

**BERRYVILLE TOWN COUNCIL POLICE AND SECURITY COMMITTEE
MEETING AGENDA
Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
Meeting Room A/B
Regular Meeting
May 24, 2017
9:00 am**

Item

Attachment

- | | | |
|------------------------------|---|---|
| 1. Call To Order | Dave Tollett, Chair | |
| 2. Approval of Agenda | | |
| 3. Department Update | Neal White, Chief | |
| 4. Discussion | Berryville Code Chapter 10, Article II | 1 |
| 5. Discussion | Berryville Code Chapter 4 – Discuss Laying Hens | 2 |
| 6. Update | Refuse Collection | |
| 7. Closed Session | No Closed Session Scheduled | |
| 8. Other | | |
| 9. Adjourn | | |

↑ Denotes an item on where a motion for action is included in the packet

Attachment 1



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

MEMO

DATE: 05/17/2017

TO: Police & Security Committee

FROM: Chief W. Neal White

CC:

RE: Chapter 10, Article II Summary

With this memo you will find a document with recommended changes to Chapter 10, Article II. It is important to note that this section deals with the matter of a licensure tax applied to motor vehicles and not the matter of personal property tax although the two have a relationship. In essence, the personal property tax must be satisfied before the license tax decal is provided to the resident. Where this becomes a bit convoluted is based on the fact that personal property tax is collected based upon a previous year and the license tax is applied in the current year. It would seem that the best, and currently used practice, is to collect the license tax when a new resident moves into town or a resident acquires a motor vehicle new to them.

Most of the suggested modifications to this article concern the consistency of language where the license tax is mentioned. In the current version there is a lot of transition between tax and fee which can make the article difficult to follow. I have attempted to capture all references as license tax as opposed to fee or other verbiage.

There are also a couple of language additions concerning the license tax that are covered in Virginia Code § 46.2-752 that were not present in our chapter. A copy of Virginia Code § 46.2-752 is attached for your reference.

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 taxfee 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 a licensing taxfees 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 taxfee a delinquent charge of \$10.00 to be assessed and paid along with the license taxfee.

(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 newly acquired and newly garaged in town after July 1, the license taxfee shall be one-half (1/2) the rate set forth in this article.

Commented [NW1]: This section is amended as such because it would pertain only to a resident who gets a vehicle new to them. In cases where an individual is a new resident to town, sec. 10-31 will provide the process.

(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 (C).

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 license tax prescribed by this article and compliance with section 10-30, the town shall issue to such person a town license tax decal for the vehicle covered by the state registration card so presented.

No person who has purchased a local vehicle license, decal, or sticker for a vehicle in one county, city or town in Virginia shall be required to purchase a town license tax decal until the expiration date of the local license, decal, or sticker issued by the county, city, or town from which he moved.

Purchasers of new or used motor vehicles shall be allowed a 10-day grace period, beginning with the date of purchase, during which to pay the licenses tax charged by the town.

Commented [NW2]: These two paragraphs are the addition of language found in the Code of Virginia that was not represented in our ordinance.

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

Sec. 10-32. - Contents of decal.

Each license tax 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 tax 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.~~

Commented [NW3]: Recommend revision since we have gone to a permanent decal.

It shall be unlawful for any owner or operator of a motor vehicle, trailer or semitrailer to fail to obtain and display the license tax 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 tax decal 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 tax required by section 10-2834, or the license tax of another locality required under ordinance enacted pursuant to § 46.2-752 of the Code of Virginia, has been satisfied obtained.

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

Sec. 10-35. - Replacement decals.

For each replacement vehicle license tax 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 tax 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 license tax decal without charging a license 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~~ license tax 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 license tax exemption 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 tax decal 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.

§ 46.2-752. Taxes and license fees imposed by counties, cities, and towns; limitations on amounts; disposition of revenues; requiring evidence of payment of personal property taxes and certain fines; prohibiting display of licenses after expiration; failure to display valid local license required by other localities; penalty

A. Except as provided in § 46.2-755, counties, cities, and towns may levy and assess taxes and charge license fees on motor vehicles, trailers, and semitrailers. However, none of these taxes and license fees shall be assessed or charged by any county on vehicles owned by residents of any town located in the county when such town constitutes a separate school district if the vehicles are already subject to town license fees and taxes, nor shall a town charge a license fee to any new resident of the town, previously a resident of a county within which all or part of the town is situated, who has previously paid a license fee for the same tax year to such county. The amount of the license fee or tax imposed by any county, city, or town on any motor vehicle, trailer, or semitrailer shall not be greater than the annual or one-year fee imposed by the Commonwealth on the motor vehicle, trailer, or semitrailer. The license fees and taxes shall be imposed in such manner, on such basis, for such periods, and subject to proration for fractional periods of years, as the proper local authorities may determine.

Owners or lessees of motor vehicles, trailers, and semitrailers who have served outside of the United States in the armed services of the United States shall have a 90-day grace period, beginning on the date they are no longer serving outside the United States, in which to comply with the requirements of this section. For purposes of this section, "the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

Local licenses may be issued free of charge for any or all of the following:

1. Vehicles powered by clean special fuels as defined in § 46.2-749.3, including dual-fuel and bi-fuel vehicles,
2. Vehicles owned by volunteer emergency medical services agencies,
3. Vehicles owned by volunteer fire departments,
4. Vehicles owned or leased by active members or active auxiliary members of volunteer emergency medical services agencies,
5. Vehicles owned or leased by active members or active auxiliary members of volunteer fire departments,
6. Vehicles owned or leased by auxiliary police officers,
7. Vehicles owned or leased by volunteer police chaplains,
8. Vehicles owned by surviving spouses of persons qualified to receive special license plates

under § 46.2-739,

9. Vehicles owned or leased by auxiliary deputy sheriffs or volunteer deputy sheriffs,

10. Vehicles owned by persons qualified to receive special license plates under § 46.2-739,

11. Vehicles owned by any of the following who served at least 10 years in the locality: former members of volunteer emergency medical services agencies, former members of volunteer fire departments, former auxiliary police officers, members and former members of authorized police volunteer citizen support units, members and former members of authorized sheriff's volunteer citizen support units, former volunteer police chaplains, and former volunteer special police officers appointed under former § 15.2-1737. In the case of active members of volunteer emergency medical services agencies and active members of volunteer fire departments, applications for such licenses shall be accompanied by written evidence, in a form acceptable to the locality, of their active affiliation or membership, and no member of an emergency medical services agency or member of a volunteer fire department shall be issued more than one such license free of charge,

12. All vehicles having a situs for the imposition of licensing fees under this section in the locality,

13. Vehicles owned or leased by deputy sheriffs; however, no deputy sheriff shall be issued more than one such license free of charge,

14. Vehicles owned or leased by police officers; however, no police officer shall be issued more than one such license free of charge,

15. Vehicles owned or leased by officers of the State Police; however, no officer of the State Police shall be issued more than one such license free of charge,

16. Vehicles owned or leased by salaried firefighters; however, no salaried firefighter shall be issued more than one such license free of charge,

17. Vehicles owned or leased by salaried emergency medical services personnel; however, no salaried emergency medical services personnel shall be issued more than one such license free of charge,

18. Vehicles with a gross weight exceeding 10,000 pounds owned by museums officially designated by the Commonwealth,

19. Vehicles owned by persons, or their surviving spouses, qualified to receive special license plates under subsection A of § 46.2-743, and

20. Vehicles owned or leased by members of the Virginia Defense Force; however, no member of the Virginia Defense Force shall be issued more than one such license free of charge.

The governing body of any county, city, or town issuing licenses under this section may by ordinance provide for a 50 percent reduction in the fee charged for the issuance of any such license issued for any vehicle owned or leased by any person who is 65 years old or older. No such discount, however, shall be available for more than one vehicle owned or leased by the same person.

The governing body of any county, city, or town issuing licenses free of charge under this

subsection may by ordinance provide for (i) the limitation, restriction, or denial of such free issuance to an otherwise qualified applicant, including without limitation the denial of free issuance to a taxpayer who has failed to timely pay personal property taxes due with respect to the vehicle and (ii) the grounds for such limitation, restriction, or denial.

The situs for the imposition of licensing fees under this section shall in all cases, except as hereinafter provided, be the county, city, or town in which the motor vehicle, trailer, or semitrailer is normally garaged, stored, or parked. If it cannot be determined where the personal property is normally garaged, stored, or parked, the situs shall be the domicile of its owner. In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.

B. The revenue derived from all county, city, or town taxes and license fees imposed on motor vehicles, trailers, or semitrailers shall be applied to general county, city, or town purposes.

C. A county, city, or town may require that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid and satisfactory evidence that any delinquent motor vehicle, trailer, or semitrailer personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the county, city, or town. A county, city, or town may also provide that no motor vehicle license shall be issued unless the tangible personal property taxes properly assessed or assessable by that locality on any tangible personal property used or usable as a dwelling titled by the Department of Motor Vehicles and owned by the taxpayer have been paid. Any county and any town within any such county may by agreement require that all personal property taxes assessed by either the county or the town on any vehicle be paid before licensure of such vehicle by either the county or the town.

C1. The Counties of Dinwiddie, Lee, and Wise may, by ordinance or resolution adopted after public notice and hearing and, with the consent of the treasurer, require that no license may be issued under this section unless the applicant has produced satisfactory evidence that all fees, including delinquent fees, payable to such county or local solid waste authority, for the disposal of solid waste pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.), or pursuant to § 15.2-2159, have been paid in full. For purposes of this subsection, all fees, including delinquent fees, payable to a county for waste disposal services described herein, shall be paid to the treasurer of such county; however, in Wise County, the fee shall be paid to the county or its agent.

D. The Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within them and any city may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction unless all fines owed to the jurisdiction by the owner of the vehicle, trailer, or semitrailer for violation of the jurisdiction's ordinances governing parking of vehicles have been paid. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

E. If in any county imposing license fees and taxes under this section, a town therein imposes like fees and taxes on vehicles of owners resident in the town, the owner of any vehicle subject to the fees or taxes shall be entitled, on the owner's displaying evidence that he has paid the fees or taxes, to receive a credit on the fees or taxes imposed by the county to the extent of the fees or

taxes he has paid to the town. Nothing in this section shall deprive any town now imposing these licenses and taxes from increasing them or deprive any town not now imposing them from hereafter doing so, but subject to the limitations provided in subsection D. The governing body of any county and the governing body of any town in that county wherein each imposes the license tax herein provided may provide mutual agreements so that not more than one license plate or decal in addition to the state plate shall be required.

F. Notwithstanding the provisions of subsection E, in a consolidated county wherein a tier-city exists, the tier-city may, in accordance with the provisions of the agreement or plan of consolidation, impose license fees and taxes under this section in addition to those fees and taxes imposed by the county, provided that the combined county and tier-city rates do not exceed the maximum provided in subsection A. No credit shall be allowed on the fees or taxes imposed by the county for fees or taxes paid to the tier-city, except as may be provided by the consolidation agreement or plan. The governing body of any county and the governing body of any tier-city in such county wherein each imposes the license tax herein may provide by mutual agreement that no more than one license plate or decal in addition to the state license plate shall be required.

G. Any county, city, or town may by ordinance provide that it shall be unlawful for any owner or operator of a motor vehicle, trailer, or semitrailer (i) to fail to obtain and, if any required by such ordinance, to display the local license required by any ordinance of the county, city or town in which the vehicle is registered, or (ii) to display upon a motor vehicle, trailer, or semitrailer any such local license, required by ordinance to be displayed, after its expiration date. The ordinance may provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor and may, in the case of a motor vehicle registered to a resident of the locality where such vehicle is registered, authorize the issuance by local law-enforcement officers of citations, summonses, parking tickets, or uniform traffic summonses for violations. Any such ordinance may also provide that a violation of the ordinance by the registered owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained. Nothing in this section shall be construed to require a county, city, or town to issue a decal or any other tangible evidence of a local license to be displayed on the licensed vehicle if the county's, city's, or town's ordinance does not require display of a decal or other evidence of payment. No ordinance adopted pursuant to this section shall require the display of any local license, decal, or sticker on any vehicle owned by a public service company, as defined in § 56-76, having a fleet of at least 2,500 vehicles garaged in the Commonwealth.

H. Except as provided by subsections E and F, no vehicle shall be subject to taxation under the provisions of this section in more than one jurisdiction. Furthermore, no person who has purchased a local vehicle license, decal, or sticker for a vehicle in one county, city, or town and then moves to and garages his vehicle in another county, city, or town shall be required to purchase another local license, decal, or sticker from the county, city, or town to which he has moved and wherein his vehicle is now garaged until the expiration date of the local license, decal, or sticker issued by the county, city, or town from which he moved.

I. Purchasers of new or used motor vehicles shall be allowed at least a 10-day grace period, beginning with the date of purchase, during which to pay license fees charged by local governments under authority of this section.

