

CHAPTER 2
ADMINISTRATION
ARTICLE I. IN GENERAL

Section 2-01. Town Seal.

The Seal below shall be the authorized and official corporate seal of the town. The Town Clerk shall be the custodian of the seal. The Council is authorized to prepare copies of such seal for display as they might deem appropriate.

Section 2-1. Bonds of officers, employees and agents.

All officers, employees and agents of the town who are required to give bond shall give bond with corporate surety, and the town shall pay the premium therefore.

Section 2-2. Signatures on town check.

All checks drawn against the Town shall have two signatures; one signature shall be either the Town Clerk, Town Manager or Assistant Town Manager and the other signature a member of the Town Council or the Mayor. Signers will be designated by the Town Council by resolution.

Section 2-3. Fee for passing bad checks to town.

Under authority granted by Section 15.1-29.4, Code of Virginia, the town shall be empowered to collect a fee of twenty dollars (\$20.00) for the uttering, publishing or passing of any check or draft for payment of taxes or any other sums due the town, which is subsequently returned for insufficient funds or because there is no account or the account has been closed.

Section 2-4. Volunteer fire department and volunteer life saving and first aid crew recognized as part of official safety program.

The Floyd County Volunteer Fire Department, Inc. and the Floyd County Volunteer Lifesaving and First Aid Squad, Inc. are hereby recognized as integral parts of the official safety program of the town.

Section 2-5. Protection of records and other papers.

- (a) No book, record, document or paper belonging to the town or any department, office, board, commission or other agency of the town shall be removed from the office of the custodian thereof without permission of the Town Council and then only upon the giving of a receipt therefore, except as may be provided otherwise by law in any case, or except upon order of the town council, or in compliance with a valid subpoena duces tecum issued by a court or officer having jurisdiction to issue such process.
- (b) No person shall, without proper authority, destroy, tamper with, deface or otherwise damage or alter any book, record, document or paper belonging to the town or any department, office, board, commission or other agency of the town, or fail to return any such item of property to its proper custodian after having taken it from its place of custody as authorized in subsection (a) of this section.

Section 2-6. Property and property insurance inventories.

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

repairs, renovations, etc. For each building or lot such inventory shall also show (1) a brief description, (2) a reference to the deed, devise, lease or other instrument whereby the town acquired title to or the use thereof, (3) the department, office or agency charged with custody, (4) the purpose or use, (5) the insurance of all types thereon, together with notes as to premiums payable and anniversary dates, and (6) for property owned by the town and leased to other persons, copies of such leases and appropriate notes as to the revenues derived there from.

- (b) Each town officer having custody of items of nonexpendable personal property of value greater than twenty—five dollars owned by or leased to the town shall, during January of each year, prepare in duplicate an itemized inventory of such property containing a description of such property, together with identification (by serial number, where applicable), (2) a reference to the instrument, if any, whereby title of use was acquired, (3) the department or office having custody, (4) the purpose or use, and (5) the insurance of all types, if any, together with notes as to premiums payable and anniversary dates. The original copy of each such inventory shall be filed in the office of the town clerk before February 1 of each year, and the duplicate copy shall be retained on file in the office of the person who prepared it.

Section 2-7. Use of owned personal property for private purposes.

- (a) Trucks, machinery and other items of personal property owned by the town shall not be loaned or leased to any person; provided, that the town council may by resolution provide rules and regulations whereby the town council may authorize specified items of town—owned personal property to be used for private purposes when such use would not interfere with or delay any town work of project, upon the payment of specified charges, and subject to such terms and conditions as may be stipulated by the town council. If and when any such resolution is in effect, the provisions thereof and the provisions of this subsection shall be deemed to be incorporated in and made a part of any authorization made there under by the town council and all persons for whose benefit any town—owned personal property is used shall be bound thereby and shall likewise be bound by the stipulations of the town council. Use of any such personal property by any private individual shall be by written agreement and shall contain a hold harmless clause protecting the town from liability by the lessee.
- (b) This section shall not be construed so as to limit the authority of the town council to authorize the use of town-owned personal property by municipalities or agencies of the Commonwealth under mutually agreed on terms and conditions.

DIVISION 1. GENERALLY

Section 2-8. Compensation.

