

Chapter 2 ADMINISTRATION ^[1]

ARTICLE I. - IN GENERAL

ARTICLE II. - COUNCIL

ARTICLE III. - OFFICERS AND EMPLOYEES

ARTICLE IV. - BOARDS, COMMITTEES AND COMMISSIONS

ARTICLE V. - FINANCE

FOOTNOTE(S):

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State Law reference— General corporate powers of municipalities, W. Va. Code, § 8-12-1; home rule powers for all cities, W. Va. Code, § 8-12-2; general powers of all municipalities, W. Va. Code, § 8-12-5; Freedom of Information Act, W. Va. Code, § 29B-1-1 et seq.; Open Governmental Proceedings Act, W. Va. Code, § 6-9A-1 et seq.

ARTICLE I. IN GENERAL

Secs. 2-1—2-18. Reserved.

Secs. 2-1—2-18. Reserved.

ARTICLE II. COUNCIL ^[2]

DIVISION 1. - GENERALLY

DIVISION 2. - MEETINGS

FOOTNOTE(S):

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State Law reference— Proceedings of governing body, W. Va. Code, § 8-9-1 et seq.

DIVISION 1. GENERALLY

Sec. 2-19. Standing committees.

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Secs. 2-20—2-40. Reserved.

Sec. 2-19. Standing committees.

- (a) The town council standing committees are as follows:
- (1) *Finance committee.* The finance committee will oversee financial matters involving the town. Such items shall include, but not limited to, budget, revenue, expenses, etc., as well as other financial matters to come before the council.
 - (2) *Ordinance committee.* The ordinance committee will be responsible for the establishment of and/or any changes to existing town ordinances. This committee will prepare and submit in writing proposed ordinances before the council for a first and second reading.
 - (3) *Water works committee.* The water works committee will provide oversight on the operations of the Berkeley Springs Water Works.
 - (4) *Public works committee.* The public works committee will provide oversight in matters having to do with the town streets, solid waste, etc.
 - (5) *Public safety committee.* The public safety committee will provide oversight to the Town of Bath Police Department. The mayor's role as police commissioner shall remain unchanged by this section. This committee will also serve as a liaison to the Berkeley Springs Volunteer Fire Department and report to council.
 - (6) *Cemetery committee.* The cemetery committee will provide oversight on matters involving the Greenway Cemetery.
 - (7) *Grant committee.* The grant committee responsibilities shall include the research, application and administration of grants and other forms of charitable donations for the betterment of the town and the Berkeley Springs Water Works.
- (b) Neither the mayor nor any member of the town council may serve as chair of more than one committee, unless waived by a motion, seconded and approved by at least four members of the town council. The mayor and council may serve on more than one committee.
- (c) The mayor may appoint ad hoc committees as deemed necessary and relevant.

(Code 1981, § 2-106; Ord. No. 2002-04, 6-18-2002; Ord. No. 2005-03, 7-1-2005)

Secs. 2-20—2-40. Reserved.

DIVISION 2. MEETINGS

Sec. 2-41. Time and place of regular meetings.

Sec. 2-42. Who is to preside at meetings; quorum; interested members of council not to vote.

Sec. 2-43. Tie vote; mayor and recorder may not vote.

Sec. 2-44. Rules of order.

Sec. 2-45. Adoption of ordinances.

Secs. 2-46—2-63. Reserved.

The Code of the Town of Bath, West Virginia

Sec. 2-41. Time and place of regular meetings.

The council shall hold regular meetings at 5:30 p.m., on the first and third Tuesday of each month in the council chambers, at the Town Municipal Center.

(Code 1981, § 2-101; Ord. No. 2005-05, 8-1-2005; Ord. No. 2007-04, 7-16-2007; Ord. No. 2007-10, 12-4-2007; Ord. No. 2011-02, 9-21-2011; Ord. No. 2014-03, 7-15-2014)

Sec. 2-42. Who is to preside at meetings; quorum; interested members of council not to vote.