J. The treasurer or director of finance of any county, city, or town may enter into an agreement

with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle registration of any applicant therefor who owes to such county, city or town any local vehicle license fees or delinquent tangible personal property tax or parking citations. Before being issued any vehicle registration or renewal of such license or registration by the Commissioner, the applicant shall first satisfy all such local vehicle license fees and delinquent taxes or parking citations and present evidence satisfactory to the Commissioner that all such local vehicle license fees and delinquent taxes or parking citations have been paid in full. The Commissioner shall charge a reasonable fee to cover the costs of such enforcement action, and the treasurer or director of finance may add the cost of this fee to the delinquent tax bill or the amount of the parking citation. The treasurer or director of finance of any county, city, or town seeking to collect delinquent taxes or parking citations through the withholding of registration or renewal thereof by the Commissioner as provided for in this subsection shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and supply to the Commissioner information necessary to identify the debtor whose registration or renewal is to be denied. Any agreement entered into pursuant to the provisions of this subsection shall provide the debtor notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department of Motor Vehicles shall be deemed sufficient. In the case of parking violations, the Commissioner shall only refuse to issue or renew the vehicle registration of any applicant therefor pursuant to this subsection for the vehicle that incurred the parking violations. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

K. The governing bodies of any two or more counties, cities, or towns may enter into compacts for the regional enforcement of local motor vehicle license requirements. The governing body of each participating jurisdiction may by ordinance require the owner or operator of any motor vehicle, trailer, or semitrailer to display on his vehicle a valid local license issued by another county, city, or town that is a party to the regional compact, provided that the owner or operator is required by the jurisdiction of situs, as provided in § 58.1-3511, to obtain and display such license. The ordinance may also provide that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that (i) all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid to all participating jurisdictions and (ii) any delinquent motor vehicle, trailer, or semitrailer personal property taxes that have been properly assessed or are assessable by any participating jurisdiction against the applicant have been paid. Any city and any county having the urban county executive form of government, the counties adjacent to such county and towns within them may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction or any other jurisdiction in the compact unless all fines owed to any participating jurisdiction by the owner of the vehicle for violation of any participating jurisdiction's ordinances governing parking of vehicles have been paid. The ordinance may further provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor. Any such ordinance may also provide that a violation of the ordinance by the owner of the vehicle may not be discharged by payment of a fine and applicable court costs except upon presentation of satisfactory evidence that the required license has been obtained. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

L. In addition to the taxes and license fees permitted in subsection A, counties, cities, and towns may charge a license fee of no more than \$1 per motor vehicle, trailer, and semitrailer. Except for the provisions of subsection B, such fee shall be subject to all other provisions of this section. All funds collected pursuant to this subsection shall be paid pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund to the accounts of all members of the Fund who are volunteers for fire departments or emergency medical services agencies within the jurisdiction of the particular county, city, or town.

M. In any county, the county treasurer or comparable officer and the treasurer of any town located wholly or partially within such county may enter into a reciprocal agreement, with the approval of the respective local governing bodies, that provides for the town treasurer to collect current, non-delinquent license fees or taxes on any motor vehicle, trailer, or semitrailer owed to the county or for the county treasurer to collect current, non-delinquent license fees or taxes owed to the town. A treasurer or comparable officer collecting any such license fee or tax pursuant to an agreement entered into under this subsection shall account for and pay over such amounts to the locality owed such license fee or tax in the same manner as provided by law. As used in this subsection, with regard to towns, "treasurer" means the town officer or employee vested with authority by the charter, statute, or governing body to collect local taxes.

Code 1950, § 46-64; 1950, p. 240; 1952, c. 169; 1954, cc. 491, 594; 1956, cc. 66, 549, 570; 1958, c. 541, § 46.1-65; 1959, Ex. Sess., cc. 22, 55; 1962, c. 574; 1964, c. 218; 1972, c. 200; 1974, c. 621; 1975, c. 105; 1977, c. 166; 1979, c. 185; 1980, c. 105; 1982, c. 85; 1984, cc. 308, 630, 695; 1986, c. 123; 1987, cc. 208, 243; 1989, cc. 321, 706, 727; 1990, cc. 181, 187, 188, 455; 1991, c. 622; 1992, cc. 226, 355, 794, 806; 1993, cc. 50, 63, 175, 565; 1994, cc. 528, 962; 1995, cc. 91, 412, 449, 460, 479, 659; 1996, cc. 89, 562; 1997, cc. 246, 499, 905, 911; 1998, c. 649; 1999, c. 236; 2000, c. 303; 2001, cc. 338, 471, 605, 606; 2002, cc. 206, 553; 2003, c. 326; 2004, cc. 689, 723; 2005, c. 317; 2006, c. 148; 2007, cc. 213, 230, 813, 865; 2008, cc. 163, 457, 591; 2009, cc. 366, 756, 843; 2010, cc. 125, 131; 2013, c. 82; 2014, c. 543; 2015, cc. 69, 502, 503.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Attachment 2

Chickens In Town

February 11, 2014

The Police and Security and Community Improvements Committees met on this matter on January 28 and February 5. A new draft ordinance, incorporating direction received from the both Committees is attached.

This draft needs work in the area of defining chicken coops/accessory buildings and how to apply setback and height requirements. Further, the means of establishing the setback on corner lots needs to be fine tuned.

January 14, 2014

At its December meeting the Town Council agreed to discuss the idea of permitting laying hens in town. They decided to discuss the matter at the January meeting and determine whether to move forward with a code amendment process.

Since the last meeting staff has examined Chapter 4 of the Berryville Code and found it to be in need of updating. Accordingly, staff discussed the matter with the Police and Security Committee (this committee is working its way through the Berryville Code). The committee was supportive of the idea of cleaning up this section and saw no problem with forwarding this matter to the full Town Council.

The attached language therefore includes both housekeeping changes and changes relating to laying hens.

December 10, 2013

Bryant Condrey, a resident of West Main Street, contacted Mr. Kitselman recently to discuss the possibility of amending Town regulations to permit chickens to be raised within the Town's corporate limits. Mr. Kitselman met with Mr. Condrey and staff to discuss this matter. After that meeting Mr. Condrey expressed his desire to move forward with moving this matter to the Town Council.

Please find attached a position paper provided by Mr. Condrey. In that paper, Mr. Condrey provides his thoughts regarding code changes that he sees as a good path to allowing local citizens to raise chickens.

Mr. Condrey will be present at the Town Council meeting and will speak during the Citizens Forum.

Mr. Kitselman suggests that the Town Council take this matter under advisement until the January meeting when it can be discussed. Staff would be directed to review the matter and provide comments to the Town Council prior to the January meeting.

§ 46.2-752. Taxes and license fees imposed by counties, cities, and towns; limitations on amounts; disposition of revenues; requiring evidence of payment of personal property taxes and certain fines; prohibiting display of licenses after expiration; failure to display valid local license required by other localities; penalty

A. Except as provided in § 46.2-755, counties, cities, and towns may levy and assess taxes and charge license fees on motor vehicles, trailers, and semitrailers. However, none of these taxes and license fees shall be assessed or charged by any county on vehicles owned by residents of any town located in the county when such town constitutes a separate school district if the vehicles are already subject to town license fees and taxes, nor shall a town charge a license fee to any new resident of the town, previously a resident of a county within which all or part of the town is situated, who has previously paid a license fee for the same tax year to such county. The amount of the license fee or tax imposed by any county, city, or town on any motor vehicle, trailer, or semitrailer shall not be greater than the annual or one-year fee imposed by the Commonwealth on the motor vehicle, trailer, or semitrailer. The license fees and taxes shall be imposed in such manner, on such basis, for such periods, and subject to proration for fractional periods of years, as the proper local authorities may determine.

Owners or lessees of motor vehicles, trailers, and semitrailers who have served outside of the United States in the armed services of the United States shall have a 90-day grace period, beginning on the date they are no longer serving outside the United States, in which to comply with the requirements of this section. For purposes of this section, "the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

Local licenses may be issued free of charge for any or all of the following:

1. Vehicles powered by clean special fuels as defined in § 46.2-749.3, including dual-fuel and bi-fuel vehicles,
2. Vehicles owned by volunteer emergency medical services agencies,
3. Vehicles owned by volunteer fire departments,
4. Vehicles owned or leased by active members or active auxiliary members of volunteer emergency medical services agencies,
5. Vehicles owned or leased by active members or active auxiliary members of volunteer fire departments,
6. Vehicles owned or leased by auxiliary police officers,
7. Vehicles owned or leased by volunteer police chaplains,
8. Vehicles owned by surviving spouses of persons qualified to receive special license plates

under § 46.2-739,

9. Vehicles owned or leased by auxiliary deputy sheriffs or volunteer deputy sheriffs,

10. Vehicles owned by persons qualified to receive special license plates under § 46.2-739,

11. Vehicles owned by any of the following who served at least 10 years in the locality: former members of volunteer emergency medical services agencies, former members of volunteer fire departments, former auxiliary police officers, members and former members of authorized police volunteer citizen support units, members and former members of authorized sheriff's volunteer citizen support units, former volunteer police chaplains, and former volunteer special police officers appointed under former § 15.2-1737. In the case of active members of volunteer emergency medical services agencies and active members of volunteer fire departments, applications for such licenses shall be accompanied by written evidence, in a form acceptable to the locality, of their active affiliation or membership, and no member of an emergency medical services agency or member of a volunteer fire department shall be issued more than one such license free of charge,

12. All vehicles having a situs for the imposition of licensing fees under this section in the locality,

13. Vehicles owned or leased by deputy sheriffs; however, no deputy sheriff shall be issued more than one such license free of charge,

14. Vehicles owned or leased by police officers; however, no police officer shall be issued more than one such license free of charge,

15. Vehicles owned or leased by officers of the State Police; however, no officer of the State Police shall be issued more than one such license free of charge,

16. Vehicles owned or leased by salaried firefighters; however, no salaried firefighter shall be issued more than one such license free of charge,

17. Vehicles owned or leased by salaried emergency medical services personnel; however, no salaried emergency medical services personnel shall be issued more than one such license free of charge,

18. Vehicles with a gross weight exceeding 10,000 pounds owned by museums officially designated by the Commonwealth,

19. Vehicles owned by persons, or their surviving spouses, qualified to receive special license plates under subsection A of § 46.2-743, and

20. Vehicles owned or leased by members of the Virginia Defense Force; however, no member of the Virginia Defense Force shall be issued more than one such license free of charge.

The governing body of any county, city, or town issuing licenses under this section may by ordinance provide for a 50 percent reduction in the fee charged for the issuance of any such license issued for any vehicle owned or leased by any person who is 65 years old or older. No such discount, however, shall be available for more than one vehicle owned or leased by the same person.

The governing body of any county, city, or town issuing licenses free of charge under this

subsection may by ordinance provide for (i) the limitation, restriction, or denial of such free issuance to an otherwise qualified applicant, including without limitation the denial of free issuance to a taxpayer who has failed to timely pay personal property taxes due with respect to the vehicle and (ii) the grounds for such limitation, restriction, or denial.

The situs for the imposition of licensing fees under this section shall in all cases, except as hereinafter provided, be the county, city, or town in which the motor vehicle, trailer, or semitrailer is normally garaged, stored, or parked. If it cannot be determined where the personal property is normally garaged, stored, or parked, the situs shall be the domicile of its owner. In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.

B. The revenue derived from all county, city, or town taxes and license fees imposed on motor vehicles, trailers, or semitrailers shall be applied to general county, city, or town purposes.

C. A county, city, or town may require that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid and satisfactory evidence that any delinquent motor vehicle, trailer, or semitrailer personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the county, city, or town. A county, city, or town may also provide that no motor vehicle license shall be issued unless the tangible personal property taxes properly assessed or assessable by that locality on any tangible personal property used or usable as a dwelling titled by the Department of Motor Vehicles and owned by the taxpayer have been paid. Any county and any town within any such county may by agreement require that all personal property taxes assessed by either the county or the town on any vehicle be paid before licensure of such vehicle by either the county or the town.

C1. The Counties of Dinwiddie, Lee, and Wise may, by ordinance or resolution adopted after public notice and hearing and, with the consent of the treasurer, require that no license may be issued under this section unless the applicant has produced satisfactory evidence that all fees, including delinquent fees, payable to such county or local solid waste authority, for the disposal of solid waste pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.), or pursuant to § 15.2-2159, have been paid in full. For purposes of this subsection, all fees, including delinquent fees, payable to a county for waste disposal services described herein, shall be paid to the treasurer of such county; however, in Wise County, the fee shall be paid to the county or its agent.

D. The Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within them and any city may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction unless all fines owed to the jurisdiction by the owner of the vehicle, trailer, or semitrailer for violation of the jurisdiction's ordinances governing parking of vehicles have been paid. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

E. If in any county imposing license fees and taxes under this section, a town therein imposes like fees and taxes on vehicles of owners resident in the town, the owner of any vehicle subject to the fees or taxes shall be entitled, on the owner's displaying evidence that he has paid the fees or taxes, to receive a credit on the fees or taxes imposed by the county to the extent of the fees or

taxes he has paid to the town. Nothing in this section shall deprive any town now imposing these licenses and taxes from increasing them or deprive any town not now imposing them from hereafter doing so, but subject to the limitations provided in subsection D. The governing body of any county and the governing body of any town in that county wherein each imposes the license tax herein provided may provide mutual agreements so that not more than one license plate or decal in addition to the state plate shall be required.

