



Berryville Police Department

101 Chalmers Ct., Suite A, Berryville, Virginia 22611

policeadmin@berryvilleva.gov

(540) 955-3863 (540) 955-0207 (Fax)

W. Neal White – Chief of Police

POLICE AND SECURITY COMMITTEE MEETING AGENDA

January 26, 2017

09:00 A.M.

Clarke County Joint Government Center
Meeting Room A/B

- Call to Order – Committee Chair Dave Tollett
- Report of the Chief
- Ordinance Revisions – Chief White / Mr. Dalton
 - Chapter 8 (Garbage and Refuse)
 - Chapter 10 (Motor Vehicles)
- Other Business
- Adjourn

ARTICLE I. - IN GENERAL

Sec. 8-1. - Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 4 misdemeanor.

Cross reference— Penalty for Class 4 misdemeanor, § 1-11.

Sec. 8-2. - Unlawful accumulations.

- (a) It shall be unlawful for any owner or occupant of any premises within the town to allow garbage, ashes, refuse, trash, litter or other substances which might endanger the health of other residents of the town to accumulate on such premises.
- (b) The owner of any property in the town shall remove accumulations referred to in subsection (a) above from such property at intervals to be established by the Town Manager or his designee. Reasonable notice of the date fixed by the Town Manager for such removal shall be given by mail or delivery of a written notice to each owner of such property.
- (c) Upon the failure of the owner of property to remove trash, garbage, refuse, litter and other substances which might endanger the health of other residents of the town, as provided in the notice given pursuant to subsection (b) above, the Town Manager may have such trash, garbage, refuse, litter and other substances removed and bill the owner for the work. Upon the owner's failure to pay such bill by tax billing time, such bill shall be placed upon the tax bill of the owner so delinquent and collected as taxes are collected.

(Code 1971, §§ 8-1, 8-3)

Cross reference— Open storage of inoperative vehicles in certain zoning districts, § 13-30; abandoned or discarded refrigerators or other airtight containers, § 13-31; cutting and removal of weeds and other foreign growth on vacant property, § 13-32; maintenance of property abutting Town Run, § 13-33.

State Law reference— Authority for above section, Code of Virginia, § 15.2-901.

Sec. 8-3. - Disposal in town of trash, garbage, etc., accumulated outside town.

- (a) It shall be unlawful and a Class 1 misdemeanor for any person to place, dump or otherwise dispose of trash, garbage, refuse, litter or any other unsightly matter that has been accumulated or collected outside the corporate limits of the town at any place within the town. This section shall not apply to a person using the public facilities of the town for the disposal of such matter, with the express permission of the Town Council or its designated agent.

(Ord. of 2-13-73; Ord. of 2-13-79, § 8-15)

Cross reference— Penalty for Class 1 misdemeanor, § 1-11.

State Law reference – Authority for above section, Code of Virginia, § 15.2-928

Sec. 8-4. - Upsetting, tampering and misusing litter receptacles maintained by the town.

No person shall cause the removal, upsetting, mutilation or defacing of, or tamper with any litter receptacle maintained by the town, cause the contents thereof to be spilled or to be strewn in or upon any public place or private premises, or use such receptacle for disposal of business or household refuse.

(Ord. of 2-13-01)

State Law reference— Authority for above section, Code of Virginia, Section 15.2-928.

Sec. 8-5. - Dumpster, defined; prohibited times for emptying.

- (a) For the purpose of this section a "dumpster" shall mean any container designed to contain refuse or garbage and which is emptied by mechanical means.
- (b) It shall be unlawful for any business or corporation to empty a dumpster in town between the hours of 10:00 p.m. and 7:00 a.m. except within industrially zoned areas of the town.

State Law reference – Authority for above section, Code of Virginia, § 15.2-930

(Ord. of 1-12-99)

Sec. 8-6. – Requirements for collection vehicles

- (a) All vehicles used in the collection of garbage and refuse within the town shall be kept and maintained in a clean and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of the type of garbage and refuse to be transported therein. All vehicles used in the collection of garbage or combined refuse shall be constructed and maintained with watertight bodies and with covers of metallic or other rigid, impervious material, or, in the alternative, the entire bodies thereof shall be enclosed, with only loading hoppers exposed.
- (b) Special vehicles used in new or experimental methods of refuse collection may be permitted by the Town Manager, when such permit is in writing.

Sec. 8-7. – Picking through contents of garbage toters or dumpsters.

It shall be unlawful for any person to pick through, handle or interfere with the contents of any garbage toter or dumpster under the provisions of this article. Collection personnel, employees of the town or other governmental agencies involved in duly authorized investigations, as well as the residents to whom the specific toter or dumpster is issued shall be exempt from this prohibition.

Secs. 8-8—8-13. - Reserved.

ARTICLE II. - COLLECTION BY TOWN

FOOTNOTE(S):

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Cross reference— Department of public works responsible for refuse collection, § 2-53.

State Law reference— Local recycling and waste disposal; powers; penalties, Code of Virginia, § 15.2-928. Authority for town to regulate garbage and refuse disposal, Code of Virginia, § 15.2-927. Regulation of garbage and refuse pickup and disposal services; contracting for such services, Code of Virginia, § 15.2-930

Sec. 8-14. - Report of violations of article.

If any person fails to comply with the provisions of this article, collection personnel engaged in the collection and removal of garbage and refuse shall report such failure to the Town Manager.

(Ord. of 2-13-79, § 8-12)

Sec. 8-15. - Containers generally—For garbage.

Toters will be issued in accordance with standards established by the Town Manger. Toters are the property of the town or its contractor and are assigned to a specific address. Toters shall not be removed from the assigned address. Damaged toters reported to the town will be repaired or replaced. The cost to replace or repair toters that are intentionally damaged or removed will be charged to the owners or tenants at the assigned address. The owners or tenants will be assessed a replacement fee to be determined by the town manager, or the town manager's designee not to exceed 120 percent of the actual replacement cost.

Sec. 8-16 - Preparation of garbage and refuse

Garbage and refuse to be collected by the town shall be prepared in accordance with requirements established by the Town Manager.

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

(Ord. of 2-13-79, §§ 8-5, 8-7; Ord. of 11-13-90; Ord. of 10-13-98)

Sec. 8-17. – Containers generally – For recyclables.

Recycling bins will be issued in accordance with standards established by the Town Manger. Recycling bins are the property of the town or its contractor and are assigned to a specific address. Recycling bins shall not be removed from the assigned address. Damaged recycling bins reported to the town will be repaired or replaced. The cost to replace or repair recycling bins that are intentionally damaged or removed will be charged to the owners or tenants at the assigned address. The owners or tenants will be assessed a replacement fee to be determined by the Town Manager, or the Town Manager's designee not to exceed 120 percent of the actual replacement cost.

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec. 8-18. - Preparation of recyclables

Recyclables to be collected by the town shall be prepared in accordance with requirements established by the Town Manager.

(Ord. of 2-13-79, § 8-9; Ord. of 10-13-98)

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec. 8-19. - Collection times and routes – garbage and refuse and recyclables

The Town Manager shall establish collection times and routes for the collection of garbage and refuse and recyclables.

(Ord. of 2-13-79, § 8-14)

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec. 8-20. - Placement of containers on collection day; collectors not to enter building.

- (a) All containers containing garbage or refuse for collection by the town shall be set out not later than 7:00 a.m. on collection days. No containers may be set out for collection more than twenty-four (24) hours before the established collection time and empty containers shall be removed on the same day of collection.
- (b) All containers shall be placed in such location as is specified by the Town Manager, so that they can be reached easily and conveniently by the collectors. No town employee or collection personnel shall enter any building for the removal of garbage or refuse.

(Ord. of 2-13-79, §§ 8-16, 8-17; Ord. of 11-13-90; Ord. of 10-13-98)

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec. 8-21. - Preparation of tree branches, brush, leaves and other yard waste

- (a) Tree branches and brush to be collected by the town shall be prepared in accordance with standards established by the Town Manager.
- (b) Leaves to be collected by the town shall be prepared in accordance with standards established by the Town Manager.