The mayor shall serve as the presiding officer at all meetings of the council, or if the mayor is absent, the recorder or a member of the council, selected by a majority of the members present, shall preside. A quorum, consisting of a majority of the members of the council, must be present in order to transact business. No member of the council shall vote upon any ordinance, order, measure, resolution, or proposition, in which he may be interested in other than as a citizen of the town.

(Code 1981, § 2-102)

Sec. 2-43. Tie vote; mayor and recorder may not vote.

- (a) The mayor shall not have votes as a member of the common council. The recorder does however have a vote. In the case of a tie, the mayor or presiding officer, shall cast the tie-breaking vote.
- (b) The chairperson cannot vote twice (i.e., to make the tie, then again vote the tiebreaking vote, having just previously voted). If the mayor or recorder, or chairperson pro tem, presides at meetings of the town council, they may choose not to vote on issues decided by the five-member council. This choice does not allow for such choice in the case of a tiebreaking vote (pursuant to the town Charter) as the chairperson shall cast a tiebreaking vote, per said Charter as it exists at this time. No chairpersons, be they mayor, recorder or pro tem, are permitted to make motions and/or second motions or vote at any other time.

(Code 1981, § 2-103; Ord. of 4-17-1990(1); Ord. No. 2005-06, 8-15-2005; Ord. No. 2007-09, 12-4-2007)

Sec. 2-44. Rules of order.

- (a) The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before council insofar as they are not in conflict with the provisions of this Code.
- (b) Every motion or proposition shall, at the request of either the mayor or any member, be reduced to writing.

(Code 1981, § 2-105)

Sec. 2-45. Adoption of ordinances.

No ordinance shall be passed except in accordance with the requirements of W. Va. Code, § 8-11-4, except where different or additional requirements are specified in other sections of the West Virginia Code, in which event such other different or additional requirements shall be applicable.

State Law reference— Instances where ordinances are required, W. Va. Code, § 8-11-3.

Secs. 2-46—2-63. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 1. - GENERALLY

DIVISION 2. - MAYOR

DIVISION 3. - RECORDER

DIVISION 4. - TOWN ATTORNEY

DIVISION 1. GENERALLY

Sec. 2-64. Compensation.

Sec. 2-65. Vacancies in office.

Secs. 2-66—2-75. Reserved.

Sec. 2-64. Compensation.

The rate of remuneration for town officials shall be as follows:

- (1) Mayor: \$500.00 annually.
- (2) Recorder: \$1,200.00 annually.
- (3) Members of the town council: \$300.00 annually.

(Code 1981, § 2-601)

Sec. 2-65. Vacancies in office.

When a vacancy shall occur for any cause in the office of mayor, recorder or in the council, the vacancy, until the next succeeding election and until the qualification of an elected successor, shall be filled by appointment by the council from among the eligible citizens of the town.

(Code 1981, § 2-901)

Secs. 2-66—2-75. Reserved.

DIVISION 2. MAYOR

Sec. 2-76. Duties and powers.

Sec. 2-77. Executed acts of the common council.

Sec. 2-78. Control of police.

Sec. 2-79. Duty to recommend important measures.

Sec. 2-80. Authority to hire special counsel.

Sec. 2-81. Supervision of town affairs.

Secs. 2-82—2-99. Reserved.

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Sec. 2-76. Duties and powers.

The mayor shall have all duties and powers set forth under state law.

State Law reference— Powers and duties of mayor, W. Va. Code, § 8-10-1.

Sec. 2-77. Executed acts of the common council.

The mayor shall see to it that all ordinances, orders, bylaws, acts, resolutions, rules and regulations made by the council are faithfully executed.

(Code 1981, § 2-201)

Sec. 2-78. Control of police.

The police of said municipality are subject to the control of the mayor. The mayor may appoint special police officers wherever he deems it necessary to preserve the peace and order of the community.

(Code 1981, § 2-203)

Sec. 2-79. Duty to recommend important measures.

It shall be the duty of the mayor to recommend to the common council measures he deems important to the welfare of the community.