F. Notwithstanding the provisions of subsection E, in a consolidated county wherein a tier-city exists, the tier-city may, in accordance with the provisions of the agreement or plan of consolidation, impose license fees and taxes under this section in addition to those fees and taxes imposed by the county, provided that the combined county and tier-city rates do not exceed the maximum provided in subsection A. No credit shall be allowed on the fees or taxes imposed by the county for fees or taxes paid to the tier-city, except as may be provided by the consolidation agreement or plan. The governing body of any county and the governing body of any tier-city in such county wherein each imposes the license tax herein may provide by mutual agreement that no more than one license plate or decal in addition to the state license plate shall be required.

G. Any county, city, or town may by ordinance provide that it shall be unlawful for any owner or operator of a motor vehicle, trailer, or semitrailer (i) to fail to obtain and, if any required by such ordinance, to display the local license required by any ordinance of the county, city or town in which the vehicle is registered, or (ii) to display upon a motor vehicle, trailer, or semitrailer any such local license, required by ordinance to be displayed, after its expiration date. The ordinance may provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor and may, in the case of a motor vehicle registered to a resident of the locality where such vehicle is registered, authorize the issuance by local law-enforcement officers of citations, summonses, parking tickets, or uniform traffic summonses for violations. Any such ordinance may also provide that a violation of the ordinance by the registered owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained. Nothing in this section shall be construed to require a county, city, or town to issue a decal or any other tangible evidence of a local license to be displayed on the licensed vehicle if the county's, city's, or town's ordinance does not require display of a decal or other evidence of payment. No ordinance adopted pursuant to this section shall require the display of any local license, decal, or sticker on any vehicle owned by a public service company, as defined in § 56-76, having a fleet of at least 2,500 vehicles garaged in the Commonwealth.

H. Except as provided by subsections E and F, no vehicle shall be subject to taxation under the provisions of this section in more than one jurisdiction. Furthermore, no person who has purchased a local vehicle license, decal, or sticker for a vehicle in one county, city, or town and then moves to and garages his vehicle in another county, city, or town shall be required to purchase another local license, decal, or sticker from the county, city, or town to which he has moved and wherein his vehicle is now garaged until the expiration date of the local license, decal, or sticker issued by the county, city, or town from which he moved.

I. Purchasers of new or used motor vehicles shall be allowed at least a 10-day grace period, beginning with the date of purchase, during which to pay license fees charged by local governments under authority of this section.

J. The treasurer or director of finance of any county, city, or town may enter into an agreement

with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle registration of any applicant therefor who owes to such county, city or town any local vehicle license fees or delinquent tangible personal property tax or parking citations. Before being issued any vehicle registration or renewal of such license or registration by the Commissioner, the applicant shall first satisfy all such local vehicle license fees and delinquent taxes or parking citations and present evidence satisfactory to the Commissioner that all such local vehicle license fees and delinquent taxes or parking citations have been paid in full. The Commissioner shall charge a reasonable fee to cover the costs of such enforcement action, and the treasurer or director of finance may add the cost of this fee to the delinquent tax bill or the amount of the parking citation. The treasurer or director of finance of any county, city, or town seeking to collect delinquent taxes or parking citations through the withholding of registration or renewal thereof by the Commissioner as provided for in this subsection shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and supply to the Commissioner information necessary to identify the debtor whose registration or renewal is to be denied. Any agreement entered into pursuant to the provisions of this subsection shall provide the debtor notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department of Motor Vehicles shall be deemed sufficient. In the case of parking violations, the Commissioner shall only refuse to issue or renew the vehicle registration of any applicant therefor pursuant to this subsection for the vehicle that incurred the parking violations. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

K. The governing bodies of any two or more counties, cities, or towns may enter into compacts for the regional enforcement of local motor vehicle license requirements. The governing body of each participating jurisdiction may by ordinance require the owner or operator of any motor vehicle, trailer, or semitrailer to display on his vehicle a valid local license issued by another county, city, or town that is a party to the regional compact, provided that the owner or operator is required by the jurisdiction of situs, as provided in § 58.1-3511, to obtain and display such license. The ordinance may also provide that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that (i) all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid to all participating jurisdictions and (ii) any delinquent motor vehicle, trailer, or semitrailer personal property taxes that have been properly assessed or are assessable by any participating jurisdiction against the applicant have been paid. Any city and any county having the urban county executive form of government, the counties adjacent to such county and towns within them may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction or any other jurisdiction in the compact unless all fines owed to any participating jurisdiction by the owner of the vehicle for violation of any participating jurisdiction's ordinances governing parking of vehicles have been paid. The ordinance may further provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor. Any such ordinance may also provide that a violation of the ordinance by the owner of the vehicle may not be discharged by payment of a fine and applicable court costs except upon presentation of satisfactory evidence that the required license has been obtained. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

L. In addition to the taxes and license fees permitted in subsection A, counties, cities, and towns may charge a license fee of no more than \$1 per motor vehicle, trailer, and semitrailer. Except for the provisions of subsection B, such fee shall be subject to all other provisions of this section. All funds collected pursuant to this subsection shall be paid pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund to the accounts of all members of the Fund who are volunteers for fire departments or emergency medical services agencies within the jurisdiction of the particular county, city, or town.

M. In any county, the county treasurer or comparable officer and the treasurer of any town located wholly or partially within such county may enter into a reciprocal agreement, with the approval of the respective local governing bodies, that provides for the town treasurer to collect current, non-delinquent license fees or taxes on any motor vehicle, trailer, or semitrailer owed to the county or for the county treasurer to collect current, non-delinquent license fees or taxes owed to the town. A treasurer or comparable officer collecting any such license fee or tax pursuant to an agreement entered into under this subsection shall account for and pay over such amounts to the locality owed such license fee or tax in the same manner as provided by law. As used in this subsection, with regard to towns, "treasurer" means the town officer or employee vested with authority by the charter, statute, or governing body to collect local taxes.

Code 1950, § 46-64; 1950, p. 240; 1952, c. 169; 1954, cc. 491, 594; 1956, cc. 66, 549, 570; 1958, c. 541, § 46.1-65; 1959, Ex. Sess., cc. 22, 55; 1962, c. 574; 1964, c. 218; 1972, c. 200; 1974, c. 621; 1975, c. 105; 1977, c. 166; 1979, c. 185; 1980, c. 105; 1982, c. 85; 1984, cc. 308, 630, 695; 1986, c. 123; 1987, cc. 208, 243; 1989, cc. 321, 706, 727; 1990, cc. 181, 187, 188, 455; 1991, c. 622; 1992, cc. 226, 355, 794, 806; 1993, cc. 50, 63, 175, 565; 1994, cc. 528, 962; 1995, cc. 91, 412, 449, 460, 479, 659; 1996, cc. 89, 562; 1997, cc. 246, 499, 905, 911; 1998, c. 649; 1999, c. 236; 2000, c. 303; 2001, cc. 338, 471, 605, 606; 2002, cc. 206, 553; 2003, c. 326; 2004, cc. 689, 723; 2005, c. 317; 2006, c. 148; 2007, cc. 213, 230, 813, 865; 2008, cc. 163, 457, 591; 2009, cc. 366, 756, 843; 2010, cc. 125, 131; 2013, c. 82; 2014, c. 543; 2015, cc. 69, 502, 503.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

CHAPTER 4 Animals and Fowl

ARTICLE I. In General.

Sec. 4-1 Fowl and Certain animals prohibited.

(a) It shall be unlawful and a ~~Class 3 misdemeanor~~ for any person to keep and maintain any hog, pig, swine, horse, mule, ~~donkey, llama, alpaca,~~ goat, or other animal of the livestock kind, or any chicken, goose, duck or other domestic fowl within the corporate limits of the town; except that:

1. horses, mules, ~~donkeys,~~ cattle, llamas, ~~alpacas,~~ or goats may be maintained on parcels larger than ten (10) acres in size, provided that the total number of such animals complies with the requirements of Section 4-1-b of this Code ~~does not exceed one (1) animal per each four acres,~~ and
2. chicken hens may be maintained on parcels larger than five thousand (5,000) square feet in size, provided that the total number of such animals complies with the requirements of Section 4-1-b of this Code and that no eggs or the products produced by the chicken hens may be sold.

(b) The number of animals kept within the corporate limits of the town in accordance with Sections 4-1 (a) 1 and 4-1 (a) 2 of this Code may not exceed:

1. The total number of horses, mules, donkeys, cattle, llamas, alpacas or goats may not exceed one (1) animal per each two (2) acres.
2. The total number of chicken hens may not exceed the number enumerated below for the size of the parcel on which the chicken hens are maintained:
xx hens on parcels between 5,000 and 7,500 square feet in size
xx hens on parcels between 7,501 and 10,000 square feet in size
xx hens on parcels between 10,001 and 15,000 square feet in size
xx hens on parcels between 15,001 and 43,560 square feet in size
xx hens on parcels larger than 43,561 square feet in size

(c) Any person keeping an animal in accordance with Sections 4-1 (a) 1 and 4-1 (a) 2 of this Code shall maintain the animals and the property on which they are kept in accordance with the following standards and in accordance with other applicable code requirements:

1. No owner or custodian of animals shall cause or allow animals to run free in the Town outside of the boundaries of the owner's or custodian's property.
2. No owner or custodian of animals shall keep or harbor any animal which causes, or emits or gives to vent incessant noises or odors of such a kind or character as to disturb any inhabitant of the Town in the reasonable use and enjoyment of this property, or cause any person of ordinary sensibilities any actual physical discomfort.
3. No owner or custodian of animals shall allow property or enclosures to become unsanitary and must keep property and enclosures free from excrement and other unsanitary or offensive substances or liquids.

4. No owner or custodian of animals shall feed said animals or chicken hens or store feed materials in a manner that attracts rodents or other vermin.

5. No owner or custodian of chicken hens shall erect or maintain any coop, pen, or other such enclosures within five (5) feet of any property line, within forty (40) feet of any principal structure on conterminous parcels, within five (5) feet of the centerline of a defined channel, drainage ditch, or swale, or at any point between a street and the rear wall of the principal structure on the parcel in question.

(d) Enforcement

1. Violation of this section shall constitute a Class 3 misdemeanor.
2. Each day upon which a violation of this section shall continue shall constitute a separate violation enforceable and punishable by law.

Sec. 4-2. - Commercial kennels and breeding operations prohibited; limitation of dogs kept or maintained.

(a) It shall be unlawful ~~and a Class 3 misdemeanor~~ for any person to keep or maintain any outdoor commercial boarding and/or breeding kennel or other commercial breeding operation or business, or keep or maintain more than four (4) dogs of more than four (4) months of age within the corporation limits of the town. This prohibition shall not apply to any otherwise lawful pet shop or store located within a fully enclosed structure in a commercial zoning district.

(b) Enforcement

1. Violation of this section shall constitute a Class 3 misdemeanor.
2. Each day upon which a violation of this section shall continue shall constitute a separate violation enforceable and punishable by law.

Secs. 4-3—4-5. - Reserved.

Sec. 4-6. - ~~Destructive cats running at large.~~ Animals.

(a) ~~For the purposes of this section, a "destructive cat" is a cat which injures, damages or destroys property of any person other than the owner or custodian of the cat or which disturbs or scatters garbage or trash canned or bagged for disposal. No owner of an animal shall cause or allow an animal to go upon the land of any other person and damage or destroy any garden, shrub, grass, or other property thereon or scatters garbage canned for disposal.~~

(b) ~~It shall be unlawful for any person to permit a destructive cat owned by him or in his possession or under his control to run at large within the town. Any person owning property which is damaged or destroyed by any violation described in this section may institute their own criminal or civil proceeding by entering a complaint by a warrant issued against the owner of the animal involved.~~

(c) Upon complaint being made to the chief of police that the provisions of this section are being violated, such officer may, after investigation, give notice of such complaint to the owner or person in possession of such cat and order such owner or person to confine or dispose of such cat. It shall be unlawful for any person to fail to comply with such order.

(d) A violation of this section shall constitute a Class 4 misdemeanor. Upon a second conviction within one (1) year of a violation of this section involving the same animal, in addition to imposing a fine for the violation, the judge may order the owner of the animal to take it into custody and to confine it in such a way that it will not be permitted to run at large at any time.

~~Sec. 4-7. Cruelty to animals.~~

~~(a) Any person who:~~

~~(1) Overrides, overdrives, overloads, tortures, ill-treats, abandons (except as provided in section 4-8), willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation to, or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to him or another, or deprives any animal of necessary sustenance, food, drink or shelter, or causes any of the above things or, being the owner of such animal, permits such acts to be done by another; or~~

~~(2) Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or~~

~~(3) Shall carry or caused to be carried, in or upon any vehicle or vessel or otherwise, any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering. shall be guilty of a Class 1 misdemeanor.~~

~~(b) Nothing in this section shall be construed to prohibit the dehorning of cattle.~~

~~Sec. 4-8. Abandoning domesticated animals in public place or on property of another.~~

~~Any person who shall abandon any dog, cat or other domesticated animal in any public place, including the right-of-way of any public highway, road or street, or on the property of another shall be guilty of a Class 3 misdemeanor.~~

Secs. 4-7-4-8 Reserved

Sec. 4-9. - Application of sections 4-7 and 4-8 to birds and fowl.