(Ord. of 10-13-98)

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec. 8-22. - Certain refuse not to be collected.

- (a) Rejected building materials, tin, contractors' waste, industrial waste, automobiles or parts thereof, tires, hazardous materials, such as cleaning fluids, explosives, gasoline, oil, paints, plastics, rubber cuttings or other highly flammable materials, or substances such as poisons, gases, caustics, radioactive materials or powdery earth used in filter cleaning fluids or other like refuse materials or substances shall not be collected by the town. In the event such refuse is found at collection points, the persons placing the same for collection shall be required to remove the same immediately. Radioactive materials, drugs, poison and like substances shall only be removed under the supervision of persons qualified in the handling of such materials.
- (b) No animal or fowl excrement shall be collected by the town and no such excrement shall be placed in any container or receptacle required by this article or otherwise put out or placed for collection by the town.
- (c) Ashes containing live coals shall not be collected by the town.

(Ord. of 2-13-79, §§ 8-5, 8-6, 8-10)

State Law reference – Authority for above section, Code of Virginia, § 15.2-928.

Sec.8-23 – Certain yard waste not collected.

- (a) No grass clippings will be collected by the town or its contractors.
- (b) No rocks, concrete, soil, or the like will be collected by the town or its contractors.

Sec. 8-24. – Collection provided by others

- (a) Owners or tenants of properties that do not receive collection services provided by the town shall be responsible for securing the services of a private waste hauler. Garbage and refuse must be removed at intervals necessary to prevent a condition that might endanger the health of residents of the town or constitute a nuisance.
- (b) Collectors must adhere to all federal, state, and local regulations for such service.

Chapter 10 - MOTOR VEHICLES AND TRAFFIC

FOOTNOTE(S):

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Cross reference— Noise from vehicles, § 11-7 et seq.; sound trucks, § 11-27 et seq.; obstructing traffic, § 13-11.1; using vehicle to promote prostitution or unlawful sexual intercourse, § 13-17; injuring, tampering with, etc., vehicles, § 13-23; open storage of inoperative vehicles in certain zoning districts, § 13-30; streets and sidewalks, Ch. 15; washing, greasing, etc., vehicle on street or sidewalk, § 15-14; zoning ordinance, App. A.

State Law reference— Motor vehicles and traffic generally, Code of Virginia, title 46.2 general authority of town to regulate traffic, §§ 15.1-891, 46.2-1300—46.2-1313.

ARTICLE I. - IN GENERAL

FOOTNOTE(S):

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Cross reference— Penalty for Class 1 misdemeanor, § 1-11.

Sec. 10-1. - Compliance with chapter; general penalty for violations.

It shall be unlawful for any person to refuse, fail or neglect to comply with any of the provisions of this chapter or any rule or regulation promulgated pursuant thereto. Unless otherwise specifically provided, a violation of this chapter or any such rule or regulation shall constitute a traffic infraction punishable by a fine of not more than one hundred dollars (\$100.00).

(Code 1971, § 11-35)

Sec. 10-2. - Arrest procedure for violations of chapter—Generally.

- (a) Whenever any person is detained by or in the custody of an arresting officer, including an arrest upon a warrant, for a violation of any provision of this chapter, except section 10-6, the arresting officer shall, except as otherwise provided in section 10-3, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing to appear, at a time and place to be specified in such summons or notice, such time to be at least five (5) days after such arrest, unless the person arrested shall demand an earlier hearing, and such person shall, if he so desires, have a right to an immediate hearing or a hearing within twenty-four (24) hours, at a convenient hour and before the court having jurisdiction. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody.
- (b) Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting officer before a magistrate or other issuing officer having jurisdiction, who shall proceed according to the provisions of section 10-3.
- (c) Any person who willfully violates a written promise to appear, given in accordance with this section, shall be guilty of a Class 1 misdemeanor and shall be treated in accord with the provisions of section 46.2-938 of the Code of Virginia. ^[2]

- (d) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and subject to removal therefrom upon complaint filed by any person in a court of competent jurisdiction. This section shall not be construed to limit the removal of a police officer for other misconduct in office.

Cross reference— Use of above section in making arrests for littering, § 8-3.

State Law reference— Similar provisions, Code of Virginia, §§ 46.2-936.

Sec. 10-3. - Same—When arrested person to be taken before issuing officer.

If any person arrested for a violation of this chapter is believed by the arresting officer to be likely to disregard a summons issued under section 10-2, or refuses to give a written promise to appear under the provisions of such section, the arresting officer shall take such person forthwith before a magistrate or other issuing officer having jurisdiction, who shall determine whether or not probable cause exists that such person is likely to disregard a summons, and may issue either a summons or warrant, as is determined proper.

State Law reference— Similar provisions, Code of Virginia, § 46.2-940.

Sec. 10-4. - Same—Traffic infractions treated as misdemeanors for arrest purposes.

For purposes of arrest, traffic infractions shall be treated as misdemeanors. Except as otherwise provided by this chapter or state law, the authority and duties of arresting officers shall be the same for traffic infractions as for misdemeanors.

State Law reference— Similar provisions, Code of Virginia, § 46.2-937.

Sec. 10-5. - Adoption of state law generally.

- (a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, 1950 as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, and in effect on and after July 1, 1994, including the section numbers assigned in said title 46.2 to such provisions and requirements, except, however, those provisions and requirements which, by their very nature, can have no application to or within the town, are hereby adopted and incorporated by this chapter by reference and made applicable within the town. Reference to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the town to violate or fail, neglect or refuse to comply with any provisions of title 46.2 of the Code of Virginia, which is adopted by this section, provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.
- (b) All definitions of words and phrases contained in the state law hereby adopted shall apply to such other words and phrases, when used in this chapter, unless indicated to the contrary.
- (c) Pursuant to the authority of section 1-13.39:2 of the Code of Virginia, 1950, as amended, it is specifically intended and stated that this section adopting the foregoing state statutes shall include all future amendments to such state statutes.

(Code 1971, § 11-2; Ord. of 9-12-78; Ord. No. 7-10-84; Ord. of 7-18-85; Ord. of 9-8-87; Ord. of 7-12-88; Ord. of 7-11-89; Ord. of 10-10-89; Ord. of 7-10-90; Ord. of 4-9-91; Ord. of 7-9-91; Ord. of 6-9-92; Ord. of 6-8-93; Ord. of 6-14-94)

Sec. 10-6. - Adoption of state law as to driving while under influence of alcohol or drugs.

Pursuant to the authority of section 46.2-1313, and section 18.2-268.12 of the Code of Virginia, 1950, as amended, all of the provisions of the laws of the Commonwealth of Virginia contained in Article 2 (Section 18.2-266 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, including the section numbers assigned to such provisions in said Article 2, of Chapter 7 of Title 18.2 of the Code of Virginia, and in effect on and after September 12, 1995, are hereby adopted and incorporated in this chapter by reference and made applicable within the town. Reference to "highways of the state" contained in such provisions and requirements shall be deemed to refer to the streets, highways and other public ways within the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the town to violate or fail, neglect or refuse to comply with any such provision or requirement, provided, however, that the provisions of § 18.2-270 of the Code of Virginia pertaining to offenses of driving while intoxicated that constitute felonies are not incorporated into or made a part of this section. Pursuant to the authority of section 1-13.39:2 of the Code of Virginia, 1950, as amended, it is specifically intended and stated that this Ordinance adopting the foregoing state statutes shall include all future amendments to such state statutes. This ordinance shall be effective July 13, 1999.

