

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 324

*An Act to amend and reenact §§ 2.3, 4.2, 7.1 and 7.3 of Chapter 112 of the Acts of Assembly of 1971, which provided a charter for the Town of Berryville in Clarke County, relating to eminent domain, duties of the town manager, fiscal year and creation of debt.*

[H 137]

Approved April 5, 1994

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.3, 4.2, 7.1 and 7.3 of Chapter 112 of the Acts of Assembly of 1971 are amended and reenacted as follows:**

§ 2.3. Eminent domain. The powers of eminent domain set forth in Title 15.1, Title 25, Chapter 1.1 and §§ 33.1-121 through ~~33.1-129~~ 33.1-132, Chapter 1, of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, mutatis mutandis, are hereby conferred upon the town of Berryville subject to the provisions of § 25-233.

(a) In any case in which a petition for condemnation is filed by or on behalf of the town a true copy of a resolution or ordinance duly adopted by the town council declaring the necessity for any taking or damaging of any property, within or without the town, for the public purposes of the town, shall be filed with the petition and shall constitute sufficient evidence of the necessity of the exercise of the powers of eminent domain by the town. The town may employ the procedures conferred by the foregoing laws, mutatis mutandis, and may, in addition thereto, proceed as hereinafter provided.

(b) Certificates issued pursuant to §§ 33.1-121 to ~~33.1-129~~ 33.1-132, inclusive, Code of Virginia, as amended, and acts amendatory thereof and supplemental thereto, may be issued by the town council, signed by the mayor and countersigned by the town treasurer. Such certificate shall have the same effect as certificates issued by the State Highway Commonwealth Transportation Commissioner, under the aforesaid laws, and may be issued in any case in which the town proposes to acquire property of ~~any kind or interest therein~~ by the exercise of its powers of eminent domain for any lawful public purpose, whether within or without the town; provided, that the ~~provisions of §§ 33.1-121 through 33.1-129, inclusive, Code of Virginia, as amended shall not be used except for the acquisition of lands or easements necessary for streets, water, sewer or utility pipes or lines or related facilities, and further provided that the condemnation authority shall be subject to the provisions of § 25-233 of the Code of Virginia.~~

(c) In addition to the powers conferred by the aforesaid laws, such certificates may be amended or cancelled by the court having jurisdiction of the proceedings, upon petition of the town, at any time after the filing thereof; provided, that the court shall have jurisdiction to make such order for the payment of costs and damages, if any, or the refund of any excessive sums theretofore paid pursuant to such certificate as shall, upon due notice and hearing, appear just. The court shall have jurisdiction to require refunding bonds, for good cause shown by the town or any other person or party in interest, prior to authorizing any distribution of funds pursuant to any certificate issued or deposit made by the town.

§ 4.2. Duties. It shall be the duty of the town manager to:

(a) Attend all meetings of the town council, with the right to speak but not to vote.

(b) Keep the town council advised of the financial condition and the future needs of the town and of all matters pertaining to its proper administration, and make such recommendations as may seem to him desirable.

(c) Prepare and submit the annual budget to the town council and be responsible for its administration after its adoption.

~~(d) Prepare in suitable form for publication and submit to the town council at a regular meeting in September of each year a concise, comprehensive report of the financial transactions and administrative activities of the town government during the immediately preceding fiscal year.~~

~~(e)~~ (d) Present adequate financial and activity reports as required by the town council.

~~(f)~~ (e) Arrange for an annual audit by a certified public accountant, the selection of whom shall be approved by the town council.

~~(g)~~ (f) Perform such other duties as may be prescribed by this charter or required of him in accordance therewith by the town council or which may be required of the chief executive officer of a town by the general laws of the Commonwealth, other than the duties conferred on the mayor by this charter.

§ 7.1. Fiscal year. The fiscal year of the town shall begin on ~~September 1~~ July 1 of each year and end on ~~August 31~~ June 30 of the year following.

§ 7.3. Creation of debt; issuance of bonds. ~~Any ordinance creating a debt for which money is to be borrowed shall be adopted by a majority vote of the elected members of the town council.~~

No bonds shall be issued by the town until the voters of the town have first approved the issuance of such bonds at an election held pursuant to the laws of the Commonwealth. *The town council is authorized to cause the town by a majority vote to incur debt and to issue bonds, notes and other evidences of indebtedness for the purposes and in the manner set forth for towns in the Constitution of the Commonwealth of Virginia and the Public Finance Act of 1991, Chapter 5.1 of Title 15.1 of the Code of Virginia of 1950, as amended, or any acts amendatory thereof or supplemental thereto.*

**2. That an emergency exists and this act is in force from its passage.**