The word "animal," as used in sections 4-7 and 4-8 this chapter, shall be construed to include birds and fowl.

Sec. 4-10. - Disposition of dead animals and fowl.

(a) The owner of any animal or grown fowl which has died, when he knows of such death, shall be forthwith have its body cremated or buried. If he fails to do so, then, pursuant to section 18.2-510 of the Code of Virginia, any Judge of a general district court, after notice to the owner, if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer, or other person

designated for the purpose, and the officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried, the actual cost of the cremation or burial, not to exceed seventy-five dollars (\$75.00), and of the owner of every such fowl so cremated or buried, the actual cost of the cremation or burial, not to exceed five dollars (\$5.00), to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.

(b) Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.

(c) Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

Secs. 4-11—4-20. - Reserved.

Sec. 4-21. - Running at large.

During all months of the year, it shall be unlawful for the owner of any dog to permit his dog to run at large within the town.

For the purposes of this article running at large shall mean the act of roaming, running or self-hunting off the property of its owner or custodian and not under the immediate control of its owner or custodian.

Sec. 4-22. - License.

It shall be unlawful for any person to own a dog unless such dog is licensed as required by the Code of the County of Clarke, Virginia. Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed and the burden of proof of the fact that such dog has been licensed, or is not otherwise required to bear a tag at the time, shall be on the owner of the dog.

Sec. 4-23. - Displaying license receipts; dogs to wear tags.

Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal warden or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. The owner of the dog may remove the collar and license tag required by this section when (i) the dog is competing in a dog show, (ii) the dog is confined, or (iii) the dog is under the immediate control of its owner.

Sec. 4-24. - Leash law.

(a) It shall be unlawful for the owner, custodian or any person having a dog in his possession to fail to keep and maintain the dog under restraint and control at all times.

(b) For the purposes of this section, a dog is deemed under restraint and control only when:

(1) The dog is securely confined within a parked or moving motor vehicle; or

(2) The dog is properly confined within a secure enclosure with the permission of the owner of the property where the enclosure is located; or

(3) The dog is securely restrained by a secure collar and leash or other device, not harmful to the dog, having a minimum tensile strength sufficiently in excess of that required to restrict the dog's movements to a radius of no more than three (3) feet of the person owning, having custody of or possessing the dog who shall be physically capable of restricting the dog's movements.

(c) This section shall not apply to any person whose dog is under the direct supervision while such dog is participating in a supervised dog show or exhibition, or in a formal dog obedience training class or program.

Sec. 4-25. - Unlawful to allow dogs to urinate or defecate on public or private property; exception. It shall be unlawful for any owner or person in custody of a dog to:

(1) Knowingly or willfully allow the dog to urinate or defecate on the private property of other persons without the consent of such persons.

(2) Knowingly or willfully allow the dog to urinate or defecate on public property, except that defecation by a dog on public property shall not constitute a violation of this section if the owner or person in custody of the dog immediately removes the material defecated and disposes of it in a safe and sanitary manner.

(3) Any person owning property on which a dog is permitted to urinate or defecate without consent may enter a complaint by a warrant issued against the owner of the dog involved.

Sec. 4-26. - Barking dogs to be controlled; citizen cooperation; direction by a law enforcement officer.

(a) It shall be unlawful for any owner of a dog to keep a dog without exercising proper care and control of such dog to prevent it from disturbing the peace of others by unprovoked barking in a continuous or untimely manner, after the owner has been notified of such disturbance. Owners of dogs shall be responsible for exercising control of such dog under this section.

(b) For the purpose of this section, a continuous manner shall be deemed a dog barking for an uninterrupted period of thirty (30) minutes.

(c) For the purpose of this section, an untimely manner shall be deemed between the hours of 11:00 p.m. and 7:00 a.m.

(d) Citizens affected by a barking dog are requested to contact the dog's owner, prior to contacting the town to attempt to resolve differences and objections with the owner of the barking dog.

(e) A law enforcement officer may direct the owner of a dog found barking in a loud, continuous or untimely manner to exercise proper control and care of such dog to prevent it from barking in such manner. A law enforcement officer assigned to investigate a violation of this section shall record all initial violations through the use of a compliance notice. Any subsequent violations that occur twenty-four (24) hours after a compliance notice is issued will cause a law enforcement officer on behalf of the town to institute a criminal or civil proceeding against any person he finds in violation of this section.

(f) Citizens may institute their own criminal or civil proceeding to resolve a barking dog problem by entering a complaint by a warrant issued against the owner of the dog involved.

Sec. 4-27. - Confinement In case of hydrophobia.

Whenever there may be a case of hydrophobia in the town, the town manager, chief of police, animal control officer and/or health department official shall have the power to direct that all dogs be confined for a reasonable length of time. Upon issuance of a declaration of confinement of all dogs, all dogs shall be confined in accordance with the terms thereof.

Sec. 4-28. - Duties and liabilities of parents or other persons standing in loco parentis.

Any custodial parent or other person standing in loco parentis to a child who has knowledge that such child owns, possesses, harbors, has custody of or is sheltering a dog shall be subject to all the duties, liabilities and responsibilities imposed by this chapter as if such parent or person were the owner of such dog.

Sec. 4-29. - Severability.

If any section, sentence, clause, phrase or provision of this article or the application thereof to any person or circumstance is held invalid or unconstitutional by any court of competent jurisdiction, that holding or decision shall not affect other provisions or applications of this article which can be given effect without the invalid provisions or application, and to this end the provisions of this article are severable.

Sec. 4-30. - Violation of article.

Unless otherwise provided, any violation of the provisions of this article shall constitute and be punishable as a Class 4 misdemeanor.

~~ARTICLE III. DANGEROUS OR VICIOUS DOGS [3]~~

~~Sec. 4-41. Dangerous or vicious dogs.~~

~~(a) As used in this article, dangerous dog means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal, and vicious dog means a canine or canine crossbreed which has:~~

~~(1) Killed a person;~~

~~(2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of bodily function; or~~

~~(3) Continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.~~

~~(b) Any animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer shall confine the animal until such time as evidence shall be~~

heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3-1-796.119 of the Code of Virginia.

(c) — No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the local governing body prohibit the ownership of a particular breed of canine or canine crossbreed. No animal shall be found to be dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was:

(1) — Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;

(2) — Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or

(3) — Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.

No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous or vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous or a vicious dog.

(d) — The owner of any animal found to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of fifty dollars (\$50.00) in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(e) — All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence:

(1) — Of the animal's current rabies vaccination, if applicable; and

(2) — That the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed.

In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that:

(3) — Their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and

(4) — The animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

(f) — While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(g) — If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(h) — After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal:

(1) — Is loose or unconfined;

(2) — Bites a person or attacks another animal;

(3) — Is sold, given away, or dies; or

(4) — Has been moved to a different address.

(i) — The owner of any animal which has been found to be a dangerous dog who willfully fails to comply with the requirements of this section shall be guilty of a Class 1 misdemeanor.

(j) — All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by the section, shall be paid into a special dedicated fund in the treasury of the locality for the purposes of paying the expenses of any training course required under § 3.1-796.104:1 of the Code of Virginia.

Secs. 4-41—4-50. - Reserved.

Sec. 4-50. — Exceptions.

(a) — This article shall not apply to ownership of dangerous animals in conjunction with the conduct in the town of a lawful, licensed business.

(b) — This article shall not apply to any dangerous animal within the town in connection with a circus; carnival; wildlife exhibit or educational program; humane society operation; bona fide scientific endeavor or exhibit; public amusement; religious observance; or the like.

(c) — This article shall not apply to any dangerous animal exhibit within the town in connection with the work or activity of a licensed wildlife rehabilitator.

(d) — This article to any animal used in conjunction with any police department activity.

Sec. 4-51. — Severability.

If any section, sentence, clause, phrase or provisions of this article or the application thereof to any person or circumstance is held invalid or unconstitutional by any court of competent jurisdiction, that holding or decision shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provision of this article are severable.

Secs. 4-51 - 4-52. - Reserved.

MINUTES
BERRYVILLE TOWN COUNCIL
Tuesday, January 14, 2014
Berryville-Clarke County Government Center
Regular Meeting
7:30 p.m.

Town Council:

Present: Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Allen Kitselman; Mary Daniel; Douglas Shaffer; David Tollett

Absent: None

Staff: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Neal White, Chief of Police; Celeste Heath, Town Clerk

Press: Val Van Meter, Winchester Star

1. Call to Order: Wilson Kirby, Mayor

Mayor Kirby called the regular meeting to order at 7:30 p.m.

2. Pledge of Allegiance

3. Approval of Minutes

December 10, 2013

Upon motion by Council member Tollett, seconded by Recorder Arnold, the minutes of the December 10, 2013 meeting were unanimously approved.

4. Citizens Forum

Diana Kincannon, representing the Barns of Rose Hill, reported that she has recently re-engaged with the Barns of Rose Hill and that she is excited about the prospects for this year and the years ahead and looks forward to working with the Town Council again.

5. Report of the Mayor

VDOT Traffic Light Project

The Mayor asked Mr. Dalton to speak about the VDOT traffic light project. Mr. Dalton reported that he and staff met with VDOT regarding VDOT's plans to replace the traffic signal at Church and Main Streets.

Mr. Dalton explained that the planned project, which is expected to last approximately 90 days, will involve the removal of the two support poles located on the northwest and southeast corners of the intersection and the installation of a new pole and mast on the northwest corner. He said that the control box on the northwest corner near Sponseller's Flower Shop will be replaced and pedestrian signals are to be installed at each corner. He noted that the new traffic signals will be controlled by cameras instead of the current sensors in the pavement. He said that this type of control is an advantage for the town.

Mr. Dalton then presented the VDOT plans for the project. He talked about the street cuts that would be necessary for the project.

Mr. Dalton said that VDOT will be in attendance at the Streets and Utilities Committee meeting on January 30th at 7 p.m. and that notice of this meeting will go out in the immediate area of the traffic light and that perhaps the Winchester Star would be willing to do a story about it.

He said that since VDOT believes the project will take 90 days, he and Chief White will coordinate with the contractor about traffic control in order to accommodate traffic flow and parking for customers of local businesses.

Mr. Dalton said that the Streets and Utilities Committee will also discuss a citizen concern about traffic on Page Street.

Public Works

Mayor Kirby praised Public Works crews for their good work in the adverse conditions of the last ten days. He said that they worked in temperatures around zero to repair a water main break and that the leadership during this time has been excellent.

6. Report of Town Manager

Mr. Dalton reported that the Streets and Utilities Committee has been discussing the parking meter situation in town and that as they continue to work on the matter the Police and Security Committee will be drawn into the discussion.

7. Planning and Zoning Matters

Action Items – Set Public Hearings

Ms. Dunkle reported that the Planning Commission will hold a public hearing on the following matters at their January 28, 2014 meeting and asked that the Town Council schedule public hearings on the matters for their February 11 regular meeting:

1. David Anderson, Owner (Anderson Control Inc.), is requesting a Special Use Permit in order to operate a professional office at the property located at 105 South Buckmarsh Street, identified as Tax Map Parcel number 14A4-((A))-53, zoned R-2 Residential under Section 202.2(b) of the Berryville Zoning Ordinance.

Ms. Dunkle said that Mr. Anderson has purchased the property located at 105 South Buckmarsh Street in order to operate his office and that professional offices are a use by special permit in the R-2 zoning district.

2. The Berryville Planning Commission is recommending text amendments to the Berryville Zoning Ordinance, Articles II and III, establishing Section 204.1(qq) allowing second story apartments as a use by right and requiring a Special Use Permit for first story storefront and basement apartments by deleting Section 204.2(c) and establishing Section 204.2(h), both in the C General Commercial Zoning District and modifying Section 310.9(a) requiring one off-street parking space for apartments 1,000 square feet or less and two off-street parking spaces for apartments larger than 1,000 square feet.

Ms. Dunkle said that these text amendments would allow second story apartments by right and modify parking requirements in the "C" Commercial District, as discussed at previous meetings.

The Town Council set public hearings on both matters for the February 11, 2014 Town Council meeting.

Planner's Report

Ms. Dunkle reported that the Planning Commission, BADA and BZA did not meet in December.

Tourism

Ms. Dunkle presented a memo that she sent to the Clarke County Economic Development Committee requesting that they review a strategic tourism plan that she has developed in response to the recent Hotel Feasibility Study.