The annual salary of the Mayor and town council shall be fixed as provided in Sections 15.1-827 and 15.1-827.1 of the Code of Virginia.

Section 2-9. Mayor as chief law—enforcement officer.

The Mayor, designated by the Charter as head of the town government, shall be recognized, for the purposes of Section 44-78.1 of the Code of Virginia relating to calling upon the governor for aid in time of public danger and as the chief law-enforcement officer of the town.

Section 2-10. Establishment of council committees; Mayor as member.

- (a) The town council may, by resolution, establish such committees as it deems necessary in carrying out its functions.
- (b) The Mayor shall be an ex officio member of each committee.

DIVISION 2. COUNCIL MEETINGS

Section 2-11. Time and place of regular meetings.(Reserved

The Town Council shall meet in regular session on the first Thursday of each month in the Town offices. The meeting time will be designated by the Town Council by resolution or set each year during the July organizational meeting.

Section 2-12. Order of proceedings; consent agenda.

- (a) Town council may establish an agenda format to reflect its order of proceedings by resolution. Any such resolution to change the agenda format shall not be effective until the next regularly scheduled or adjourned meeting of council.
- (b) Any such agenda format established by council shall include a consent agenda, which shall include by way of illustration but not by limitation, the following:
 - (1) Approval of minutes.
 - (2) First readings of proposed ordinances and scheduling public hearings and second readings thereof.
 - (3) Requests for permits which have been determined by the appropriate town staff as meeting the requirements of the Code of Virginia (1950), as amended, or ordinance of the town.
 - (4) Resolutions and/or motions appointing persons to boards, committees, posts and commissions.
 - (5) Resolutions authorizing interdepartmental budget transfers.
 - (6) Acceptance of reports and petitions and scheduling of public hearings hereon.
 - (7) Resolutions accepting dedications of streets and/or utilities.
 - (8) Any item believed by the town clerk to be routine and not controversial in nature.
- (c) Any member of the council may by request have any item removed from the consent agenda, which item shall then be discussed as new business on the regular agenda.
- (d) A single motion and roll call vote in favor therefore shall approve all items remaining on the consent agenda.

Section 2-13. Addressing council.

No person who is not a member of the council shall address it during public addresses, unless recognized by the mayor, and at other times, unless granted permission by majority consent of the council.

Section 2-14. How debate conducted.

The question shall be stated by the chair before it is debated. In any debate no member shall speak more than once on the same question until all others have spoken who desire to do so, nor more than twice upon the same question, except by consent of the council.

Section 2-15. Calling for aye and nay vote.

The ayes and nays on any question may be called for at any time before proceeding to any other business and shall be ordered upon demand of any three (3) members of the council.

Section 2-16. Motion to reconsider.

No motion to reconsider a question which has been decided shall be entertained unless it is made by a member who voted with the prevailing side, and unless the motion to reconsider is made at the same meeting of the council or any adjournment thereof or the next subsequent meeting to that at which the question to be reconsidered was decided. All motions to reconsider shall be decided by a majority vote of the members present.

Section 2-17. Motion to adjourn.

The motion to adjourn shall always be in order, except;

- (1) When a member has the floor;
- (2) When the ayes and nays are being called;
- (3) When the previous question has been ordered; or
- (4) When a motion to adjourn has been put and lost without any other business intervening.

No motion to adjourn shall be debatable.

Section 2-18. Robert's Rules of Order.

Robert's Rules of Order (current edition) shall govern in the deliberations of the council, except as otherwise provided by ordinance or resolutions.

Section 2-19. Suspension of rules.

The council may temporarily suspend any of its rules by a vote of two-thirds of the members present.

ARTICLE III. SPECIFIC OFFICERS

Section 2-20. Town clerk.

The town clerk shall have such powers and perform such duties as may be prescribed for his office by state law, the Charter, this Code and other ordinances and resolutions of the town council. No record or other item of personal property of the town shall be removed from the office of the town clerk except by his authority and for which he may require a valid subpoena duces tecum issued by the court, tribunal, officer or other body having competent jurisdiction to issue such process.

Section 2-21. Town attorney.