(Code 1981, § 2-204)

Sec. 2-80. Authority to hire special counsel.

It shall be within the power of the mayor, subject to authorization of the council, to employ an attorney or firm of attorneys to represent and advise the town on legal matters. This action may be taken in lieu of or in addition to the town attorney.

(Code 1981, § 2-205)

Sec. 2-81. Supervision of town affairs.

The mayor shall have general supervisory powers over all the affairs of the town. He may require municipal officers and employees to submit reports whenever he deems it necessary to fully execute his executive functions. The mayor shall execute all contracts authorized by the town council.

(Code 1981, § 2-206)

Secs. 2-82—2-99. Reserved.

DIVISION 3. RECORDER

Sec. 2-100. Duty to keep minutes.

Sec. 2-101. Bond required.

Sec. 2-102. Replacement when mayor unavailable.

Sec. 2-103. General administrative duties.

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Secs. 2-104—2-119. Reserved.

Sec. 2-100. Duty to keep minutes.

- (a) It shall be the duty of the recorder to keep a journal of the proceedings of the council. The recorder shall also preserve all ordinances in a separate ordinance book.
- (b) It shall also be the duty of the recorder to tape record the council meetings. These tapes are to be cataloged and kept on file at town hall. They shall be kept on file until the council meeting following the meeting at which the minutes were approved. During this period these tapes and a tape recorder shall be accessible to the public for review at town hall.
- (c) The recorder's minutes, after approval by council, shall be the official record of council proceedings.

(Code 1981, § 2-301; Ord. No. 91-4, 9-16-1991)

State Law reference— Powers and duties of recorder, W. Va. Code, § 8-10-3; powers and duties of recorder or clerk relating to warrants, oaths, etc., W. Va. Code, § 8-10-4.

Sec. 2-101. Bond required.

The recorder, before assuming office, shall be bonded in the sum of \$10,000.00, with surety acceptable to the council. His bond shall not be released until the complete transfer of office by his successor.

(Code 1981, § 2-302)

Sec. 2-102. Replacement when mayor unavailable.

Whenever the mayor is unable faithfully to discharge the duties of his office, the recorder shall perform all mayoral duties and be invested with all of the mayor's power and authority.

(Code 1981, § 2-303)

Sec. 2-103. General administrative duties.

Administrative duties not expressly assigned a municipal officer by this Code shall be performed by the recorder. The recorder shall have custody and maintain the town's records, corporate bonds, papers, etc.

(Code 1981, § 2-304)

Secs. 2-104—2-119. Reserved.

DIVISION 4. TOWN ATTORNEY

Sec. 2-120. Qualifications.

Sec. 2-121. Duties.

Secs. 2-122—2-139. Reserved.

Sec. 2-120. Qualifications.

The town attorney shall be a member in good standing of the state bar.
(Code 1981, § 2-501)

Sec. 2-121. Duties.

The town attorney shall be the legal advisor and attorney of the town and its officers, in matters relating to official town duties. He shall represent the town in all matters and proceedings in any court in which the town is interested, unless the town engages other legal representation for particular projects.

(Code 1981, § 2-502)

Secs. 2-122—2-139. Reserved.

ARTICLE IV. BOARDS, COMMITTEES AND COMMISSIONS

DIVISION 1. - GENERALLY

DIVISION 2. - CEMETERY BOARD

DIVISION 1. GENERALLY

Sec. 2-140. Council authority to form commissions.

Sec. 2-141. Streetscape committee.

Secs. 2-142—2-159. Reserved.

Sec. 2-140. Council authority to form commissions.

It will be necessary, from time to time, for the town to formulate certain commissions to better oversee the development of specific areas under the supervision of the town. Examples include: planning commission; park commissions; utility commission; or human relations commissions. In enacting enabling ordinances creating such commissions, the town council should include the following provisions:

- (1) Creation; composition; appointment; terms and compensation of members; filling vacancies.
- (2) Purpose.
- (3) Officers; rules; meetings; records.
- (4) Powers and authority generally; budget; annual report.
- (5) Duties.