7. Standing Committee Reports

a) BADA Liaison – Allen Kitselman

Nothing to add to report.

b) Budget Finance / CIP – Jay Arnold

Recorder Arnold asked for comments on the draft budget calendar by the end of the week.

c) Community Improvements – Allen Kitselman

Chickens in Town

Council member Kitselman said at the last meeting this item was left for discussion and public input. Mayor Kirby asked if anyone in attendance would like to speak on the matter.

Bryant Condrey, 203 West Main Street, said that he has received feedback from quite a few people saying this is great but what about quails and ducks? He said that quail and some ducks are quiet. He said he thinks that Section 401 (a)(2) of the draft ordinance presented at the January 8 Police and Security Committee meeting would essentially criminalize the selling of eggs. He said that this would make selling manure from chickens illegal. He said that this is ridiculous and hard to enforce. He said that he doesn't see that citizens selling products being a problem.

Ms. Daniel said that the document Mr. Condrey is referring to was not a Police and Security Committee document. Mr. Dalton said that the draft was staff's shot at incorporating regulations regarding chickens into the changes that the Committee already made to Chapter 4 of the Town Code. He said that although it attempted to incorporate Town Council concerns, it was meant as a discussion piece.

Council member Kitselman said that this is the winner for most outreach on any issue he has dealt with on Town Council. He said he had eight positive and two negative.

responses. He said that those with negative comments had concerns about smells, cleanliness and vermin.

There was a general discussion of using a sliding scale based on lot size to determine the number of chickens that might be allowed.

Mr. Dalton said that the Council might also want to consider a limit on coop height.

Mr. Dalton noted that Arlington addressed this issue with a 17 member task force that produced a 72 page report as well as a minority report. He also said that in his research another interesting issue related to this came to his attention. He said that the Code of Virginia virtually requires enforcement officers to kill a dog if it is caught in the act of killing livestock. He said he thought that the Town Council should be aware of this part of the State Code. There was a general discussion about the relationship of poultry to other animals.

Ms. Daniel asked how the commercialization issue (i.e. selling eggs and manure) plays into zoning. Ms. Dunkle said that most residential zoning districts require a Special Use Permit for a home occupation. Mr. Dalton said that the question is when an activity becomes a commercial use. He said that certainly a child's lemonade stand is not a commercial activity if it occurs once, but if it the activity happened all day, every day, it is a different story.

Council member Daniel asked about public hearing requirements and how the Town Council might proceed with the other minor changes to Chapter 4 of the Town Code that the Police and Security Committee recommended. Mr. Dalton replied that a public hearing is not required to make changes to the Town Code and that the other changes can be made whether the Town Council moves along with the regulations regarding chickens or not.

Recorder Arnold said that he would like to fine tune this before any public comment meeting. He said that he is concerned that first people want to keep chickens and then now they want to keep ducks and quail. He asked what happens when a person can only drink goat milk, will they want to keep goats in town? He said he does not think that a person should be able to sell eggs and that if allowed they should be for personal use only.

Recorder Arnold also asked if this ordinance addresses the free range or caged issue. Mr. Dalton replied that under this draft the chickens could have run of a person's property. There was a discussion of controlling the chickens within a person's property boundaries. Mr. Dalton said that he believes that the Town Council could require caging chickens if they wished. Council member Kitselman asked if the draft ordinance requires that the chickens stay within the setbacks required. Mr. Dalton said that the setbacks in the draft ordinance are for structures involved in chicken keeping.

Council member Shaffer expressed concern about runoff from chicken droppings on properties that are downhill from those keeping chickens. Council member Daniel asked how it would be any different than dog droppings. Council member Shaffer replied that it is much easier to pick up dog droppings.

Recorder Arnold said that he has heard from a few constituents who are not opposed to this but they said they would not want it next door to them. Council member Daniel said that she has gotten more feedback on this issue in the past three weeks than on any other issue in the past except perhaps the high school. She said that most people are okay with the concept but have questions about how it will be regulated. There was a discussion of disposal of manure as well as disposal of dead animals. Recorder Arnold said that it seems that the ordinance needs some more work at the committee level.

Ms. Dunkle said that the Town Council should also consider Homeowners Association (HOA) covenants that may address this use. Mr. Dalton said that it would up to the HOAs to enforce such covenants.

The Mayor recognized Lillian Ledford, 111 Rosemont Circle, who said that in regard to the dog issue, there is a leash law and that if a dog attacks another animal it would be the responsibility of the dog owner.

Mayor Kirby asked if there was further public comment. There was none. Mayor Kirby asked the Town Council how to proceed. After a discussion it was decided to address this issue at the committee level. A joint meeting of the Police and Security and the Community Improvements Committee was set to address this matter on January 28, 2014 at 6 p.m. and report back to the Town Council at their next regular meeting.

Community Development Block Grant (CDBG)

Council member Kitselman reported that there was a meeting on the CDBG grant for the Community Plan for the Josephine City neighborhood. He said that the meeting went well. He said that community outreach meeting on the matter will be held on January 23, 2014 at 4 p.m. at the Josephine Street Museum.

HB 995

Council member Kitselman informed the Town Council that HB 995 would sunset historic rehabilitation tax credits in 2016 and urged the Town Council to call their legislators and let them know what a valuable tool these tax credits are for renewing downtowns. There was a general discussion of the matter.

d) Planning Commission – Doug Shaffer
Nothing to add to report.

e) Police and Security – Mary Daniel
Ms. Daniel said the Committee will meet on February 5, 2014.

Approval of Minutes

January 8, 2014

Upon motion by Council member Tollett, seconded by Council member Daniel, the minutes of the January 8, 2014 Police and Security Committee meeting were unanimously approved.

Council member Daniel reported that the Police Department is now fully staffed.

f) Streets and Utilities – Wilson Kirby
Nothing to add to report.

g) Personnel / Appointments – Jay Arnold
Upon motion by Recorder Arnold, seconded by Council member Kitselman the Council of the Town of Berryville re-appointed Mike Brown to the Berryville Planning Commission for a four-year term to commence on January 14, 2014.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel Allen Kitselman Douglas Shaffer David Tollett
Nays:	None
Absent:	None
Abstain:	None

10. Adjourn

Recorder Arnold and Council Member Daniel praised the Public Works Department for their quick response to several private water line breaks in town during the frigid weather.

Upon motion by Council member Daniel, seconded by Council member Kitselman and passed, the Council meeting was adjourned at 8:24 p.m. .

Wilson Kirby, Mayor

Harry Lee Arnold, Jr., Recorder



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

Minutes

January 8, 2014

Attendance: Mary Daniel – Chair, Dave Tollett, Keith Dalton – Town Manager, Neal White – Police Chief, Desi Moreland – Treasurer, Val VanMeter – Winchester Star

The meeting was called to order at 10:05 am by committee chair Mary Daniel.

Mr. Dalton requested that the submitted agenda be modified so that the meeting could be begin with a discussion of retirement benefits for law enforcement officers since Desi Moreland was in attendance. This request was approved, and the meeting began with a discussion on enhanced retirement benefits for law enforcement officers.

Mr. Dalton had provided the committee with results of a study conducted to examine costs associated with providing law enforcement officers enhanced retirement benefits through the LEOS program. The study provided costs associated with the LEOs benefit as well as a Hazardous Duty Alternate Option (HADO). The committee reviewed the prepared cost analysis and was then briefed by Desi Moreland on how these enhanced benefits compared with the current retirement benefits provided by the town.

Mr. Dalton advised that the additional LEOs benefit would cost the town \$42,825.84 annually which roughly equates to funding for half of a full time position and all involved need to recognize such expectations effect on future Police Department staffing. He stated that he wanted this Committee and Council to have advance information as the budgeting process begins for the next fiscal year.

Chair Daniel commented that due to the nature of their work environment, law enforcement officers are prone to have lasting medical concerns after their retirement and that providing this health insurance bridge could make a big difference in the retiree's ability to afford health care. Chair Daniel also noted that the police department does have several employees that are reaching retirement status over the next few years.



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W. Neal White – Chief of Police

Mr. Dalton asked Chief White to explain why the benefit was important for the police department. Chief White distributed a document from the Virginia Legislature which listed all agencies in the State that have the LEOs benefit as of 2010. Chief White pointed out that all State Police employees as well as all Sheriff's Offices are legislatively mandated to provide the benefit.

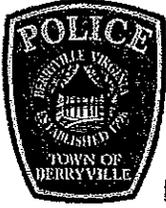
Mr. Dalton asked the committee for their initial opinion on the benefit so he could begin preparations on how to formulate his budget design. Mr. Tollett stated that he was all for the benefit. Mr. Dalton stated that he would work on a placeholder within the budget discussions based upon the conversation within the committee. Mrs. Moreland stated that she would also contact her VRS representative again to confirm whether more immediate action would be necessary based upon the study conducted which assigned the cost to the benefit.

Chief White then presented his report to the committee. Chief White advised that the department was now fully staffed and that all newly hired officers will be completing their field training this month. The committee was also advised that a recent promotion process had just been completed, and Officer Scott Reagan had been promoted to the rank of Corporal.

Discussions about changes to Town Ordinances began with Chief White explaining revisions to two sections concerning public intoxication with Chapter 13. Sections 13-13 and 13-13.1 had revisions that are necessary in order to be in compliance with the State Code. These items were briefly discussed and then it was decided that they would be included with a comprehensive review of Chapter 13 which is a chapter of miscellaneous offenses which is going to take some time in order to review.

Discussions then centered on a review of Chapter 4 of the Town Code which concerns animals. The chapter had been revised on the assumption that Council was going to enter discussions concerning allowing laying chickens within the town limits for the purpose of household egg production. The revised chapter had incorporated provisions allowing for laying hens and established criteria concerning public health, safety, and welfare.

The next meeting for this committee was set for February 5, 2014 at 10:00 am in the A/B meeting room of the Joint Government Center.



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W. Neal White -- Chief of Police

Being no further business, the meeting was adjourned at 11:06 am.

Submitted By: Chief W. Neal White

On Lifting the Laying Hen Ban

Promoting Sustainability in Berryville, a Rural Town in an Agricultural County

Presented by:

Bryant Condrey
203 W Main St
Berryville, VA 22611

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Personal Introduction

- My family lives on Main Street in Berryville.
- We eat local eggs from chickens with access to good pasture and forage primarily due to the large flavor and nutrient difference from large-scale production eggs. We also avoid the health problems and flavor deterioration associated with herbicides, pesticides and bleach concentrations that exist in large-scale commercially-produced eggs.
- For additional health reasons, my wife and I have a diet that consists of a large number of eggs: we consume approximately 3-4 dozen eggs a week. At \$4-\$5 per dozen, that is a weekly grocery cost of \$12-\$20 just for eggs.
- We want to keep laying-hens
 - o To exercise our freedom to eat healthier, fresher, better-tasting food.
 - o To produce compost for our garden which we keep for the grocery bill reduction and the fun of it, as well as the improvement of our backyard.
 - o To be able to teach our children about food and how to raise animals humanely in an environment that is enjoyable for the chickens.

Why Have Chickens in Berryville?

