

**CONSTITUTION OF VIRGINIA: LOCAL GOVERNMENT (MULTIPLE OFFICES).**

**COUNTIES, CITIES AND TOWNS: LOCAL GOVERNMENT PERSONNEL, ETC.**

**Neither charter for Town of Christiansburg nor any constitutional or statutory provision prohibits town employee not appointed to his position by town council from running for, or serving as member of, council.**

The Honorable Thomas G. Baker Jr.

Member, House of Delegates

November 2, 1998

You ask whether an employee<sup>1</sup> of the Town of Christiansburg who is not appointed to his position by the town council is eligible for election to the town council. You reference a 1996 Attorney General opinion to you concluding that an employee of the Town of Pulaski is prohibited from serving as a member of the town council while continuing to be an employee of the town.<sup>2</sup>

The conclusion in the 1996 opinion was based on the language of § 3.09 of the charter for the Town of Pulaski, which states that no member of the town council shall be eligible during his term of office and for one year thereafter "to *any compensated town employment.*"<sup>3</sup> Unlike § 3.09 of the Town of Pulaski charter, however, § 2.08 of the charter for the Town of Christiansburg provides that no member of the town council during his tenure of office "shall be eligible to any remunerative office, position, or employment *to be filled by the council by election or appointment.*"<sup>4</sup>

Section 2.08 of the Christiansburg charter is clearly distinguishable from § 3.09 of the Pulaski charter. Section 2.08 expressly limits the eligibility prohibition to those town employees who were elected or appointed by the town council. In this regard, § 2.08 mirrors Article VII, § 6 of the Constitution of Virginia (1971) and § 15.2-1535 of the *Code of Virginia*, which, with certain exceptions, prohibit members of a governing body during their term of office from holding any office filled by the governing body. It is my opinion that neither the town charter nor any constitutional or statutory provision prohibits a town employee not appointed to his position by the council of the Town of Christiansburg from running for, or serving as a member of, the town council.

<sup>1</sup>You state that the employee, whose title is "research specialist," serves as the town planner and is employed at will. Pursuant to § 2.04 of the charter for the Town of Christiansburg, the town council appoints a town manager and vests the town manager with the administrative and executive powers of the town. See 1968 Va. Acts ch. 173, at 236, 237.

<sup>2</sup>See 1996 Op. Va. Att'y Gen. 33.

<sup>3</sup>1986 Va. Acts ch. 47, at 52, 55 (emphasis added).

<sup>4</sup>1968 Va. Acts, *supra* note 1, at 237 (emphasis added). Both charter provisions except from the prohibition compensation to members of boards or commissions appointed by the town council. Compare 1986 Va. Acts, § 3.09, *supra* note 3, at 55, and 1968 Va. Acts, § 2.08, *supra*.