

01-073

**CONSTITUTION OF VIRGINIA: LOCAL GOVERNMENT
(COUNTY AND CITY OFFICERS).**

**COUNTIES, CITIES AND TOWNS: LOCAL CONSTITUTIONAL
OFFICERS, ETC.**

**Duty of county sheriff to enforce local ordinance requiring vehicle
owners to display current county decals.**

The Honorable Gail S. Berry
Treasurer for Greene County
September 27, 2001

You inquire regarding the duty of the Greene County sheriff to enforce an ordinance requiring owners of vehicles to display current county decals.

You advise that payment for vehicle decals in Greene County is due annually on February 15 and represents a major source of income for the county. County residents must display the current county vehicle decal after February 15 of each year. You advise that the sheriff will no longer enforce the decal ordinance. You express concern that, without this enforcement mechanism, your office may not collect sufficient revenues for the county.

The powers and duties of a treasurer are set out generally in Article 2, Chapters 31¹ and 39² of Title 58.1 of the *Code of Virginia*. The treasurer is responsible for collecting taxes and other revenues payable into the treasury of the locality served by the treasurer.³ Prior opinions of the Attorney General conclude that it is the duty of a county treasurer to issue local automobile licenses and collect the fees authorized by local ordinance.⁴

A sheriff is an independent constitutional officer whose duties "shall be prescribed by general law or special act."⁵ A sheriff may appoint one or more deputy sheriffs to discharge the duties of his office.⁶ A 1980 opinion of the Attorney General notes that, in the absence of a statute providing otherwise, the authority of a sheriff is coextensive with his county.⁷ The Supreme Court of Virginia has commented that, as a general rule, the duties of a sheriff and his deputies are regulated and defined by statute.⁸ The Court has also stated:

The sheriff is an officer of the court subject to its orders and directions. He is also a conservator of the peace and charged with the enforcement of all criminal laws within his jurisdiction. It is his duty, as well as the duty of the other police officers of the county and city, to investigate all violations of law and to serve criminal warrants.^{9]}

Also among the general duties of county sheriffs within the county he serves are: (a) enforcement of local ordinances and state laws;¹⁰ (b) service of process for the courts within his county;¹¹ (c) maintenance of order in the courtroom and assistance of the court generally;¹² and (d) operation of the jail.¹³

I must, therefore, conclude that it is the duty of the office of the Greene County sheriff to enforce the county ordinance requiring vehicle owners to display current county decals.

¹Va. Code Ann. §§ 58.1-3123 to 58.1-3172.1 (Michie Repl. Vol. 2000 & Supp. 2001).

²Va. Code Ann. §§ 58.1-3910 to 58.1-3939 (Michie Repl. Vol. 2000 & Supp. 2001).

³Sections 58.1-3127, 58.1-3910 (Michie Repl. Vol. 2000).

⁴See Op. Va. Att'y Gen.: 1984-1985 at 357, 358; 1969-1970 at 298; 1955-1956 at 221.

⁵Va. Const. art. VII, § 4; see also Va. Code Ann. § 15.2-1600(A) (Michie Repl. Vol. 1997) (requiring counties and cities to elect sheriffs).

⁶Va. Code Ann. § 15.2-1603 (Michie Repl. Vol. 1997).

⁷1980-1981 Op. Va. Att'y Gen. 322, 322; see also 16 M.J. *Sheriffs* § 2 (2000).

⁸See *Hilton v. Amburgey*, 198 Va. 727, 729, 96 S.E.2d 151, 152 (1957); *Narrows Grocery Co. v. Bailey*, 161 Va. 278, 284, 170 S.E. 730, 732 (1933).

⁹*Commonwealth v. Malbon*, 195 Va. 368, 371, 78 S.E.2d 683, 686 (1953).

¹⁰See Va. Code Ann. § 15.2-1609 (Michie Repl. Vol. 1997); *Malbon*, 195 Va. at 371, 78 S.E.2d at 685-86.

¹¹See, e.g., Va. Code Ann. §§ 16.1-79, 16.1-99 (Michie Repl. Vol. 1999) (authorizing sheriffs to serve warrants and writs of fieri facias in civil actions).

¹²See, e.g., Va. Code Ann. § 53.1-120 (Michie Repl. Vol. 1998) (authorizing sheriffs to designate deputies to provide courthouse and courtroom security); *Near v. Commonwealth*, 202 Va. 20, 30, 116 S.E.2d 85, 92 (1960).

¹³See, e.g., *Watts's Case*, 99 Va. 872, 877, 39 S.E. 706, 707 (1901).

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