(Ord. of 9-12-78; Ord. of 7-10-84; Ord. of 7-18-85; Ord. of 9-8-87; Ord. of 7-12-88; Ord. of 7-11-89; Ord. of 10-10-89; Ord. of 7-10-90; Ord. of 4-9-91; Ord. of 7-9-91; Ord. of 6-9-92; Ord. of 6-8-93; Ord. of 6-14-94; Ord. of 9-12-95; Ord. of 7-13-99)

Sec. 10-6.1. - Reserved.

Editor's note— Ord. of March 9, 1993, repealed § 10-6.1, which pertained to penalties for ordinances incorporating state motor vehicle laws by reference. See the Code Comparative Table.

Sec. 10-7. - General authority of town manager relative to traffic.

- (a) The town manager, except as otherwise provided by this chapter and except as otherwise directed, from time to time, by the council, shall have the power and is hereby authorized to regulate the operation and parking of vehicles within the corporate limits of the town by the erection or placing of proper signs or markers indicating prohibited or limited parking, angle parking, the parking of buses, trucks and other vehicles of various weights, "U" turns, turning at intersections, hazardous intersections, school zones, hospital zones, loading and unloading zones, quiet zones, traffic-control signals exhibiting colored lights or the words "go," "caution" or "stop" and other signs or markers indicating the place and manner of operating or parking vehicles in the town.
- (b) The town manager shall also have the power and is hereby authorized:
 - (1) To regulate the movement of pedestrians upon the streets and sidewalks of the town by the erection or placing of proper signs or markers indicating the flow of pedestrian traffic.
 - (2) To designate bus stops and to erect signs prohibiting the parking of vehicles other than buses at such stops.
 - (3) To mark off traffic lanes on streets and parts of streets indicting and directing the flow of traffic.
 - (4) To designate and mark fire lanes on private property, including alleys in which lanes the parking of vehicles shall be prohibited.

- (c) On proper application, the town manager may assign to taxicab operators such space along the public streets of the town for parking vehicles actively in service in such business as the town manager may deem best suited and to the interest of the public, provided permission of the abutting property owner is secured. Fees for the use of such space shall be as prescribed, from time to time, by the council.
- (d) The town is authorized to secure all signs, signals or markers to be erected or placed on any street or part of a street in order to carry out the purposes of this section.
- (e) The existence of signs, signals or markers referred to in this section at any place within the corporate limits of the town shall be prima facie evidence that such signs, signals or markers were erected or placed by and at the direction of the town manager in accordance with the provisions of this section and it shall be unlawful for any person to disobey the directions of any such sign, signal or marker.
- (f) No sign, signal or marker referred to in this section shall be erected or placed on any street which is a part of the state highway system, without the approval of the state department of highways and transportation.

(Code 1971, §§ 11-3, 11-38, 11-58)

Sec. 10-8. - Designation of stop and yield intersections.

The town manager, except as otherwise provided by this chapter and except as otherwise directed from time to time by the council, may designate intersections, other than intersections at which one or more of the intersecting streets has been designated as a part of the state highway system, at which vehicles shall come to a full stop or yield the right-of-way. The town manager shall secure all necessary signs, signals or markers to indicate such designations and shall have them erected or placed on or at such intersections, so that an ordinarily observant person, who may be affected by such regulation, may be aware of such regulation. The existence of such signs, signals or markers at any place within the corporate limits of the town shall be prima facie evidence that such signs, signals or markers were erected or placed by or at the direction of the town manager in accordance with the provisions of this section.

(Code 1971, § 11-4)

State Law reference— Authority for above section, Code of Virginia, § 46.2-1301.

Sec. 10-9. - Authority of fire department officers to direct traffic.

Officers of the fire department may direct or assist the police in directing traffic at or in the immediate vicinity of a fire and, while so acting, shall have all the authority of police officers.

(Code 1971, § 11-5)

Sec. 10-10. - Special speed limit on certain streets.

Upon the following streets or parts of streets within the town, the maximum speed limit is hereby established at fifteen (15) miles per hour and no person shall drive a vehicle upon such streets or parts of streets in excess of such maximum speed limit:

- (1) Page Street, the part north of East Main Street maintained by the town.
- (2) Virginia Avenue.

(Code 1971, § 11-19)

State Law reference— Maximum speed limits and authority of town to modify limits prescribed by state law, Code of Virginia, §§ 46.2-870—46.2-878.

Sec. 10-11. - Reserved.

Editor's note— An ordinance adopted August 13, 1991, repealed § 10-11. Formerly, § 10-11 pertained to permits for parades and derived from § 11-8 of the 1971 Code.

Sec. 10-12. - Driving through funeral or other processions; manner of driving in funeral processions.

- (a) No operator of a vehicle shall drive between the vehicles, persons or animals comprising a funeral or other authorized procession, except when otherwise directed by a police officer. This provision shall not apply to operators of authorized emergency vehicles meeting the requirements of section 46.2-920 of the Code of Virginia.
- (b) Each driver in a funeral procession shall drive as near to the right-hand edge of the roadway as is practicable and shall follow the vehicle ahead as close as is practicable and safe.

(Code 1971, § 11-9)

State Law reference— Right-of-way of funeral processions under police escort, Code of Virginia, § 46.2-828.

Sec. 10-13. - Boarding or alighting from moving vehicle.

No person shall board or alight from any vehicle while such vehicle is in motion.

(Code 1971, § 11-11)

Sec. 10-14. - Riding on portion of vehicle not intended for passengers.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.

(Code 1971, § 11-12)

Sec. 10-14.1. - Use of roller skates and skateboards on sidewalks; operation of bicycles on sidewalks and crosswalks.

- (a) It shall be unlawful for any person to use roller skates or skateboards and/or ride a bicycle on designated sidewalks or crosswalks, including those of any church, school, recreational facility or any business property open to the public where such activity is prohibited. Signs indicating such prohibition shall be conspicuously posted in general areas where use of roller skates and skateboards and/or bicycle riding is prohibited.
- (b) A person riding a bicycle on a sidewalk, or across a roadway on a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian.
- (c) No person shall ride a bicycle on a sidewalk, or across a roadway on a crosswalk where such use of bicycles is prohibited by official traffic control devices.

- (d) A person riding a bicycle on a sidewalk, or across a roadway on a crosswalk, shall have all the rights and duties of a pedestrian under the same circumstances.
- (e) Any violation of this section shall be punishable by a civil penalty of not more than fifty dollars (\$50.00).

(Ord. of 8-12-86; Ord. of 7-13-99)

State Law reference— Authority for above section, Code of Virginia, §§ 46.2-904, 46.2-1300.

Sec. 10-14.2. - Helmets required for bicycle riders fourteen years of age or younger.

- (a) Every person fourteen years of age or younger shall wear a protective helmet that meets the standards promulgated by the American National Standards Institute or Snell Memorial Foundation whenever riding or being carried on a bicycle on any highway as defined in § 46.2-100 of the Code of Virginia, sidewalk, or public bicycle path.
- (b) Violation of this section shall be punishable by a fine of twenty-five dollars. However, such fine shall be suspended (i) for first-time violators and (ii) for violators who, subsequent to the violation but prior to the imposition of the fine, purchase helmets of the type required by this section.
- (c) Violation of this section shall not constitute negligence, assumption of risk, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation of any bicycle, nor shall anything in this section change existing law, rule or procedure pertaining to any civil action.

(Ord. of 8-12-97)

State Law reference— Authority for above section, Code of Virginia § 46.2-906.1.

Sec. 10-14.3. - Safety equipment for mopeds; effect of violation; penalty.

Every person operating a moped, as defined in Sec. 46.2-100, Code of Virginia, 1950, as amended, on a public street or highway shall wear a face shield, safety glasses, or goggles of a type approved by the Superintendent of the Department of State Police of the Commonwealth or have his moped equipped with safety glass or a windshield at all times while operating such vehicle, and operators and passengers thereon, if any, shall wear protective helmets of a type approved by the Superintendent. Pursuant to Section 46.2-915.2, Code of Virginia, 1950, as amended, violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a moped or motor vehicle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action. Any person who knowingly violates this section shall be guilty of a traffic infraction and be subject to a fine of not more than fifty dollars.