(Code 1981, § 2-801)

Sec. 2-141. Streetscape committee.

- (a) The streetscape committee will meet on the second and fourth Tuesdays of each month at 5:15 p.m. in the town municipal center.
- (b) The streetscape committee (the committee) will be comprised of no less than five and no more than 15 members of the town and county. At all times, at least one member of the committee will be an active member of the town council.
- (c) When necessary, the committee can create subcommittees to allow for participation by members of the community with specific expertise or a vested interest in a particular aspect of the project.
- (d) The committee will be required to report its activities to the town council monthly and to schedule regular updates to town/county via press releases or public meetings, as appropriate.
- (e) The committee will be empowered with the privilege of making financial decisions as they pertain to the streetscape project but will be required to account for the use of all funds. The town council must be included in any financial decisions that require the use of taxpayer monies, (e.g., matching funds, expenditures outside the parameters of any and all grants received, etc.).
- (f) The streetscape committee and project can only be dissolved or stopped by the town council if the committee becomes unwilling or unable to continue its duties or there is proof of neglect and/or malfeasance.

(Ord. No. 2007-05, 8-7-2007)

Secs. 2-142—2-159. Reserved.

DIVISION 2. CEMETERY BOARD ^[3]

Sec. 2-160. Administration.

Secs. 2-161—2-179. Reserved.

Sec. 2-160. Administration.

The Town of Bath Cemetery Board shall have sole responsibility in determining if conditions are suitable for interment.

(Ord. No. 2014-06, 11-5-2014)

Secs. 2-161—2-179. Reserved.

FOOTNOTE(S):

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Editor's note—By Resolution 2006-03, the town council approved the formation of a nonprofit corporation, the Town of Bath Cemetery Management Corporation, to oversee the maintenance, administrative, financial, and other needs of town-owned cemeteries. The cemetery board has been abolished by the town council.

ARTICLE V. FINANCE ^[4]

Sec. 2-180. Reports, etc., to conform to fiscal year.

Sec. 2-181. Audits and accounts.

Sec. 2-182. Capital reserve fund.

Sec. 2-183. Special account for federal and state grants-in-aid authorized.

Sec. 2-184. Transfer of balances in municipal bond fund.

Sec. 2-185. Payment of money out of municipal treasury; penalty.

Sec. 2-186. Investment of municipal funds.

Sec. 2-187. How and by whom system of accounting for local offices prescribed.

Sec. 2-188. Separate accounts for different appropriations of funds, departments undertakings, etc.; transfer of unexpended balances.

Sec. 2-189. Management accounting.

Sec. 2-190. Borrowing power.

Sec. 2-191. Special charge for municipal services.

Sec. 2-192. Preparation, publication and disposition of financial statements.

Sec. 2-180. Reports, etc., to conform to fiscal year.

All reports, settlements, accounts, and statements of municipalities which are now or which may hereafter be required by law shall be kept and made to conform to the fiscal year.

(Code 1981, § 8-701)

Sec. 2-181. Audits and accounts.

Budgeting, accounting and financial recordkeeping shall be done in accordance with state law, pursuant to W. Va. Code, § 8-13-18.

(Code 1981, § 8-702)

Sec. 2-182. Capital reserve fund.

- (a) The town shall have the power to establish a special fund known as the Capital Reserve Fund. The fund shall consist of unexpended balances and other funds which may be transferred to the reserve fund with the approval of the state tax commissioner, at the end of the fiscal year, and any other monies authorized by law to be used for the purposes of the fund.
- (b) This fund shall be used from time to time, for the construction, reconstruction, purchase or replacement of, or addition to, municipal buildings, public works, equipment, machinery, motor vehicles or other capital assets. Expenditures shall be made from the fund only in accordance with an appropriation made pursuant to the annual budget.

