 105.4, then the notice shall be sent by registered or certified mail to the last known address of the responsible party and a copy of the notice shall be posted in a conspicuous place on the premises.

105.6 Posting of placard. In the case of a structure unfit for human habitation, at the time the notice is issued, a placard with the following wording shall be posted at the entrance to the structure: "THIS STRUCTURE IS UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." In the case of an unsafe structure, if the notice is not complied with, a placard with the above wording shall be posted at the entrance to the structure. After a structure is placarded, entering the structure shall be prohibited except as authorized by the code official to make inspections, to perform required repairs or to demolish the structure. In addition, the placard shall not be removed until the structure is determined by the code official to be safe to occupy, nor shall the placard be defaced.

105.7 Revocation of certificate of occupancy. If a notice of unsafe structure or structure unfit for human habitation is not complied with within the time period stipulated on the notice, the code official shall be permitted to request the local building department to revoke the certificate of occupancy issued under the VCC.

105.8 Vacant and open structures. When an unsafe structure or a structure unfit for human habitation is open for public entry at the time a placard is issued under Section 105.6, the code official shall be permitted to authorize the necessary work to make such structure secure against public entry whether or not legal action to compel compliance has been instituted.

105.9 Emergency repairs and demolition. To the extent permitted by the locality, the code official may authorize emergency repairs to unsafe structures or structures unfit for human habitation when it is determined that there is an immediate danger of any portion of the unsafe structure or structure unfit for human habitation collapsing or falling and when life is endangered. Emergency repairs may also be authorized where there is a code violation resulting in the immediate serious and imminent threat to the life and safety of the occupants. The code official shall be permitted to authorize the necessary work to make the structure temporarily safe whether or not legal action to compel compliance has been instituted. In addition, whenever an owner of an unsafe structure or structure unfit for human habitation fails to comply with a notice to demolish issued under Section 105.4 in the time period stipulated, the code official shall be permitted to cause the structure to be demolished. In accordance with §§ 15.2-906 and 15.2-1115 of the Code of Virginia, the legal counsel of the locality

may be requested to institute appropriate action against the property owner to recover the costs associated with any such emergency repairs or demolition and every such charge that remains unpaid shall constitute a lien against the property on which the emergency repairs or demolition were made and shall be enforceable in the same manner as provided in Articles 3 (§ 58.1-3490 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia.

Note: Code officials and local governing bodies should be aware that other statutes and court decisions may impact on matters relating to demolition, in particular whether newspaper publication is required if the owner cannot be located and whether the demolition order must be delayed until the owner has been given the opportunity for a hearing. In addition, historic building demolition may be prevented by authority granted to local historic review boards in accordance with § 15.2-2306 of the Code of Virginia unless determined necessary by the code official.

105.10 Closing of streets. When necessary for public safety, the code official shall be permitted to order the temporary closing of sidewalks, streets, public ways or premises adjacent to unsafe or unfit structures and prohibit the use of such spaces.

SECTION 106 APPEALS

106.1 Establishment of appeals board. In accordance with § 36-105 of the Code of Virginia, there shall be established within each local enforcing agency a LBBCA. Whenever a county or a municipality does not have such a LBBCA, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by DHCD for such appeals resulting therefrom. Fees may be levied by the local governing body in order to defray the cost of such appeals. The LBBCA for hearing appeals under the VCC shall be permitted to serve as the appeals board required by this section. The locality is responsible for maintaining a duly constituted LBBCA prepared to hear appeals within the time limits established in this section. The LBBCA shall meet as necessary to assure a duly constituted board, appoint officers as necessary, and receive such training on the code as may be appropriate or necessary from staff of the locality.

106.2 Membership of board. The LBBCA shall consist of at least five members appointed by the locality for a specific term of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current

membership, including a record of the current chairman and secretary shall be maintained in the office of the locality. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

106.3 Officers and qualifications of members. The LBBCA shall annually select one of its regular members to serve as chairman. When the chairman is not present at an appeal hearing, the members present shall select an acting chairman. The locality or the chief executive officer of the locality shall appoint a secretary to the LBBCA to maintain a detailed record of all proceedings. Members of the LBBCA shall be selected by the locality on the basis of their ability to render fair and competent decisions regarding application of the USBC and shall to the extent possible, represent different occupational or professional fields relating to the construction industry. At least one member should be an experienced builder; at least one member should be an RDP, and at least one member should be an experienced property manager. Employees or officials of the locality shall not serve as members of the LBBCA.

106.4 Conduct of members. No member shall hear an appeal in which that member has a conflict of interest in accordance with the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq. of the Code of Virginia). Members shall not discuss the substance of an appeal with any other party or their representatives prior to any hearings.