(Ord. of 8-12-97)

State Law reference— Authority for above section, Code of Virginia § 46.2-915.2

Sec. 10-15. - Blocking intersection.

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to

accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(Code 1971, § 11-21)

Sec. 10-16. - Authority to provide for temporary removal and disposition of vehicles involved in accidents.

Whenever a motor vehicle, trailer or semitrailer involved in an accident is so located as to impede the orderly flow of traffic, the police may (i) at no cost to the owner or operator remove the motor vehicle, trailer or semitrailer to some point in the vicinity where it will not impede the flow of traffic or (ii) have the vehicle removed to a storage area for safekeeping and shall report the removal to the department of motor vehicles and to the owner of the vehicle as promptly as possible. If the vehicle is removed to a storage area under clause (ii), the owner shall pay to the parties entitled thereto all costs incidental to its removal and storage.

(Code 1971, § 11-33; Ord. of 3-3-93)

State Law reference— Authority for above section, Code of Virginia, § 46.2-1212.

Sec. 10-17. - Use of engine brakes prohibited.

- (a) It shall be unlawful for the driver of any motor vehicle to apply engine brakes within the limits of the town, except when responding to a bona fide emergency.
- (b) Any violation of this section shall be punishable by a civil penalty of not more than two hundred dollars (\$200.00).

(Ord. of 10-8-02)

Sec. 10-18. - Display of valid state license plates and valid state inspection certificate.

- (a) It shall be unlawful for any person to operate or park any motor vehicle, trailer or semi-trailer on any public street or public property unless the same shall display thereon a valid state license and a valid state inspection certificate.
- (b) Violations of this section shall be punishable by a fine of twenty-five dollars (\$25.00).

(Ord. of 3-9-04(1))

State Law reference— Code of Virginia, §§ 46.2-613, 46.2-1157 and 46.2-1220.

Sec. 10-19. - Operation of vehicles powered by engines or electricity on public property, public rights-of-way, bike paths, etc., not open to the public for vehicular use.

- (a) It shall be unlawful for any person to operate or permit to be operated any motor vehicle, motorcycle, mini-bike, moped, go- cart, ATV, golf cart, motor scooter or other form of transportation propelled by an internal combustion engine or electricity with the exception of electric powered personal assistive mobility devices, upon public property, public rights-of-way on private property, bicycle paths or trails which are not held open to the public for vehicular use. This section shall not apply to the following:
 - (1) The operation of emergency vehicles and governmental vehicles upon such property.

- (b) Violation of this section shall be a class 4 misdemeanor with a minimum fine of fifty dollars (\$50.00). If life and limb or property of anyone lawfully using such public property, public rights-of-way on private property, bicycle paths or trails is endangered by persons engaged in unlawful acts in violation of this section, the violation will then be punished as a class 1 misdemeanor.

(Ord. of 7-11-06(2))

State Law reference— Regulation of traffic, Code of Virginia, § 15.2-2028; regulation of trails, Code of Virginia, § 15.2-1806(B); definition of electric personal assistive mobility device, Code of Virginia, § 46.2-100.

Secs. 10-20—10-26. - Reserved.

ARTICLE II. - VEHICLE LICENSE

FOOTNOTE(S):

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Editor's note—An Ord. of 9-13-11(2) amended former Art. II, §§ 10-27—10-39, in its entirety to read as herein set out. Former Art. II pertained to similar subject matter and derived from the Code of 1971 and the following: Ord. of 12-11-73; Ord. of 12-12-78; Ord. of 7-8-86; Ord. of 7-11-89; Ord. of 3-9-93; Ord. of 8-14-90; Ord. of 3-14-95; Ord. of 2-6-96; Ord. of 9-9-97; Ord. of 4-12-05; Ord. of 9-8-09(1), Ord. of 9-8-09(2); Ord. of 4-10-01(1).

Cross reference— Licenses generally, Ch. 9.

Sec. 10-27. - License tax imposed.

Except as provided by state law, there is hereby imposed upon all vehicles, all motor vehicles, trailers, or semitrailers normally garaged, stored, or parked in the town a license fee pursuant to this article. If it cannot be determined where any motor vehicle, trailer, or semitrailer is normally garaged, stored, or parked, the situs for the imposition of licensing fees under this article shall be the domicile of its owner.

(Ord. of 9-13-11(2))

State Law reference— Local license taxes on vehicles, Code of Virginia, § 46.2-752A.

Sec. 10-28. - Tax levied.

There is hereby levied, assessed and charged, upon all motor vehicles, trailers and semitrailers required to be licensed under this article annual license taxes as follows:

- (1) Upon each automobile, station wagon, motor home, truck or tractor, twenty-five dollars (\$25.00).
- (2) Upon each motorcycle, twelve dollars (\$12.00).
- (3) Upon each trailer or semitrailer, eight dollars (\$8.00).
- (4) If any license tax imposed by this article is not paid by December 5 of each year or the due date as indicated on the personal property tax bill of any license year, there shall be added to such license fee a delinquent charge of \$10.00 to be assessed and paid along with the license fee.

(Ord. of 9-13-11(2))

Cross reference— Taxation generally, Ch. 16.

State Law reference— Authority for above tax of Virginia, § 46.2-752.

Sec. 10-29. - Proration of taxes.

Should a vehicle be acquired or newly garaged in town after July 1, the fee shall be one-half (½) the rate set forth in this article.

(Ord. of 9-13-11(2))

Sec. 10-30. - Payment of personal property taxes as prerequisite to licensing.

No motor vehicle, trailer or semitrailer shall be licensed under this article unless and until the applicant for such license shall have produced satisfactory evidence that all personal property taxes upon the vehicle to be licensed have been paid and satisfactory evidence that any delinquent motor vehicle, trailer, or semitrailer personal property taxes, which have been properly assessed or are assessable against the applicant by the town, have been paid.

(Ord. of 9-13-11(2))

State Law reference— Authority for above section, Code of Virginia, § 46.2-752.

Sec. 10-31. - Issuance of decal.

Any person owning a motor vehicle, trailer or semitrailer required to be licensed under this article, with reference to which there has been issued a state license, and regardless of the month in which issued by the state, shall present the state registration card for the vehicle to the town treasurer upon acquisition or garaging of a vehicle. Upon such presentation and upon payment of the tax prescribed by this article and compliance with section 10-30, the town shall issue to such person a town license decal for the vehicle covered by the state registration card so presented.

(Ord. of 9-13-11(2))

Sec. 10-32. - Contents of decal.

Each decal issued pursuant to this article shall, at a minimum, contain the name of the town and the number assigned the vehicle for which issued.

(Ord. of 9-13-11(2))

Sec. 10-33. - Display of decal generally.

A license decal issued under this article shall be securely attached to the vehicle for which issued in such a manner that it shall be clearly visible from the rear thereof, except a vehicle with a windshield, in which case the decal shall be placed on the windshield to the right and adjacent to the state inspection sticker, no higher than three (3) inches from the bottom of the windshield of such vehicle.

(Ord. of 9-13-11(2))

Sec. 10-34. - Failure to display license; display of expired license.

It shall be unlawful for any owner or operator of a motor vehicle, trailer or semitrailer to fail to obtain and display the license or decal required by this article or to display upon such motor vehicle, trailer or semitrailer any license of the town after its expiration dated. Any violation of this section shall constitute a misdemeanor punishable by a fine not exceeding the penalty for a violation of a Class 4 misdemeanor. Officers of the Berryville Police Department, in addition to any other law enforcement officers authorized by law, are authorized to issue citations, summonses, parking tickets, or uniform traffic summonses for violations of this section. A violation of this section may not be discharged by payment of the fine except upon presentation of satisfactory evidence that the required license has been obtained.