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- (c) If the town accumulates its capital reserve fund for more than two years, it shall be transmitted to the state municipal bond commission on or before September 1 of each year. The proceeds can be withdrawn from this fund upon reasonable notice in writing to the state municipal bond commission.

(Code 1981, § 8-703)

State Law reference— Similar provisions, W. Va. Code, § 8-13-19.

Sec. 2-183. Special account for federal and state grants-in-aid authorized.

In addition to the special fund account authorized by state law, the town council shall have plenary power and authority to establish a special account for the deposit of funds received from and granted by the United States of America or the state and shall provide for the expenditure and appropriation of such funds in accordance with the applicable laws and regulations promulgated by the government authority making such grants. The funds so received and held in such special account shall not be considered as revenue in determining the amount of real and personal property taxes to be levied for the regular fiscal budget of the town.

(Code 1981, § 8-704)

State Law reference— Similar provisions, W. Va. Code, § 8-13-19a.

Sec. 2-184. Transfer of balances in municipal bond fund.

- (a) The town shall have the power and authority to transfer to the general funds:
- (1) Any unexpended balances used to pay the interest on and create sinking funds for any bonded indebtedness when the bonded indebtedness for the payment of which such funds were raised has been fully paid and discharged or when provision has been made, as hereinafter provided in this section, to fully pay and discharge such bonded indebtedness; and
 - (2) Any balance remaining in any fund levied and collected under authority of any special levy election.
- (b) The state municipal bond commission is authorized to remit to the town when the issuances of bonds had been made, to be credited to the general fund of the town, any balances of funds remaining under the supervision and control of the state municipal bond commission when the bonded indebtedness for the payment which such funds were raised and paid to the state municipal bond commission has been fully paid and discharged or when provision has been made, as hereinafter provided in subsection (c) of this section, to fully pay and discharge such bonded indebtedness.
- (c) All outstanding bonds of any series shall, prior to the maturity date thereof, be deemed to have been fully paid and discharged within the meaning and with the effect expressed in subsections (a) and (b) of this section when they shall have been deposited with the municipal bond commission pursuant to W. Va. Code, § 8-13-20(d).
- (d) In any case when monies are returned from the sinking funds to the town, they are not to be spent for the payment of current municipal expenditures but as the town council shall elect for the liquidating of existing nonbonded indebtedness, if any, of the town or for existing or planned capital improvements of the town or for the liquidation of other bonded indebtedness of the town or for any combination of such use.

(Code 1981, § 8-705)

Sec. 2-185. Payment of money out of municipal treasury; penalty.

- (a) No money shall be paid out of the treasury except upon the order of the mayor, treasurer or municipal recorder. Such signature may be made by any mechanical or electrical device that the town council may choose. Such machine shall be kept in the office of the recorder or treasurer for safe keeping so that no one shall have access thereto except the municipal officers authorized to sign such orders, the treasurer or recorder and such of their respective employees as may be authorized to have access thereto.
- (b) If any of the officers in subsection (a) of this section charged with the responsibility of keeping the aforementioned mechanical or electrical device willfully or by neglect permit or make it possible for an unauthorized individual to sign the name of any municipal officer authorized to sign such order by the use of any such mechanical or electrical device upon any warrant, order or check, then they shall be liable jointly or severally for the amount of any loss resulting to the town.

(Code 1981, § 8-706)

State Law reference— Similar provisions, W. Va. Code, § 8-13-22.

Sec. 2-186. Investment of municipal funds.

Municipal funds shall be invested in accordance with W. Va. Code, § 8-13-22a.

(Code 1981, § 8-707)

Sec. 2-187. How and by whom system of accounting for local offices prescribed.

The system of keeping accounts by the recorder shall be done in the following manner: All accounts shall show the receipt, use and disposition of all public property under the municipalities control and the income, if any, derived from them, and all sources of such public income, and the amounts due and received from each source, all receipts, vouchers and other documents kept and necessary to identify and prove the validity of every transaction, and all statements and reports made or required to be made for the internal administration of the office to which they pertain, and all reports published or required to be published for the information of the people regarding any and all details of the financial administration of such public affairs.