Resident Point of View

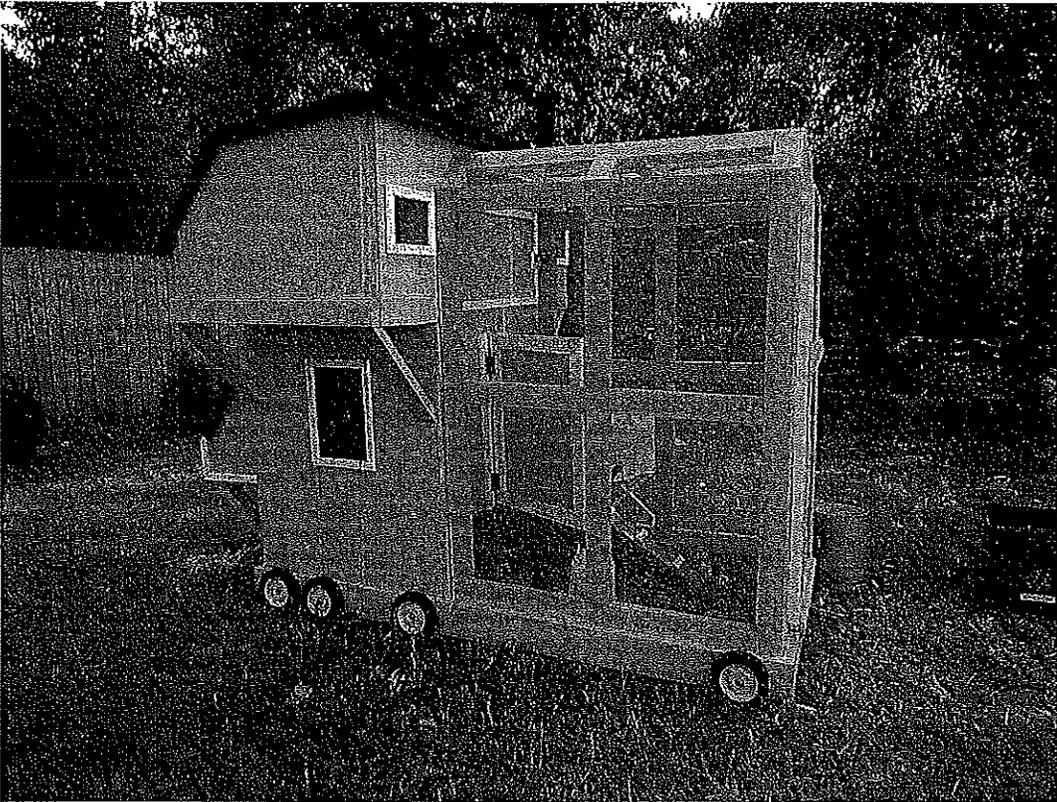
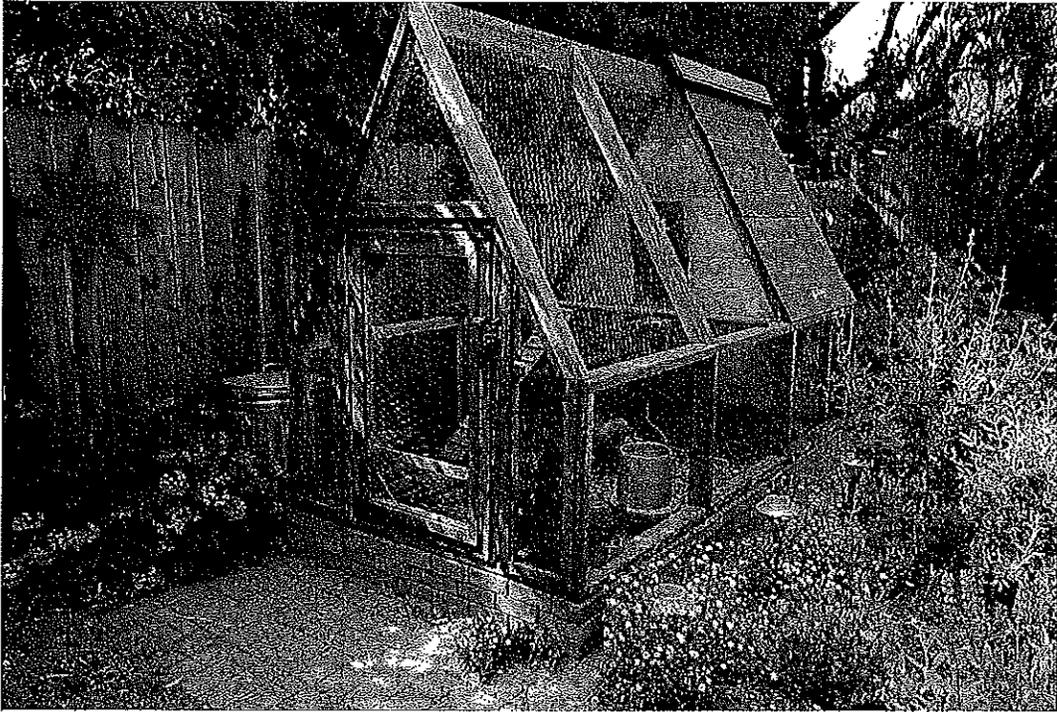
- Freedom to choose healthiest freshest eggs
- Organic and sustainable food sourcing
- Pest Control (Chickens eat bugs in your yard)
- Weed Control (Chickens eat seed heads in your yard)
- Disease Control (Chickens eat ticks, reducing Lyme Disease carriers)
- Greater self-reliance and increased personal productivity
- Entertainment
- Good for teaching children about animals, food, and sustainability
- Quieter than dogs, less destructive or likely to escape than cats,

Town Point of View

- Fits with the image of Berryville as a rural town in an agricultural county.
- Promotes freedom while at the same time maintaining orderliness by requiring personal responsibility of residents who keep egg layers.
- Pest Control (chickens eat bugs, reducing town populations of pests)
- Weed Control (chickens eat seed heads, reducing noxious weeds in town)
- Disease Control (chickens eat ticks, reducing Lyme Disease carriers)
- Encourages lower waste levels through feeding kitchen scraps to chickens, not disposing of egg cartons every week.
- Environmental benefits (improvement of soil through fertilization and daily micro-tilling, non-chemical pest management, non-chemical weed management, decrease in vehicle emissions via fewer trips to grocery, increase in biodiversity)

Backyard chicken coop examples





Proposed Town Code Changes

Sec. 4-1. - Fowl and certain animals prohibited.

- (a) It shall be unlawful and a Class 3 misdemeanor for any person to keep or maintain any hog, pig, swine, horse, mule, goat, or any other animal of the livestock kind, or any chicken, goose or other domestic fowl within the corporate limits of the town; except that:
1. horses, mules, cattle or goats may be maintained on parcels larger than ten (10) acres in size, provided that the number of such animals does not exceed one (1) animal per each four acres, and
 2. Up to twelve (12) chicken hens may be maintained.

Sec. 4-2. - Commercial kennels and breeding operations prohibited; limitation of dogs kept or maintained.

- (a) It shall be unlawful and a Class 3 misdemeanor for any person to keep or maintain any outdoor commercial boarding and/or breeding kennel or other commercial breeding operation or business, or keep or maintain more than four (4) dogs of more than four (4) months of age within the corporation limits of the town. This prohibition shall not apply to any otherwise lawful pet shop or store located within a fully enclosed structure in a commercial zoning district.
- (b) Each day upon which a violation of this section shall continue shall constitute a separate violation enforceable and punishable by law.

Sec 4-3. - Requirement for coops, pens for domestic fowl

- (a) Each person owning or having custody or control of domestic fowl within the Town shall provide a suitable coop or other enclosure. Such coop or other enclosure shall at all times be maintained in a safe, clean, and sanitary condition, free from accumulations of excrement and other unsanitary or offensive substances, liquids or odors.
- (b) No coop or other enclosure for domestic fowl shall be constructed less than 40 feet from a residence without the permission of the residents.
- (c) [reserved for penalty].

State law reference— Code of Virginia, § 3.2-6544; 15.2-1115; 3.1-796.94

Sec 4-4. - Animals running free

- (a) No owner or custodian of animals or domestic fowl shall cause, allow, or fail to take action to prevent animals or domestic fowl running free in the Town outside of the boundaries of the owner's or custodian's property.
- (b) [reserved for penalty]

State law reference— Code of Virginia, § 15.2-1115; 3.1-796.94

Questions about Proposed Code Changes

Q. What is this code amendment based on?

A. Much of the proposed code changes were modeled after Stephens City's Town Code.

Q. Why 12 chickens?

A. Residents are permitted to keep up to 4 dogs (and an unlimited number of cats) in Berryville. Chickens produce approximately 1/3 the manure (2-3 ounces vs. 8 ounces) and weigh approximately 1/3 as much as a dog (5-6 lbs vs. 15-18 pounds for a small-medium dog). Thus, if 3 chickens equals 1 dog, 12 chickens is the equivalent of 4 dogs. Note that the only neighboring locality that limits the number of chickens is the City of Winchester. The Towns of Front Royal, Leesburg, Purcellville, Round Hill, Stephens City, Strasburg, and Woodstock do not limit the number of chickens.

Q. Why not setbacks from lot lines?

A. This is much harder to enforce than a simple setback from the residence itself, especially since a number of lots in town are still defined by meets and bounds. It's easy to measure the distance from a structure. It could be potentially be very difficult and expensive to have a surveyor come and attest to the boundary of a property in order to act on a complaint.

Q. Why not a minimum lot size?

A. Because the real issue being addressed is proximity to other residences. Some ¼ acre lots are well-suited for keeping chickens far from any neighboring houses and some ½ acre lots are poorly suited for doing that. Instead, a setback from residences keeps it simple and easy to follow, while still establishing some protection for neighbors who are less excited about the proposition.

Q. What about prohibiting egg sales?

A. This is a solution in search of a problem. Operating businesses in residential districts is already governed by zoning and business licensing.

Q. What about the Clarke Health Department, what do they say?

A. Their official opinion, as of 2014, is that no health concern exists from backyard chickens

Considerations Regarding Lifting the Laying Hen Ban

Resident Point of View

- Noise
 - o *Existing Sec. 11-4(i) prohibits frequent unreasonable noise from animals*
 - o *Roosters are not included in Sec. 4-1 and hens are quieter than dogs*
 - o *New Sec. 4-3 (b) requires setbacks from residences*
- Smell
 - o *New Sec 4-3 (a) requires coops be kept clean and free of excrement. New Sec. 4-3 (b) requires setbacks from residences*
 - o *Existing Sec. 8-2 prohibits health-harming accumulations of any substance*
- Not wanting chickens in your neighborhood
 - o *This is an HOA function, not appropriate for town code.*

Town Point of View

- Town generally being turned into a barnyard
 - o *Number of chickens is limited by new Sec. 4-1(a)(2)*
 - o *Lot size is inherently limited by the setbacks required in 4-3(b)*
 - o *Coops or enclosures are required and must be kept clean under new Sec. 4-3(a)*
 - o *Rooster prohibited directly by existing Sec 4-1(a) and by existing Sec 11-4(i) (noise ordinance)*
 - o *Smell problems addressed by Sec 4-3(a), 4-3(b), and existing Sec. 8-2 (health-harming accumulations)*
 - o *Chickens are prohibited from running free under 4-4(a)*
 - o *Coops and runs are not exempt from regulations for accessory structures.*
 - o *HOAs and C&Rs can still be used by neighborhoods to prohibit chickens.*
- Increase in predators in town
 - o *A suitable coop or enclosure must be provided for the chickens under new Sec. 4-3(a)*
 - o *Impact would be negligible since the high population of wild rabbits--the number 1 prey animal--and squirrels in town has not created a predator problem, neither have any pet rabbits, cats or small dogs created predator problems.*
- Environmental concerns
 - o *Harmful accumulations are prohibited by existing Sec. 8-2, coops must be kept clean under new Sec. 4-3(a) and deceased animals must be disposed properly under existing Sec. 4-10.*
- Chickens running free
 - o *Prohibited by new Sec. 4-4(a)*
- Residents abandoning chickens
 - o *Purposeful abandonment prohibited by existing Sec. 4-8 and Sec. 4-9*
- Someone running a chicken-related business out of their home
 - o *This would be a business requiring a license, which presumably would not be granted for a home pursuant to existing Sec. 9-9, enforceable by code against operating an unlicensed business.*
 - o *Additionally, new Sec. 4-1(a)(2) limiting the number of hens would also discourage anything beyond trading some to your neighbor for watching your chickens when you're out of town.*
- Chickens dying naturally, disposal problems
 - o *Addressed by existing Sec. 4-10*
- Disposal of older chickens when laying stops.
 - o *Keeping the chicken until natural death is addressed by existing Sec. 4-10.*
 - o *Slaughter of "retired" chickens for personal consumption would be treated like the occasional processing of a deer for personal consumption by hunters in their backyard or garage. The opinion of the Town as laid out in existing Sec. 4-10(c): "Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner" indicates*

that the Town allows for animals and fowl on property in Town to be used for personal consumption.

- Chickens being mistreated
 - o *Addressed by existing Sec. 4-7 and Sec. 4-9*
- Disease
 - o *The Clarke County Health Department's latest opinion is that there are no health concerns from backyard chicken flocks.*
 - o *Diseases thrive in high density concentrations of a single species, such as those that exist at large commercial egg facilities. Limiting flock size under new Sec. 4-1(a)(2) prevents the local ecosystem from being overloaded by a single species. The diversity of other local flora and fauna, the limited flock size, and the coop sanitation requirements under new Sec. 4-3(a) prevent disease.*
 - o *There has never been a recorded instance of a contagious poultry or avian disease that began, strengthened, or increased by a properly maintained backyard flock of chickens, much less a flock limited in size.*
 - o *Existing Sec. 8-2, and new Sec. 4-3(a) would prevent the unhealthy accumulation of chicken litter and encourage proper disposal/composting.*
- Implementation cost for the Town
 - o *Complaints are currently taken and addressed by the police department for any other pet, and allowing a limited number of laying hens will not increase the number of complaints by any significant amount. Neighboring localities that do not prohibit chickens have not complained of an excess of chicken-related complaints in their jurisdictions.*

Appendix A: Relevant existing Berryville town code sections

Sec. 4-7. - Cruelty to animals.

(a)

Any person who:

(1)

Overrides, overdrives, overloads, tortures, ill-treats, abandons (except as provided in section 4-8), willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation to, or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to him or another, or deprives any animal of necessary sustenance, food, drink or shelter, or causes any of the above things or, being the owner of such animal, permits such acts to be done by another; or

(2)

Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or

(3)

Shall carry or caused to be carried, in or upon any vehicle or vessel or otherwise, any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering.

shall be guilty of a Class 1 misdemeanor.

(b)

Nothing in this section shall be construed to prohibit the dehorning of cattle.

(Code 1971, § 4-6)

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

State law reference— Similar provisions, Code of Virginia, § 18.2-392; general authority of town to prevent cruelty to animals, § 15.1-870; specific authority to adopt above section, § 15.1-29.1:1.

Sec. 4-8. - Abandoning domesticated animals in public place or on property of another.