Any such violation of this section may be satisfied, in full, by payment to the town treasurer of twenty-five dollars (\$25.00) within fifteen (15) days of such violation, thirty-five dollars (\$35.00) within thirty (30) days of such violation or forty-five dollars (\$45.00) after thirty (30) days of such violation provided further, that, in each such case, such person provide satisfactory evidence that the local license required by section 10-34, or the license of another locality required under ordinance enacted pursuant to § 46.2-752 of the Code of Virginia, has been obtained.

(Ord. of 9-13-11(2))

Sec. 10-35. - Replacement decals.

For each replacement vehicle license decal, where the original decal has become mutilated, the applicant shall pay to the town the sum of one dollar (\$1.00).

(Ord. of 9-13-11(2))

Sec. 10-36. - Transfer of decal.

License decals issued under this article may not be transferred from one vehicle to another, unless the vehicles are owned by the same applicant and the applicant notifies the town treasurer of his intention to so transfer such plate or decal. A fee of one dollar (\$1.00) shall be paid for each such transfer.

(Ord. of 9-13-11(2))

Sec. 10-37. - Reserved.

Sec. 10-38. - License tax exemption for certain volunteer members of fire departments and rescue squads.

- (a) The town treasurer shall issue a decal without charging a tax for one (1) motor vehicle which is regularly used by each active volunteer rescue squad member or active volunteer fire department member to respond to calls or to perform other duties for the John H. Enders Volunteer Fire Company and Rescue Squad, provided that all other requirements of the ordinance are met and that such active volunteer shall furnish to the treasurer a certification by the chief or head of the volunteer organization that the said active volunteer is an active member of the volunteer rescue squad or volunteer fire department who regularly responds to calls or regularly performs other duties for the rescue squad or fire department, and the motor vehicle is identified as regularly used for such purposes. For purposes of this section an "active volunteer member" shall be defined as one meeting specified eligibility standards for such designation as determined by the volunteer organization and as approved by the town treasurer.

- (b) Application by an active volunteer for such exempt tax license shall be made between March 15th and April 15th or within thirty (30) days of registration with the Commonwealth of Virginia. The treasurer shall not issue such tax exempt license to applicants who fail to apply within this prescribed period.
- (c) The prerequisites set forth in section 10-30 herein shall apply to any motor vehicle license issued pursuant to these provisions.

(Ord. of 9-13-11(2))

State Law reference— Similar provisions, Code of Virginia, § 46.2-752.A.

Sec. 10-39. - Regional compact for cross-jurisdictional enforcement of local motor vehicle licensing requirements.

Pursuant to § 46.2-752.K of the Code of Virginia, the Town of Berryville shall be a member of the Regional Compact for Cross-Jurisdictional Enforcement of Local Motor Vehicle Licensing Requirements with the City of Winchester, the Counties of Clarke and Frederick, and the Towns of Boyce, Middletown and Stephens City.

(Ord. of 9-13-11(2))

Secs. 10-40—10-47. - Reserved.

ARTICLE III. - STOPPING, STANDING AND PARKING

FOOTNOTE(S):

--- (4) ---

State Law reference— General authority of town to regulate parking, Code of Virginia, § 46.2-1220.

DIVISION 1. - GENERALLY

FOOTNOTE(S):

--- (5) ---

Cross reference— Standing vehicle on tracks so as to hinder or endanger moving train, § 14-3.

Sec. 10-48. - Parking prohibited in specified places.

- (a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:
 - (1) On a sidewalk.
 - (2) In front of a public or private driveway.
 - (3) Within an intersection, or within twenty (20) feet from the intersection of curb lines, or if none, then within fifteen (15) feet of the intersection of property lines at an intersection of streets.

- (4) Within fifteen (15) feet of a fire hydrant.
 - (5) On a crosswalk.
 - (6) Within twenty (20) feet of a crosswalk at an intersection; provided, that where there is no crosswalk at an intersection, no person shall park a vehicle within twenty (20) feet from the intersection of curb lines or, if none, within fifteen (15) feet of the intersection of property lines.
 - (7) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.
 - (8) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.
 - (9) Within fifty (50) feet of the nearest rail of a railroad grade crossing. ^[5]
 - (10) Within fifteen (15) feet of the driveway entrance to any fire station and, on the side of a street opposite the entrance to any fire station, within seventy-five (75) feet of the entrance when properly signposted.
 - (11) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.
 - (12) On the roadway side of any vehicle parked at the edge or curb of a street.
 - (13) Upon any bridge or other elevated structure on a street or highway or within a tunnel.
 - (14) At any place where official signs prohibit parking.
 - (15) In any duly-identified parking space reserved for the handicapped by a vehicle which does not display a license plate, decal or special parking permit issued under sections 46.2-731, 46.2-739 or 46.2-1238 of the Code of Virginia, 1950, as amended.
 - (16) No person shall leave any vehicle, attended or unattended, or a portion or part thereof, upon the paved, improved or main-travelled portion of any highway when it is practicable to leave such vehicle standing off the paved, improved or main-travelled portion of such highway. If it is not practicable to leave such vehicle standing off the paved, improved or main-travelled portion of such highway, then such vehicle shall not be stopped or parked except close to and parallel to the right-hand edge of the curb or roadway; except that a vehicle may be stopped close to and parallel to the left-hand curb or edge of the road on one-way streets or may be parked at an angle where permitted by the State Highway and Transportation Board or the Town of Berryville with respect to streets and highways under their jurisdiction.
 - (17) It shall be unlawful for any person to park any vehicle across any line or marking designating a parking meter space, or to park any vehicle in any way that such vehicle shall not be wholly within a parking meter space as designated by such lines or markings.
- (b) No person, other than a police officer, shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful.

(Code 1971, § 11-36; Ord. of 5-13-86; Ord. of 12-9-86; Ord. of 2-5-91; Ord. of 3-12-91)

State Law reference— Parking in front of driveways, near fire hydrants, etc, Code of Virginia, § 46.2-1239.

Sec. 10-49. - Parking of commercial vehicles in residential areas.

- (a) No person shall park or leave standing any commercial vehicle in any residentially zoned area of the town; provided that, during regularly scheduled school hours, school buses may be parked in such residentially zoned areas by their drivers for a continuous period not to exceed six (6) hours.

- (b) No vehicle intended or designed to transport caustic, flammable, explosive or otherwise dangerous or hazardous materials shall be permitted to be parked or left standing in any residentially zoned area.
- (c) This section shall not be applicable to commercial vehicles picking up or discharging passengers or merchandise or pursuant to performance of work or service in residential areas.
- (d) For the purpose of this section, the term "commercial vehicle" shall mean a motor vehicle:
 - (1) In excess of twenty-two (22) feet in length; or
 - (2) In excess of ten (10) feet in height; or
 - (3) With a gross weight (GW), registered gross weight (RGW), empty weight (EW), or curb weight (CW) in excess of ten thousand (10,000) pounds; or
 - (4) With a manufacturers gross vehicle weight rating (MGVWR), gross vehicle weight rating (GVWR), or gross combined weight rating (GCWR) in excess of twenty thousand (20,000) pounds.
 - (5) The term shall include any semitrailers, construction equipment, cranes, well drilling apparatus and other heavy equipment; however, this section shall not prohibit parking of such equipment if being used for construction activities at sites where valid building or land disturbance permits are in force or such activity is otherwise allowed.
- (e) Any violation of this section shall constitute a misdemeanor punishable by a fine not exceeding one hundred dollars (\$100.00).

(Ord. of 6-10-97; Ord. of 12-8-09; Ord. of 2-14-12(1))

Sec. 10-50. - Parking and storage of travel trailers, boats etc., in residential areas.