- (a) The town council shall retain the services of a member of the bar of the Commonwealth, or a law firm or partnership of two (2) or more members of the bar of the Commonwealth, and the person, firm or partnership so retained shall be known as the town attorney.

- (b) The town attorney shall be the legal advisor to the town council, and its committees and to the Mayor, and when requested, he shall furnish written or verbal opinions upon any subject involving questions of the law in which the town is interested.
- (c) It shall be the duty of the town attorney to draft all bonds, deeds, obligations, contracts, leases, conveyances and agreements. It shall also be his duty to commence and prosecute all actions and suits to be brought by the town before any tribunal in this Commonwealth, or to request the appointment of other counsel for such purpose, also to appear, defend and advocate the rights and interests of the town in any suit or prosecution brought against it, and he shall perform such other duties as are or may be required of him for the town.

Section 2-22. President Pro tempore.

The Town Council shall have the authority to appoint a president pro tempore, which position shall be designated as the office of Vice-Mayor. The Vice-Mayor shall be authorized to act in the absence of the Mayor or as otherwise directed by this Code.

ARTICLE IV. PURCHASING AND PROCUREMENT

Section 2-23. Applicability of article.

The town shall adhere, where applicable, to the Virginia Public Procurement Act, Chapter 7 of Title 11 of the Code of Virginia, 1950, as amended, Section 11-35, et. seq., in the buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction from nongovernmental sources.

Section 2-24. The town council shall promulgate regulations establishing a small purchases procedure.

In establishing a small purchases procedure, the town council shall set forth the forms to be used, the type of purchases and the quantity that may be made, by whom small purchases may be made and the amount of the purchases. All other purchases shall be made in accordance with the Virginia Public Procurement Act, where applicable, and with approval of the town council.

**TOWN OF FLOYD, VIRGINIA
SMALL PURCHASE PROCEDURES POLICY
ADOPTED MARCH 2, 2006**

The Code of Virginia authorizes the establishment of written “Small Purchase Procedures” as outlined in the Virginia Public Procurement Act, Code of Virginia, Section 2.2-4303, subsection G. Except as otherwise required or exempted by the Code of Virginia, the following procedures shall be observed by the Town of Floyd, Virginia, in making small purchases:

- 1) Scope of Procedure – This Small Purchase Procedure shall apply to the lease of goods, and the purchase of all goods, materials, equipment, supplies, printing, insurance, and nonprofessional services when the sum of all phrases or contracts does not exceed \$50,000. Any procurement of professional service must be in accordance to the Code of Virginia on a noncompetitive basis.
- 2) Telephone Quotes – All telephone quotes shall be documented. This documentation shall include:
 - a) the name of the individual obtaining the price quote for the Town;
 - b) the vendor providing the quote and the person who provides the quote on behalf of the vendor;

- c) the goods or services sought by the Town and any required terms of the purchase contract (i.e., vendor delivery dates, etc.);
 - d) the date quoted is received;
 - e) the dollar amount of the quote and any terms required by the vendor, including, but not limited to, the cost of shipping; and
 - f) the disposition of the quote (e.g., accepted, rejected, etc.)
- 3) Written Quotes – Written price quotes, together with solicitation documents, if any, should contain the same information required in connection with telephone quotes. In addition, written quotes shall be signed by the vendor or vendors’ authorized representative.
 - 4) Award to Low Bidder – The contract shall be awarded by the lowest responsible and responsive bidder. Any decision to award a contract to other than the low bidder must be documented and approved in writing by the mayor, after consultation with as many Council members as may reasonably be available.
 - 5) Purchases \$5,000.00 or Less – For purchases for goods or services estimated to be \$5,000.00 or less, a single written or telephone quote is required. Additional quotes are encouraged especially when the quoted price may be unreasonably high or prices for the same or similar goods from different vendors may vary.
 - 6) Purchases More than \$5,000.00 but Less than \$30,000.00 – For purchases for goods or services estimated to be more than \$5,000.00 but less than \$30,000.00, a minimum informal solicitation of three written or telephone price are required unless the Town determines that at least three (3) qualified vendors are not reasonably available. Additionally solicitations are encouraged when appropriate.
 - 7) Purchases \$30,000.00 or Greater – For purchases of goods or services estimated to equal or exceed \$30,000.00, a minimum of four written price quotes shall be solicited by the Town in writing. In addition to the previously mentioned required information, bid packages must include a cover sheet, detail of the item sought or scope of work required, general terms and conditions, and any unique characteristics, capabilities, features, or qualifications required.
 - 8) The following items are exempt from the policy:
 - a) Maintenance
 - b) Legal notices and advertisements
 - c) Utilities (e.g., water, electrics, gas, oil, telecommunications)
 - d) Routine vehicle repairs
 - e) Routine office supplies
 - f) Lease, loss and bond payments
 - g) Postage
 - h) Dues and subscriptions
 - i) Legal services
 - j) Contributions
 - k) Payroll withholdings
 - l) Service shared between governmental units
 - m) Lodging and travel expenses
 - n) Purchases of materials and/or services which have a signed contract