Any person who shall abandon any dog, cat or other domesticated animal in any public place, including the right-of-way of any public highway, road or street, or on the property of another shall be guilty of a Class 3 misdemeanor.

Cross reference— Penalty for Class 3 misdemeanor, § 1-11.

State law reference— Similar provisions, Code of Virginia, § 18.2-392; general authority of town to prevent cruelty to animals, § 15.1-870; specific authority to adopt above section, § 15.1-29.1:1.

Sec. 4-9. - Application of sections 4-7 and 4-8 to birds and fowl..

The word "animal," as used in sections 4-7 and 4-8, shall be construed to include birds and fowl.

(Code 1971, § 4-6)

State law reference— Similar provisions, Code of Virginia, § 18.2-396.

Sec. 4-10. - Disposition of dead animals and fowl.

(a)

The owner of any animal or grown fowl which has died, when he knows of such death, shall be forthwith have its body cremated or buried. If he fails to do so, then, pursuant to section 18.2-510 of the Code of Virginia, any judge of a general district court, after notice to the owner, if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer, or other person designated for the purpose, and the officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried, the actual cost of the cremation or burial, not to exceed seventy-five dollars (\$75.00), and of the owner of every such fowl so cremated or buried, the actual cost of the cremation or burial, not to exceed five dollars (\$5.00), to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.

(b)

Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.

(c)

Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

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

State law reference— Similar provisions, Code of Virginia, § 18.2-510; burial or cremation of dead dogs, Code of Virginia, § 29-213.27.

Secs. 4-11—4-20. - Reserved.

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 designated by the council. Reasonable notice of the date fixed by the council for such removal shall be given by newspaper publication, mail or delivery of a written notice to each owner of 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.

Sec. 9-9. - License not to be issued contrary to zoning regulations.

The town treasurer shall not issue a license for conducting any business, profession, trade or occupation at a location where the conduct of such business, profession, trade or occupation is prohibited by the zoning regulations of the town. All such licenses shall be subject to verification to ascertain compliance with the zoning regulations. Failure to comply shall be just cause for immediate revocation of the license by the town treasurer.

Sec. 11-4. - Specific prohibitions.

Subject to the exceptions provided in section 11-5, any of the following acts, or the causing or permitting thereof is declared to be excessive noise, constituting a Class 4 misdemeanor and a public nuisance:

- (i) Animals and fowl. In addition to the prohibitions set forth in chapter 4, article I, section 4-1 and chapter 4, article II, section 4-26, the owning, keeping, or possessing of any animals or animals that make or cause frequent or long continued unreasonable noise that could be heard across a residential real property boundary or through partitions common to two (2) dwelling units within a building. Upon complaint being made to the chief of police or designee that the provision of this subsection are being violated, such officer may, after investigation, give notice of such complaint to the owner or person in charge of such offending animal or fowl and order the discontinuance of the disturbance. It shall be unlawful for any person to fail to comply with such order.

Appendix B: Neighboring Municipal Codes Concerning the Keeping of Fowl/Poultry

Town of Boyce

§ 93.01 CERTAIN FOWL AND ANIMALS PROHIBITED

(A) **Fowl:** It shall be unlawful for any person to own, keep or maintain any chicken, goose or other domestic fowl within the corporate limits of the Town.

(B) **Swine:** It shall be unlawful for any person to own, keep or maintain any hog, pig, swine or any other porcine animal within the corporate limits of the Town.

(C) **Other Hoofed Animals:** It shall be unlawful for any person to own or keep any other hoofed animal, such as burro, cow, goat, horse, llama, mule, sheep, or any other bovine or equine animal within the corporate limits of the Town on parcels of less than three acres. Such animals may be maintained on parcels of three acres or more provided that the number of such animals does not exceed a total of two adult animals per acre (not including juvenile animals being nursed by permitted animals).

(D) **Exceptions:** The specific prohibitions of animals and fowl listed above are not applicable to the following:

(1) The temporary maintenance or keeping of animals and fowl by a licensed veterinarian in connection with that veterinarian's business, and

(2) The transportation of animals or fowl through the Town when the length of stay in the Town is no longer than 24 hours.

Penalty: Class 3 misdemeanor. See Paragraph 10.99

Town of Front Royal

Note: Front Royal formerly restricted chickens except on lots larger than 1 acre. They removed this restriction Nov 23, 2015.

66-3 MAINTENANCE OF PENS AND KENNELS

Pens, stables, coops, kennels and yards for any animals or fowl located in the Town shall be kept in a sanitary condition at all times by the owner or person in charge thereof and shall be subject to inspection by the Health Officer, who shall be authorized to go upon the property in question to inspect facilities in plain view.

Town of Leesburg

Sec. 4-3. - Confinement and keeping of poultry; exception.

The owner or custodian of any poultry shall keep such poultry confined to his own premises. No person shall keep any poultry, including water fowl and roosters in any area in town that is located in a residential subdivision, except for chickens.

Sec. 4-5. - Killing, slaughtering, etc., animals.

It shall be unlawful for any person to kill, butcher, slaughter or dress any livestock or poultry, except for chickens within the town.

Town of Purcellville

Chap. 10, Art. 1, Sec. 10-3. - Confinement of fowl.

The owner or custodian of any fowl shall keep such fowl on his premises. No roosters are permitted within the corporate limits.

Town of Round Hill

Chapter 3, Sec. 3-2. Confinement of fowl

The owner or custodian of any fowl shall keep such fowl on his premises.

Town of Stephens City

Chap 3, Art I., Sec 3-2 Animals running at large.

- (a) No person shall permit any animal owned or harbored by him to run at large within the Town.
- (b) If an animal is found running at large, its owner shall receive one written notification, either from the affected landowner, the County animal control officer, or any other officer or Town policeman, of the offense. For each subsequent offense, the owner shall pay a fine of \$25.00, in addition to any expenses incurred due to the seizure or penning.

State Law Reference: §3.1-796.93; 3.1-796.94:1, 3.1-796-100.

Sec 3-3 Animals causing disturbances

- (a) No person shall keep or harbor within the Town any animal which causes, emits or gives to vent incessant noises or odors of such a kind or character as to disturb any inhabitant of the Town in

the reasonable use and enjoyment of his property, or cause any person of ordinary sensibilities any actual physical discomfort.

- (b) If a complaint is lodged with the Town police regarding a violation of subsection (a) above, the animal's owner shall receive one written notification of the offense. For each subsequent offense, the owner shall pay a fine of not more than \$25.00 for the second offense, and no more than \$50.00 for each subsequent offense. Each occurrence after written notice shall constitute a separate offense.

State Law Reference: 15.2-1115; 3.1-796.94

Sec 3-5 Requirement for coops, pens, etc.

- (a) Each person owning or having custody or control of an animal within the Town shall provide a suitable pen, coop or other enclosure. It shall be his duty to maintain such place at all times in a safe, clean and sanitary condition, free from excrement and other unsanitary or offensive substances, liquids or odors so as not to violate Section 3-3 above.
- (b) If a complaint is lodged with the Town police regarding a violation of subsection (a) above, the animal's owner shall receive one written notification of the offense. For each subsequent offense, the owner shall pay a fine of not more than \$25.00 for the second offense, and no more than \$50.00 for each subsequent offense. Each occurrence after written notice shall constitute a separate offense.

State Law Reference 3,2-6544; 15.2-1115; 3.1-796.94

Town of Strasburg

Sec. 18-2. - Noise.

- (a) It shall be unlawful for any person to keep or permit on his premises or in any public place any animal or fowl which by its actions causes objectionable noise and disturbs the public peace and rest.
- (b) Upon complaint being made to any police officer that this section is being violated, the police officer shall give notice to such owner of such complaint and shall further order the discontinuance of the disturbance.
- (c) Violation of this section shall constitute a class 4 misdemeanor.
- (d) If the owner of the animal or fowl in question shall fail after the expiration of 24 hours from the receipt of such notice to cause the discontinuance of the disturbance, he shall be fined a minimum of \$25.00 for the first offense and a minimum of \$100.00 for a second offense occurring within 12 months.

Sec. 18-63. - Keeping restricted.

Subject to section 18-64, no person shall keep any livestock or fowl within the town to the disturbance of the town citizens after ten days' notice by the town manager.

City of Winchester

SECTION 5-1. VIOLATIONS OF CHAPTER.

Except as otherwise specifically provided, any person violating any provision of this chapter shall be guilty of a Class 4 misdemeanor. (Code 1978, §4-1).

SECTION 5-4. LIVESTOCK OR FOWL RUNNING AT LARGE.

It shall be unlawful for any person to permit any livestock or fowl owned or kept by him to run at large within the corporate limits of the City.

SECTION 5-14. KEEPING LIVESTOCK AND FOWL WITHIN THE CITY LIMITS.

(a) For the purposes of this section:

(1) The term "livestock" refers to all breeds of cattle, goats, horses, llamas, sheep, and swine, including miniatures of each.

(2) The term "fowl" refers to all breeds of chickens, ducks, geese, guineafowl, peafowl, swans, and turkeys.

(b) It shall be unlawful for any person to raise or keep livestock or fowl within the

City with the exception of the following:

(1) The property on which the livestock or fowl is kept is at least two acres in size, and

(2) The livestock or fowl are securely fenced or are otherwise prevented from escape.

(c) On properties of two or more acres, one animal unit is allowed for each acre in the property which is set aside for animal use.

(1) An animal unit consists of:

(a) one (1) bull, cow, llama, or steer; or

(b) three (3) horses; or

(c) six (6) goats, sheep, or swine or any combination thereof; or

(d) twelve (12) chickens, ducks, geese, guineafowl, peafowl, or swans or any combination thereof.

(2) For horses, goats, sheep, swine, chickens, ducks, geese, guineafowl, peafowl or swans the number of animals shall be rounded to the next higher whole unit.

(3) For the purposes of subsection (c), an animal shall not be counted until it reaches the age of eight months.

(d) Animals' owners shall be subject to the City sound restrictions (Chapter 17 of this Code) with regard to noises.

Town of Woodstock

Sec. 10-2. - Permitting fowl to go at large.

It shall be unlawful for any person to permit any fowl belonging to him to go at large.

Sec. 10-5. - Disposition of dead animals and fowl.

When any animal or fowl shall die in the town, the owner thereof shall cause the carcass to be disposed of in accordance with the directions of the health officer. Every day such carcass shall be allowed to remain in the town shall be deemed a separate offense. If the town authorities shall have to remove such carcass, such removal shall be done at the cost of the owner, in addition to any fine or imprisonment that may be imposed upon the owner for his failure, neglect or refusal to dispose of the carcass in accordance with the directions of the health officer.

Sec. 10-7. - Noisy animals and fowl.

No person shall have or keep any animal or fowl which, by making or causing frequent or long continued and unreasonable noise, shall disturb the comfort and repose of any person in the vicinity or in any way create or cause a nuisance. Upon complaint being made to the chief of police that the provisions of this section are being violated, such officer may, after investigation, give notice of such complaint to the owner or person in charge of such animal or fowl and order the discontinuance of the disturbance.

Proposed Town Code Changes

Sec. 4-1. - Fowl and certain animals prohibited.

- (a) It shall be unlawful and a Class 3 misdemeanor for any person to keep or maintain any hog, pig, swine, horse, mule, goat, or any other animal of the livestock kind, or any chicken, goose or other domestic fowl within the corporate limits of the town; except that:
1. horses, mules, cattle or goats may be maintained on parcels larger than ten (10) acres in size, provided that the number of such animals does not exceed one (1) animal per each four acres, and
 2. Up to twelve (12) chicken hens may be maintained.

Sec. 4-2. - Commercial kennels and breeding operations prohibited; limitation of dogs kept or maintained.

- (a) It shall be unlawful and a Class 3 misdemeanor for any person to keep or maintain any outdoor commercial boarding and/or breeding kennel or other commercial breeding operation or business, or keep or maintain more than four (4) dogs of more than four (4) months of age within the corporation limits of the town. This prohibition shall not apply to any otherwise lawful pet shop or store located within a fully enclosed structure in a commercial zoning district.
- (b) Each day upon which a violation of this section shall continue shall constitute a separate violation enforceable and punishable by law.

Sec 4-3. - Requirement for coops, pens for domestic fowl

- (a) Each person owning or having custody or control of domestic fowl within the Town shall provide a suitable coop or other enclosure. Such coop or other enclosure shall at all times be maintained in a safe, clean, and sanitary condition, free from accumulations of excrement and other unsanitary or offensive substances, liquids or odors.
- (b) No coop or other enclosure for domestic fowl shall be constructed less than 40 feet from a residence without the permission of the residents.
- (c) [reserved for penalty].