Any owner of a travel trailer, motor home, boat and/or boat trailer, utility or cargo trailer in excess of ten (10) feet in length, truck camper, habitable bus or recreational vehicle may park or store such equipment in any residentially zoned area of the town provided that:

- (1) The vehicle has displayed all required licenses,
- (2) The vehicle is located no closer to any street than the principal structure; except that said vehicle may be parked closer to the street than the principle structure for a period not to exceed forty-eight (48) hours when the owner of the vehicle is a resident of the street and is arriving or departing on a journey in the vehicle,
- (3) The vehicle does not exceed thirty-two (32) feet in length or nine (9) feet in height, and
- (4) The vehicle is not inhabited while parked in said residentially zoned area.

Any violation of this ordinance shall constitute a misdemeanor punishable by a fine not to exceed twenty-five dollars (\$25.00).

(Ord. of 6-10-97; Ord. of 2-14-12(2))

Sec. 10-51. - Angle parking.

Upon those streets which have been marked for angle parking, as authorized in section 10-7, no person shall park a vehicle other than at the angle to the curb or edge of the roadway indicated by such markings.

(Ord. of 6-10-97)

Sec. 10-52. - Lights on parked vehicles.

No lights need be displayed upon any vehicle when parked in the town in accordance with all applicable provisions of this chapter and other ordinances.

(Code 1971, § 11-47; Ord. of 6-10-97)

State Law reference— Authority for above section, Code of Virginia, § 46.2-1037.

Sec. 10-53. - Backing to curb.

No vehicle shall be backed to a curb, except during the time actually engaged in loading or unloading merchandise therefrom.

(Code 1971, § 11-38; Ord. of 6-10-97)

Sec. 10-54. - Manner of using loading zones.

Where a loading and unloading zone has been set apart pursuant to section 10-7, the following regulations shall apply with respect to the use of such zone:

- (1) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zone are in effect. All delivery vehicles other than regular delivery trucks using such loading zone shall be identified by the owner's or company's name in letters three (3) inches high on both sides of the vehicle.
- (2) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers or bundles when such stopping does not interfere with any vehicle used for the transportation of materials which is waiting to enter or is about to enter such loading space.

(Code 1971, § 11-40, Ord. of 6-10-97)

Sec. 10-55. - Manner of using bus stops and taxicab stands.

Where a bus stop or taxicab stand has been set apart pursuant to section 10-7, no person shall stop, stand or park a vehicle, other than a bus, in a bus stop or other than a taxicab in a taxicab stand, when such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein, for the purpose of and while actually engaged in, the expeditious loading or unloading of passengers, when such stopping does not interfere with any bus or taxicab to enter or about to enter such zone.

(Code 1971, § 11-41; Ord. of 6-10-97)

Sec. 10-56. - Standing or parking on private property.

No person shall stand or park a vehicle on any private lot or lot area without the express or implied consent of the owner thereof. Whenever signs or markings have been erected on any lot or lot area contiguous or adjacent to a street or alley, indicating that no vehicles are permitted to stand or park thereon, it shall be unlawful for any person to drive a vehicle across any curb or lot line or over any

driveway from a street or alley into such lot or area for the purpose of standing or parking such vehicle, or for any person stop, stand or park any vehicle in such lot or lot area.

(Code 1971, § 11-45; Ord. of 6-10-97)

Sec. 10-57. - Removal and disposition of unattended vehicles or immobile vehicles—Generally.

- (a) Whenever any motor vehicle, trailer, semitrailer, or parts thereof, are left unattended on a public highway or other public property and constitutes a traffic hazard or it is parked illegally, or it is left unattended for more than ten (10) days either on public property or private property, without the permission of the owner, lessee or occupant, or it is immobilized on a public roadway by weather conditions or other emergency situation, such motor vehicle, trailer, semitrailer, or parts thereof, may be removed for safekeeping by or under the direction of a police officer to a storage area; provided, however, that no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof.
- (b) The person at whose request a motor vehicle, trailer, semitrailer, or parts thereof are removed from private property under this section shall indemnify the town against any loss or expense incurred by reason of the removal, storage or sale thereof.
- (c) For the purposes of this section, it shall be presumed that a motor vehicle, trailer or semitrailer, or part thereof, is abandoned, if it (i) lacks either a current license plate or a current town license plate or sticker or a valid state inspection certificate or sticker and (ii) has been in a specific location for four (4) days without being moved.
- (d) Each removal under this section shall be reported immediately to the police department and to the owner of the motor vehicle, trailer or semitrailer as promptly as possible. The owner of such vehicle or trailer, semitrailer, or part thereof, before obtaining possession thereof, shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating the owner of such motor vehicle, trailer or semitrailer. Should such owner fail or refuse to pay the cost, or if his identity or whereabouts is unknown and unascertainable, after a diligent search has been made and after notice to him at his last known address and to the holder of any lien of record with the office of the Department of Motor Vehicles against the motor vehicle, trailer or semitrailer, or part of a motor vehicle, trailer, or semitrailer, the vehicle shall be treated as an abandoned vehicle under the provisions of Article IV (sections 10-72, et seq.) of this chapter.

(Code 1971, § 11-42; Ord. of 3-9-93; Ord. of 6-10-97)

State Law reference— Authority for above section, Code of Virginia, §§ 46.2-1213, 46.2-1217.

Sec. 10-58. - Same—Contracts with private persons for removal and storage.

The town shall have the power to enter into contracts with the owners or operators of garages or other places for the removal or storage of vehicles referred to in section 10-55. The contracts shall provide for the payment, by the town, of reasonable charges for the removal and storage of such vehicles, shall require such owners or operators to deliver such vehicles to the owners thereof or their agents upon demand therefor, upon furnishing satisfactory evidence of identity and ownership or agency and upon payment of such removal and storage charges, and that the owners or operators of such garages or places of storage will indemnify the owners of such vehicles for injury or damage thereto resulting from the negligent removal or storage thereof, and such owners or operators shall be required to provide themselves with adequate liability insurance to cover such indemnity.

(Code 1971, § 11-43; Ord. of 6-10-97)

Sec. 10-59. - Same—Sale of personal property found in vehicle.

Any personal property found in any unattended or abandoned motor vehicle, trailer or semitrailer may be sold incident to the sale of any such vehicle as authorized in section 10-55.

(Code 1971, § 11-44; Ord. of 6-10-97)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1214.

Sec. 10-60. - Same—Additional procedure for removal from private property.

- (a) In addition to the provisions of section 10-57, upon complaint of the owner of property on which a motor vehicle, trailer or semitrailer, or part thereof, has been abandoned for more than five (5) days, such motor vehicle, trailer or semitrailer, or part thereof, may be removed by or under the direction of a police officer to a storage garage or area; provided, that the person at whose request such motor vehicle, trailer or semitrailer, or part thereof, is so removed shall indemnify the town against any loss or expense incurred by reason of the removal, storage or sale thereof.
- (b) In the case of the removal of a motor vehicle, trailer or semitrailer, or part thereof, from private property under this section, when the same cannot be readily sold, such motor vehicle, trailer or semitrailer, or part thereof, may be disposed of in such manner as the town council may provide. In all other respects, the provisions of section 10-57 shall apply to such removals; provided, that the disposal of a motor vehicle, trailer or semitrailer may, at the option of the council be carried out under either the provisions of section 10-57 or under the provisions of this section, after a diligent search for the owner, after notice to him at his last known address and to the holder of any lien of record in the office of the division of motor vehicles of this state against such motor vehicle, trailer or semitrailer, and after the motor vehicle, trailer or semitrailer has been held at least sixty (60) days.

(Code 1971, § 11-46; Ord. of 6-10-97)

State Law reference— Authority for above section, Code of Virginia, §§ 46.2-1215, 46.2-1233.

Sec. 10-61. - Same—State to be notified of removal.

The state division of motor vehicles shall be notified of the disposition of any motor vehicle, trailer or semitrailer under section 10-55 or 10-58.

(Code 1971, § 11-46; Ord. of 6-10-97)

State Law reference— Similar provisions, Code of Virginia, §§ 46.2-1215, 46.2-1233.