Section 2-25. Emergency procurement.

Notwithstanding any other provision of this article, the Mayor or the Vice—Mayor in the Mayors absence, may make or authorize others to make emergency procurement when there exists a threat to

public health, welfare or safety under emergency conditions. However such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for such shall be included in the contract file.

ARTICLE V. ETHICS

Section 2-26. Policy.

- (a) Public employment is a public trust. It is the policy of the town to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the town.
- (b) Public employees must discharge their duties impartially so as to ensure fair competitive access to government procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the town procurement organization. To achieve the purpose of this article, it is essential that those doing business with the town also observe the ethical standards prescribed therein.

Section 2-27. General standards of ethical conduct.

- (a) For employees. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust.

In order to fulfill this general standard, employees must also meet the specific standards set forth in this article as well as the Virginia Conflicts of Interest Act, Chapter 40.1 of Title 2.1 of the Code of Virginia, 1950, as amended.

Section 2-28. Gifts and gratuities.

It shall be a breach of ethical standards for any person to offer, give or agree to give any employee, or for any employee to solicit, demand, accept or agree to accept from another person, any gift, gratuity or offer of employment that might reasonably tend to influence said employee in the discharge of his duties. To that end, an employee shall not accept gifts, gratitude, favors, loans or offers of employment from organizations, business concerns or individuals with whom such employee might have official relationships on business of the town. These limitations are not intended to prohibit the acceptance of articles of negligible value which are distributed to the public generally and not to prohibit employees from obtaining loans from regular lending institutions.

Section 2-29. Outside employment.

It shall be a breach of ethical standards for an employee to hold another job, other employment or second employment which conflicts with or compromises the position the employee holds with the town.

Section 2-30. Employee disclosure requirements.

- (a) Benefit received from contract. Any employee who has or obtains any benefit from any town contract with a business in which the employee has a material financial interest, shall report such benefit to the town council, provided, however, this section shall not apply to a contract with a business in which the employee does not violate the Virginia Conflicts of Interest Act.
- (b) Failure to disclose benefit received. Any employee who knows or should have known of such benefit and fails to report such benefit to the town council is in breach of the ethical standards of this section.

Section 2-31. Remedies against employees who breach ethical standards.

- (a) Existing remedies not impaired. Criminal, civil and administrative remedies against employees who breach ethical standards and which are in existence on the effective date of this article shall not be impaired.
- (b) Supplemental remedies. In addition to existing remedies for breach of the ethical standards of this articles, one or more of the following remedies may be imposed.
 - (1) Oral or written warnings or reprimands;
 - (2) Suspension with or without pay for a specified period of time, and
 - (3) Termination of employment.

Section 2-32. Remedies against nonemployees who breach ethical standards.

- (a) Existing remedies not impaired. Criminal, civil and administrative remedies against nonemployees which are n existence on the effective date of this article shall not be impaired.
- (b) Supplemental remedies. In addition to the existing remedies for breach of the ethical standards of this article by nonemployees of the town, the town may impose any one or more of the following:
 - (1) Written warnings or reprimands;
 - (2) Termination of transactions; and
 - (3) Debarment or suspension from being a contractor or subcontractor under present or future town contract(s).
- (c) Due process. All procedures under this section shall be in accordance with due process requirements, including but not limited to, the right to notice and opportunity for hearing prior to the imposition of any termination, debarment, or suspension from being a contractor or subcontractor under a town contract.