(Code 1981, § 8-708)

Sec. 2-188. Separate accounts for different appropriations of funds, departments undertakings, etc.; transfer of unexpended balances.

Separate accounts shall be kept for every appropriation of funds made by the town, showing the date and manner of each payment made out of the funds provided by such appropriation or levy, the name, address, and vocation of each person, organization, corporation, or association to whom paid, and for what purpose paid. Separate accounts shall be kept for each department, public improvement, undertaking, institution and public service industry under the jurisdiction of every town agency; and all service rendered by property transferred from one department, public improvement, undertaking institution or public service industry to another shall be paid for at its true and full value by the department, public improvement, undertaking, institution or public service industry receiving the same and no department, public improvement, undertaking, institution or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another department, public improvement, undertaking, institution or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another department, public improvement,

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undertaking, institution or public service industry. All unexpended balances or appropriations shall be transferred to the credit of the fund from which originally appropriated or levied whenever the account with an appropriation is closed.

(Code 1981, § 8-709)

Sec. 2-189. Management accounting.

- (a) The town council may formulate its own requirements for a system of management accounting for the planning, management reporting, and control of town expenditures. The requirements may include methods for recording the collection of all revenues, amounts available for expenditure, encumbrances and expenditures for all funds and its own internal system of accounts.
- (b) The expenditures and encumbrances of a spending unit shall not exceed the approved appropriation of the fiscal year unless a budget amendment has been authorized by the town council and approved by the state tax department.

(Code 1981, § 8-710)

Sec. 2-190. Borrowing power.

The town shall have plenary power and authority to borrow money on the general faith and credit of the town for any municipal purpose, in the manner and subject to the limitations provided by law for the issuance of general obligation bonds.

(Code 1981, § 8-711)

State Law reference— Similar provisions, W. Va. Code, § 8-13-12.

Sec. 2-191. Special charge for municipal services.

Special charges for certain municipal services shall be provided for in accordance with W. Va. Code, § 8-13-13.

(Code 1981, § 8-712)

Sec. 2-192. Preparation, publication and disposition of financial statements.

- (a) The town shall prepare in a format prescribed by the state tax commissioner a financial statement revealing:
 - (1) The receipts and expenditures of the town during the previous fiscal year arranged under descriptive headings.
 - (2) The name of anyone who received more than \$50.00 from any fund during the year, how much he was paid, and for what purpose.
- (b) Payees receiving \$50.00 or less from any fund during the reporting year are not required to be published. Rather, at the end of each expenditure category or classification, such payees are added into an item "Less than \$50.00 (aggregate)." However, upon request by any resident of the town, a copy of the published statement must be provided and supplemented by a document listing the names of each person who received less than \$50.00 from any fund during such reporting year, showing the amount paid to each and the purpose for which paid and an itemization of the salaries, receipts, payments to each individual vendor and expenditures to employees of municipal offices, companies and departments otherwise published in the aggregate. All salaries appearing in the financial statement must reflect gross earnings.

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- (c) However, the town shall prepare a financial statement from within 120 days after the beginning of each fiscal year and a copy thereof made available upon request to any resident of the town.
- (d) The financial statement shall be sworn to by the recorder, mayor and two members of the town council. As soon as such fiscal statement is drawn, a copy shall be sent to the clerk of the county commission and the clerk of the circuit court.

(Code 1981, § 8-713)

FOOTNOTE(S):

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State Law reference— Borrowing power, W. Va. Code, § 8-13-12; special charges for municipal services, W. Va. Code, § 8-13-13; collection of municipal taxes and fines, W. Va. Code, § 8-13-15; payment of funds from municipal treasury, W. Va. Code, § 8-13-22; financial statements, W. Va. Code, § 8-13-23; audits and accounts, W. Va. Code, § 8-13-18; capital reserve fund, W. Va. Code, § 8-13-19; investment of municipal funds, W. Va. Code, § 8-13-22a.