Sec. 10-62. - General penalty for parking violations; certification of contest of parking citation.

- (a) Unless otherwise provided, any person violating the provision of section 10-70 relating to parking in metered spaces shall be guilty of a traffic infraction and punished as prescribed in section 10-1; provided, however, that any such violation may be satisfied, in full, by payment to the town treasurer of five dollars (\$5.00) within twenty-four (24) hours of such violation, or seven dollars (\$7.00) within fifteen (15) days of such violation. If payment for such violation is not received within fifteen (15) days, the fine shall be assessed at thirty dollars (\$30.00).
- (b) Unless otherwise provided, any person violating the provision of section 10-48(a)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (16) or (17) shall be guilty of a traffic infraction and

punished as prescribed in section 10-1; provided however, that any such violation may be satisfied, in full, by payment to the town treasurer of ten dollars (\$10.00) within five (5) days of such violation.

- (c) Unless otherwise provided, any person violating the provisions of section 10-18(a) shall be guilty of a traffic infraction and punished as prescribed in section 10-1; provided, however, that any such violation may be satisfied, in full, by payment to the town treasurer of twenty-five (\$25.00) within five (5) days of such violation.
- (d) Any person violating section 10-34 shall be guilty of a Class 4 misdemeanor provided, however, that any such violation may be satisfied, in full, by payment to the town treasurer of twenty-five dollars (\$25.00) within fifteen (15) days of such violation, thirty-five dollars (\$35.00) within thirty (30) days of such violation or forty-five dollars (\$45.00) after thirty (30) days of such violation provided further, that in each such case, such person provide satisfactory evidence that the local license required by section 10-34, or the license of another locality required under ordinance enacted pursuant to Section 46.2-752 of the Code of Virginia, has been obtained.
- (e) All uncontested parking citations paid under this section shall be accounted for by the town treasurer.

(Code 1971, §§ 11-34, 11-56; Ord. of 7-9-74; Ord. of 12-12-78; Ord. of 5-13-86; Ord. of 12-9-86; Ord. of 2-5-91; Ord. of 6-10-97; Ord. of 4-14-98; Ord. of 4-10-01(2) ; Ord. of 3-9-04(2); Ord. of 12-9-14(2))

Note— State Law Reference Sec. 46.2-613, 46.2-1157 and 46.2-1220.

Note— The penalty for unauthorized parking in spaces reserved for the handicapped is provided in Code section 10-64 and is authorized by Sec. 46.2-1242 B.1 of the Code of Virginia.

Sec. 10-63. - Procedure for delinquent parking citations.

- (a) The town manager shall cause a complaint or summons to be issued for delinquent parking citations.
- (b) Notwithstanding the provisions of subsection (a) above, before any summons shall issue for the prosecution of a violation of this Code or other ordinance or regulation of the town regulating parking, the violator shall have been first notified, by mail at his last known address or at the address shown for such violator on the records of the state division of motor vehicles, that he may pay the fine provided by law for such violation, within five (5) days of receipt of such notice, and the chief of police shall be notified that the violator has failed to pay such fine within such time. The notice to the violator, required by the provisions of this section, shall be contained in an envelope bearing the words "Law Enforcement Notice" stamped or printed in the face thereof in type at least one-half inch in height.

(Ord. of 2-5-91; Ord. of 6-10-97)

State Law reference— Similar provisions, Code of Virginia, §§ 46.2-941, 46.2-1225—46.2-1229.

Sec. 10-64. - Parking in spaces reserved for persons with disabilities; issuance of summons by law-enforcement personnel.

- (a) It shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under section 46.1-731 of the Code of Virginia or DV disabled license plates issued under subsection B of section 46.2-739 of the Code of Virginia to be parked in a parking space reserved for persons with disabilities that limit or impair their ability to walk or for a

person who is not limited or impaired in his ability to walk to park a vehicle in a parking space so designated except when transporting a person with such a disability in the vehicle. A summons or a parking ticket for violation of this section may be issued by town police officers and other uniformed personnel employed by the town to enforce parking regulations without the necessity of a warrant's being obtained by the owner of any private parking area.

- (b) The penalty for violation of this section shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(Ord. of 5-13-86; Ord. of 8-15-95; Ord. of 6-10-97; Ord. of 9-9-97)

Editor's note— The provisions of a nonamendatory ordinance adopted May 13, 1986, have been included herein at the discretion of the editor as § 10-62.

Sec. 10-65. - Parking restrictions in the Rixey Moore parking lot.

Parking restrictions in the Rixey Moore parking lot are as follows:

- (1) All vehicles shall be parked within designated parking spaces only. No vehicles may be parked in a manner that occupies more than one (1) parking space. Parking in the travel way or in landscaped areas is prohibited.
- (2) No vehicle may be parked for a period exceeding nine (9) consecutive hours.
- (3) Any violation of this section shall be punishable by a fine of twenty-five dollars (\$25.00) and the vehicle subject to towing at the owner's expense.

(Ord. of 2-14-06)

Sec. 10-66. - Reserved.

DIVISION 2. - PARKING METERS

FOOTNOTE(S):

--- (6) ---

State Law reference— General authority of town to install and maintain parking meters, Code of Virginia, § 46.2-1220.

Sec. 10-67. - Establishment of meter zones and parking meter rates.

For the purpose of this division, the parking meter zones and parking meter rates shall be as established by resolution by the town council.

(Code 1971, § 11-48; Ord. of 12-9-14(2))

Editor's note— An ordinance adopted Dec. 9, 2014, changed the title of § 10-67 from "Establishment of meter zones" to read as herein set out.

Sec. 10-68. - Marking of metered spaces and installation of meters; meter indications.

On streets designated as parking meter zones, the town manager shall cause parking meter spaces to be marked on the pavement or curb or by other appropriate measures and shall install, or cause to be installed, parking meters in such spaces. Each such meter shall indicate the lawful time limit for parking in the space for which it is installed and the denomination of coins required to be deposited thereon.

(Code 1971, § 11-50)

Sec. 10-69. - Reserved.

Editor's note— An ordinance adopted February 5, 1991, repealed § 10-69. Prior to being repealed, said section pertained to vehicles parked entirely within metered spaces and derived from § 11-52 of the 1971 Code.

Sec. 10-70. - Deposit of coin money required; overtime parking.

- (a) When any vehicle shall be parked in any parking space adjacent to a parking meter installed under this division, the operator of such vehicle shall, upon entering such parking space, immediately deposit, or cause to be deposited, in such parking meter, a coin or coins money of the United States, the denominations of which shall be indicated on the meter, which shall put such meter in operation for the time prescribed on the meter. Failure to so deposit such coin or coins money and to put the meter in operation, the parking space may be lawfully occupied by such vehicle during the period of time prescribed for the particular amount deposited shall constitute a violation of this section. If such vehicle shall remain in such parking space beyond the prescribed time limit for the particular amount deposited, and the parking meter shall indicate illegal parking, violation, or expired, such vehicle shall be considered as being parked overtime and beyond the prescribed period of legal parking time. It shall be unlawful for any person to cause, allow, permit, or suffer any vehicle owned or operate by him to be parked overtime or beyond the period of legal parking time in any parking meter zone established under this division.
- (b) In the event a vehicle parked overtime in violation of this section remains so parked overtime in the same space for more than one hour, each additional hour, or fraction thereof, during which the vehicle is so parked shall constitute a separate violation.
- (c) The provisions of this section shall be in effect from 8:00 a.m. to 5:00 p.m. of each day, except Saturdays, Sundays and holidays observed by the town government.

(Code 1971, §§ 11-49, 11-51, 11-55, 11-56; Ord. of 7-9-74; Ord. of 12-12-78; Ord. of 2-5-91; Ord. of 12-9-14(2))

Editor's note— An ordinance adopted Dec. 9, 2014, changed the title of § 10-70 from "Deposit of coin required; overtime parking" to read as herein set out.