106.5 Right of appeal; filing of appeal application. Any person aggrieved by the local enforcing agency's application of this code or the refusal to grant a modification to the provisions of this code may appeal to the LBBCA. The applicant shall submit a written request for appeal to the LBBCA within 14 calendar days of the receipt of the decision being appealed. The application shall contain the name and address of the owner of the building or structure and, in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the code official's decision shall be submitted along with the application for appeal and maintained as part of the record. The application shall be marked by the LBBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a code official's decision.

106.6 Meetings and postponements. The LBBCA shall meet within 30 calendar days after the date of receipt of the application for appeal, except that a period of up to 45 calendar days shall be permitted where the LBBCA has regularly scheduled monthly meetings. A longer time period shall be permitted if agreed to by all the parties involved in the appeal. A notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar

ADMINISTRATION

days prior to the date of the hearing, except that a lesser time period shall be permitted if agreed to by all the parties involved in the appeal. When a quorum of the LBBCA is not present at a hearing to hear an appeal, any party involved in the appeal shall have the right to request a postponement of the hearing. The LBBCA shall reschedule the appeal within 30 calendar days of the postponement, except that a longer time period shall be permitted if agreed to by all the parties involved in the appeal.

106.7 Hearings and decision. All hearings before the LBBCA shall be open meetings and the appellant, the appellant's representative, the locality's representative and any person whose interests are affected by the code official's decision in question shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. The LBBCA shall have the power to uphold, reverse or modify the decision of the official by a concurring vote of a majority of those present. Decisions of the LBBCA shall be final if no further appeal is made. The decision of the LBBCA shall be by resolution signed by the chairman and retained as part of the record of the appeal. Copies of the resolution shall be sent to all parties by certified mail. In addition, the resolution shall contain the following wording:

"Any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within 21 calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150."

106.8 Appeals to the State Review Board. After final determination by the LBBCA in an appeal, any person who was a party to the appeal may further appeal to the State Review Board. In accordance with § 36-98.2 of the Code of Virginia for state-owned buildings and structures, appeals by an involved state agency from the decision of the code official for state-owned buildings or structures shall be made directly to the State Review Board. The application for appeal shall be made to the State Review Board within 21 calendar days of the receipt of the decision to be appealed. Failure to submit an application within that time limit shall constitute an acceptance of the code official's decision. For appeals from a LBBCA, a copy of the code official's decision and the resolution of the LBBCA shall be submitted with the application for appeal to the State Review Board. Upon request by the Office of the State Review Board, the LBBCA shall submit a copy of all pertinent information from the record of the appeal. In the case of appeals involving state-owned buildings or structures, the involved state agency shall submit a copy of the code official's decision and other relevant information with the application for appeal to the State Review Board.

Procedures of the State Review Board are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the State Review Board shall be final if no further appeal is made.

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Town of Front Royal, Virginia Council Agenda Statement

Item # 11

Meeting Date: September 10, 2018

Agenda Item: COUNCIL APPROVAL – Budget Amendment and Purchase Radio Communications System for Police Department

Summary: Council is requested to approve a budget amendment in the amount of \$545,000 for the purchase of a radio communications system from Motorola Solutions for the Police Department. Council is further requested to direct Town Staff to gather information regarding the possibility of an external or internal loan to fund the project.

Budget/Funding: 1000-3510110 General Fund Appropriated Funds Forward \$545,000
3102-47003 Police Patrol Communications Equipment \$545,000

Meetings: Work Sessions held August 20 and August 27, 2018 and Special Meeting held September 4, 2018

Staff

Recommendation: Approval ☒ Denial ☐

Proposed Motion: I move that Council approve a budget amendment in the amount of \$545,000 for the purchase of a radio communications system from Motorola Solutions for the Police Department. I further move that Council direct Town Staff to gather information regarding the possibility of an external or internal loan to fund the project.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By:



MEMORANDUM

Date: August 28, 2018
To: Tina Presley, Senior Administrative Assistant
Jennifer Berry, Clerk of Council
From: B.J. Wilson, Director of Finance
RE: Agenda Item - Purchase of Police Radios & Budget Amendment

The Police Department would like to request Town Council to approve the purchase of a radio system from Motorola Solutions in the amount of \$545,000.00. The Town of Front Royal would be able to use pricing from the City of Suffolk's contract with Motorola Solutions from a previous request for proposal.

Town Council is also requested to approve using general fund surplus funds in the amount of \$545,000 to pay for the radio system and to approve a budget amendment accordingly.

Funding

1000-3510110	General Fund Appropriated Funds Forward \$545,000.00
3102-47003	Police Patrol Communication Equipment \$545,000.00

Town staff will continue to gather information regarding an external loan and the possibility of an internal loan to fund the project. Town staff anticipates additional discussions during a Town Council Work Session at the end of September or beginning of October 2018.