Sec. 10-71. - Defacing, damaging, etc., meters.

It shall be unlawful for any person to deface, tamper with, damage, open or willfully break, destroy or impair the usefulness of any parking meter installed under the terms of this division. Any person violating this section shall be guilty of a Class 1 misdemeanor.

Cross reference— Penalty for Class 1 misdemeanor, § 1-11; damaging property generally, § 13-22 et seq.

ARTICLE IV. - ABANDONED VEHICLES

FOOTNOTE(S):

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Cross reference— Open storage of inoperative vehicles in certain zoning districts, § 13-30.

Sec. 10-72. - Definitions.

As used in this article:

- (1) Abandoned motor vehicle means a motor vehicle, trailer, or semitrailer or part of a motor vehicle, trailer, or semitrailer that:
 - a. In inoperable and is left unattended on public property for more than forty-eight (48) hours, or
 - b. Has remained illegally on public property for more than forty-eight (48) hours, or
 - c. Has remained for more than forty-eight (48) hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property.
- (2) Inoperable abandoned motor vehicle means an abandoned motor vehicle which is inoperable and whose fair market value, as determined by the Clarke County official responsible for assessing motor vehicles under section 58.1-3503, Code of Virginia, 1950, as amended, is less than the cost of its restoration to an operable condition.

(Ord. of 9-12-89; Ord. of 11-13-90)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1200.

Sec. 10-73. - Town authorized to take abandoned vehicles into custody.

Pursuant to this article and the authority of section 46.2-1201, Code of Virginia, 1950, as amended, the town may take into custody any abandoned motor vehicle. The town may employ its own personnel, equipment and facilities or hire persons, equipment and facilities or firms or corporations who may be independent contractors for removing, preserving and storing abandoned motor vehicles.

(Ord. of 9-12-89; Ord. of 11-13-90)

Sec. 10-74. - Notice to owner of vehicle taken into custody.

- (a) When the town takes into custody an abandoned motor vehicle it shall, within fifteen (15) days, by registered or certified mail, return receipt requested, notify the owner of record of the motor vehicle and all persons having security interests in the vehicle of record, that it has been taken into custody. The notice shall (i) state the year, make, model, and serial number of the abandoned motor vehicle; (ii) set forth the location of the facility where it is being held; (iii) inform the owner and any persons having security interests of their right to reclaim it within fifteen (15) days after the date of the notice after payment of all towing, preservation and storage charges resulting from placing the vehicle in custody. The notice shall state that the failure of the owner or persons having security interests to reclaim the vehicle within the time provided shall constitute (i) a waiver by the owner and all persons having any security interests of all right, title, and (ii) interest in the vehicle, and consent to the sale of the abandoned motor vehicle at a public auction.

- (b) If records of the Virginia Department of Motor Vehicles contain no address for the owner or no address of any person shown by such records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the motor vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this article as to any person who cannot be notified pursuant to the provisions of subsection (a) of this section. Such notice by publication may contain multiple listings of abandoned motor vehicles. Any such notice shall be within the time requirements prescribed by this section for notice by mail and shall have the same contents required for a notice by mail.
- (c) The consequences of failure to reclaim an abandoned motor vehicle shall be as set forth in a notice given in accordance with and pursuant to this section.

(Ord. of 9-12-89; Ord. of 11-13-90)

State Law reference— Authority for above section, Code of Virginia, § 46.2-1202.

Sec. 10-75. - Sale of vehicle at public auction; disposition of proceeds.

If an abandoned motor vehicle has not been reclaimed as provided for in section 10-74, the town, or its authorized agent, shall notwithstanding the provisions of section 46.2-617, Code of Virginia, 1950, as amended, sell it at public auction. The purchaser of the motor vehicle shall take title to the motor vehicle free of all liens and claims of ownership of others, shall receive a sales receipt at the auction and shall be entitled to apply to and receive from the Virginia Department of Motor Vehicles a certificate of title and registration card for the vehicle. The sales receipt from the sale shall be sufficient title only for the purposes of transferring the vehicle to a demolisher for demolition, wrecking, or dismantling, and in that case no further titling of the vehicle shall be necessary. From the proceeds of the sale of an abandoned motor vehicle, the town, or its authorized agent, shall reimburse itself for the expenses of the auction, the cost of towing, preserving and storing the vehicle which resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred pursuant to section 10-74. Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interests in the vehicle, as their interests may appear, for ninety (90) days, and then shall be deposited into the treasury of the town wherein such abandoned motor vehicle was abandoned.

(Ord. of 9-12-89; Ord. of 11-13-90)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1203.

Sec. 10-76. - Vehicles abandoned in garages.

Notwithstanding section 10-72, any motor vehicle, trailer, semitrailer, or part thereof shall be considered abandoned and may be reported by the garagekeeper to the town if it has been left in a garage for more than ten (10) days or for more than ten (10) days beyond the period the vehicle was to remain on the premises pursuant to a contract, after notice by registered or certified mail, return receipt requested, to the owner of record and all persons having security interests of record therein, to reclaim the vehicle within fifteen (15) days of the notice. Any abandoned motor vehicle left in a garage may be taken into custody by the town in accordance with section 10-73 and shall be subject to the notice and sale provisions contained in sections 10-74 and 10-75. If, however, the vehicle is reclaimed in accordance with section 10-74, the person reclaiming it, in addition to the other charges required to be paid, shall pay the reasonable charges of the garagekeeper, unless otherwise provided by contract or ordinance. If the vehicle is sold pursuant to section 10-75, and garagekeeper's charges shall be paid from, and to the extent of, the excess of the proceeds of sale after paying the expenses of the auction, the costs of towing, preserving, and storing the vehicle which resulted from placing the vehicle in custody and all notice and publication costs incurred pursuant to section 10-74. Except as otherwise provided in this article, nothing

in this section shall restrict any rights conferred on any persons under sections 43-32 through 43-36, Code of Virginia, 1950, as amended.

For purposes of this section, "garage" means any commercial parking place, motor vehicle storage facility, or establishment for the servicing, repair, maintenance, or sale of motor vehicles whether or not the vehicle had been brought to that location with the consent of the owner or person in control of the premises and "garagekeeper" means the operator of a garage.

(Ord. of 9-12-89; Ord. of 11-13-90)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1204.

Sec. 10-77. - Disposition of inoperable abandoned vehicles.

Notwithstanding any other provisions of this article, any inoperable motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer which has been taken into custody pursuant to the provisions of this article may be disposed of to a demolisher, without this title and without the notification procedures, by the person or town on whose property or in whose possession the motor vehicle, trailer, or semitrailer is found. The demolisher, on taking custody of the inoperable abandoned motor vehicle, shall notify the Department of Motor Vehicles on forms and in the manner prescribed by the commissioner thereof. Notwithstanding any other provision of law, no other report or notice shall be required in this instance.

(Ord. of 9-12-89; Ord. of 11-13-90)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1205.

Sec. 10-78. - Surrender of certificate of title, etc., where motor vehicle acquired for demolition; records to be kept by demolisher.

- (a) No demolisher who purchases or otherwise acquires a motor vehicle for wrecking, dismantling, or demolition shall be required to obtain a certificate of title for the motor vehicle in his own name. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender to the Virginia Department of Motor Vehicles for cancellation the certificate of title or sales receipt for the vehicle. The demolisher shall use the forms and follow the rules and regulations of the Department of Motor Vehicles in the surrender of sales receipts and certificates of title as are appropriate.
- (b) Demolishers shall keep accurate and complete records of all motor vehicles purchased or received by them in the course of their business. These records shall contain the name and address of the person from whom each motor vehicle was purchased or received and the date on which purchases or receipts occurred. These records shall be open for inspection by the Virginia Department of Motor Vehicles at any time during normal business hours.

(Ord. of 9-12-89; Ord. of 11-13-90)

State Law reference— Similar provisions, Code of Virginia, § 46.2-1206.