State law reference— Code of Virginia, § 3.2-6544; 15.2-1115; 3.1-796.94

Sec 4-4. - Animals running free

- (a) No owner or custodian of animals or domestic fowl shall cause, allow, or fail to take action to prevent animals or domestic fowl running free in the Town outside of the boundaries of the owner's or custodian's property.
- (b) [reserved for penalty]

State law reference— Code of Virginia, § 15.2-1115; 3.1-796.94

On Lifting the Laying Hen Ban

Promoting Sustainability in Berryville

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Personal Introduction

- My wife and I live on Main Street in Berryville.
- We eat local organic free-range eggs due to health problems associated with herbicides, pesticides and bleach concentrations that exist in large-scale commercially-produced eggs.
- For additional health reasons, my wife and I have a diet that consists of a large number of eggs: we consume approximately 2 ½-3 dozen eggs a week. At \$4.75-\$5 per dozen, that is a weekly grocery cost of \$12-\$15 just for eggs.
- We want to keep laying-hens
 - o To cut our grocery bill significantly, due to our limited budget
 - o To exercise our freedom to eat healthier, fresher food
 - o To reduce dependency on large poultry corporations who keep unhealthy chickens.
 - o To produce compost for our garden which we keep for the grocery bill reduction and the health reasons as well as the improvement of the micro-environment of our backyard
 - o To be able to teach our future children about food and how to raise animals humanely in a naturally diverse environment that is enjoyable for the chickens

Why Have Chickens in Berryville?

Resident Point of View

- Freedom to choose healthiest freshest eggs
- Freedom to cut food costs through DIY
- Organic and sustainable food sourcing
- Pest Control (Chickens eat bugs in your yard)
- Weed Control (Chickens eat seed heads in your yard)
- Disease Control (Chickens eat ticks, reducing Lyme Disease carriers)
- Fuel savings via fewer trips to grocery
- Entertainment
- Good for teaching children about animals, food, and sustainability
- Encouraging the proper keeping and care of laying hens

Town Point of View

- Promotes freedom while at the same time keeping order by requiring personal responsibility of residents who keep egg layers
- Pest Control (chickens eat bugs, reducing town populations of pests)
- Weed Control (chickens eat seed heads, reducing noxious weeds in town)
- Disease Control (chickens eat ticks, reducing Lyme Disease carriers)
- Lower waste levels through feeding kitchen scraps to chickens, not disposing of egg cartons every week.
- Environmental benefits (Improvement of soil through fertilization and daily micro-tilling, non-chemical pest management, non-chemical weed management, decrease in vehicle emissions via fewer trips to grocery)

Proposed Town Code Changes

Amend Code of Berryville § 4-1(a) to read as follows:

- (a) It shall be unlawful and a Class 3 misdemeanor for any person to keep or maintain any hog, pig, swine, horse, mule, goat, or any other animal of the livestock kind, or any chicken, goose or other domestic fowl within the corporate limits of the town; except that:
 1. horses, mules, cattle or goats may be maintained on parcels larger than ten (10) acres in size, provided that the number of such animals does not exceed one (1) animal per each four acres, and
 2. Up to fifteen (15) chicken hens may be maintained on parcels larger than five thousand (5,000) square feet, provided that the number of such animals does not exceed one (1) animal per each thirteen hundred (1,300) square feet.

NEW Code Sections

- New section 4-W. Requirement for coops, pens, setbacks etc.
 - (a) Domestic fowl maintained on a parcel within the corporate limits of the town may not be maintained forward of the rear wall of the principal structure. For the purposes of this section, forward shall mean toward the side closest to the public road that fronts the property.
 - (b) Each person owning or having custody or control of domestic fowl within the Town shall provide a suitable coop or other enclosure. It shall be his duty to maintain such place at all times in a safe, clean and sanitary condition, free from excrement and other unsanitary or offensive substances, liquids or odors.
 - (c) The coop or other enclosure provided in subsection (b) above shall have a required setback of no less than 5 feet from the property boundary, and no less than 40 feet from each principal structure on each neighboring parcel.
 - (d) No domestic fowl shall be maintained within 8 feet of the center line of any recognized drainage swale.
 - (e) A violation of this section shall constitute a class 4 misdemeanor.

State law reference— Code of Virginia, § 3.2-8544; 15.2-1115; 3.1-796.94

- New section 4-X. Animals causing disturbances
 - (a) No person shall keep or harbor within the Town any animal which causes, emits or gives to vent incessant noises or odors of such a kind or character as to disturb any inhabitant of the Town in the reasonable use and enjoyment of his property, or cause any person of ordinary sensibilities any actual physical discomfort.
 - (b) If a complaint is lodged with the Town police regarding a violation of subsection (a) above, the animal's owner shall receive one written notification of the offense. For each subsequent offense, the owner shall pay a fine of not more than \$25.00 for the second offense, and no more than \$50.00 for each subsequent offense. Each occurrence after written notice shall constitute a separate offense.

State law reference— Code of Virginia, § 15.2-1115; 3,1-796.94

NOTE: Parts of new section 4-X may be unnecessary as noise is already addressed in Code of Berryville § 11-16

- **New section 4-Y. Storage of animal feed**
 - (a) Feed within the Town for feeding chickens, cows, pigs, horses and other animals shall be stored in rat-free and rat-resistant containers, compartments or rooms unless stored in a rat-resistant building.
 - (b) A violation of this section shall result in a written notice of the offense and a fine of not more than \$50 for each offense. If the violation is not remedied within 24 hours, each 24 hour period after written notice shall constitute a separate offense.

- **New section 4-Z. Animals and fowl running free**
 - (a) No owner or custodian of animals or domestic fowl shall cause, allow, or fail to prevent animals or domestic fowl running free in the Town outside of the boundaries of the owner's or custodian's property.
 - (b) If a complaint is lodged with the Town police regarding a violation of subsection (a) above, the animal's owner shall receive a written notice of the offense and pay a fine of not more than \$25.00 for the first offense, and no more than \$50.00 for each subsequent offense. Each occurrence after written notice shall constitute a separate offense.

NOTE: New section 4-Z is a section of code that resembles some of the former (now empty and reserved) sections 4-4 and 4-5. The proper action may be to reinstitute the old section rather than write this new section

Considerations Regarding Lifting the Laying Hen Ban

Resident Point of View

- Noise
 - o *Already addressed by Code of Berryville § 11-16*
 - o *Addressed by NEW SECTION 4-X: prohibits incessant noise that disturb reasonable use and enjoyment of private property; and 4-W requiring setbacks from property line and neighboring principal structures*
- Smell
 - o *Addressed by NEW SECTION 4-X: prohibits incessant odors that disturb reasonable use and enjoyment of private property; and 4-W requiring setbacks from property line and neighboring principal structures, as well as requiring that the coop remain clean*
 - o *Addressed by Code of Berryville § 8-2: prohibits health-harming accumulations of litter, refuse etc.*

Town Point of View

- Town generally being turned into a barnyard
 - o *Number of chickens is limited by PROPOSED AMENDED § 4-1(a)(2)*
 - o *Lot size is limited directly by PROPOSED AMENDED § 4-1(a)(2) and indirectly by the setbacks required in NEW SECTION 4-W(c)*
 - o *Chickens not allowed in front yards by NEW SECTION 4-W(a)*
 - o *Suitable coops or enclosures are required and must be kept clean under NEW SECTION 4-W(b)*
 - o *No roosters allowed by Code of Berryville § 11-16*
 - o *Smell problems addressed by NEW SECTION 4-X and NEW SECTION 4-W(b)*
 - o *Manure health and smell problems addressed by Code of Berryville § 8-2*
 - o *Chickens are prohibited from running free, with a fine for each offense under NEW SECTION 4-Z*
- Increase in predators in town
 - o *Impact would be negligible since the high population of wild rabbits--the number 1 prey animal--and squirrels in town has not attracted significant predators, neither have any pet rabbits, cats or small dogs caused other predation problems.*
- Increase in rodents in Town
 - o *Addressed by NEW SECTION 4-Y*
- Environmental concerns
 - o *Water contamination by manure would be prevented by NEW SECTION 4-W(d) requiring a setback from drainage swales.*
- Chickens running free
 - o *Addressed by NEW SECTION 4-Z*
- Residents abandoning chickens
 - o *Purposeful abandonment already prohibited by Code of Berryville § 4-8 and § 4-9*
- Someone running a slaughterhouse out of their home

- *This would be a business requiring a license, which would not be granted for a home pursuant to Code of Berryville § 9-9, enforceable by code against operating unlicensed business.*
- *Additionally, PROPOSED AMENDED § 4-1(a)(2) limiting the number of hens would also discourage this type of activity from the start.*
- Chickens dying naturally, disposal problems
 - *Addressed by Code of Berryville § 4-10*
- Disposal of older chickens when laying stops.
 - *Keeping the chicken until natural death is addressed by Code of Berryville § 4-10.*
 - *Slaughter of "retired" chickens for personal consumption would be treated like the occasional processing of a deer for personal consumption by hunters in their backyard or garage. The opinion of the Town as laid out in Code of Berryville § 4-10(c) "Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner" indicates that the Town allows for animals and fowl on property in Town to be used for personal consumption.*
- Chickens being mistreated
 - *Addressed by Code of Berryville § 4-7 and § 4-9*
- Disease
 - *Diseases thrive in high density concentrations of single species (mono-culture), such as those that exist at large commercial egg facilities. Limiting flock size [PROPOSED AMENDED § 4-1(a)(2)] and lot size [NEW SECTION 4-W(a)] prevents the local ecosystem from being overloaded by a single species. The diversity of other local flora and fauna, the limited flock size, the minimum lot size, and the coop sanitation requirements [NEW SECTION 4-W(h)] prevent disease.*
 - *There has never been a recorded instance of a contagious poultry or avian disease that began, strengthened, or increased by a properly maintained non-mono-culture flock of chickens, much less a flock limited in size and separated from other flocks via proper size lots.*
 - *Code of Berryville § 8-2, and NEW SECTIONS 4-W(b) and 4-X, would prevent the unhealthy accumulation of chicken litter and encourage proper disposal/composting.*
 - *Water contamination by manure would be prevented by NEW SECTION 4-W(d)*
 - *Spread of disease by rodents would be countered by NEW SECTION 4-Y*
- Implementation cost for the Town
 - *The proposed amendment to § 4-1(a) would only be a slight change to the way it is currently implemented, namely that some people with laying hens now won't be in violation.*
 - *New sections 4-W and 4-X will be implemented the same way any other neighbor complaint is made. Complaints are currently taken and addressed, and allowing a limited number of laying hens will not increase the number of complaints by an significant amount. If the number of complaints does increase and they are well-founded then the Town will be able to recoup costs via the various fines laid out in the*

new sections. The drainage swale setback would also be enforced by the same methods any other environmental concern is addressed.

- *Cost for pursuing infractions under 4-X, 4-Y, and 4-Z will be offset by fines delineated under those sections.*

Current Berryville Town Code

Items in red would be affected by a change in code.

Sec. 4-1. - Fowl and certain animals prohibited.

(a)

It shall be unlawful and a Class 3 misdemeanor for any person to keep or maintain any hog, pig, swine, horse, mule, goat, or any other animal of the livestock kind, or any chicken, goose or other domestic fowl within the corporate limits of the town; except that horses, mules, cattle or goats may be maintained on parcels larger than ten (10) acres in size, provided that the number of such animals does not exceed one (1) animal per each four acres.

(b)

Each day upon which a violation of this section shall continue shall constitute a separate violation enforceable and punishable by law.

(Ord. of 9-8-92; Ord. of 4-11-00)

Editor's note— Ord. of Sept. 8, 1992, repealed §§ 4-1—4-5 and enacted new provisions designated as §§ 4-1 and 4-2 to read as herein set out. Former §§ 4-1—4-5, pertained to permit to keep livestock; maintenance of premises where livestock kept; keeping of swine prohibited; livestock or fowl running at large; county public nuisance dog ordinance applicable within town. See the Code Comparative Table.

Sec. 4-2. - Commercial kennels and breeding operations prohibited; limitation of dogs kept or maintained.

(a)

It shall be unlawful and a Class 3 misdemeanor for any person to keep or maintain any outdoor commercial boarding and/or breeding kennel or other commercial breeding operation or business, or keep or maintain more than four (4) dogs of more than four (4) months of age within the corporation limits of the town. This prohibition shall not apply to any otherwise lawful pet shop or store located within a fully enclosed structure in a commercial zoning district.

(b)

Each day upon which a violation of this section shall continue shall constitute a separate violation enforceable and punishable by law.

(Ord. of 9-8-92)

Note—See the editor's note at § 4-1

Secs. 4-3—4-5. - Reserved.

Note—See the editor's note at § 4-1

Sec. 4-6. - Destructive cats running at large.

(a)

For the purposes of this section, a "destructive cat" is a cat which injures, damages or destroys property of any person other than the owner or custodian of the cat or which disturbs or scatters garbage or trash canned or bagged for disposal.

(b)

It shall be unlawful for any person to permit a destructive cat owned by him or in his possession or under his control to run at large within the town.

(c)

Upon complaint being made to the chief of police that the provisions of this section are being violated, such officer may, after investigation, give notice of such complaint to the owner or person in possession of such cat and order such owner or person to confine or dispose of such cat. It shall be unlawful for any person to fail to comply with such order.

(d)

A violation of this section shall constitute a Class 4 misdemeanor.

(Ord. of 4-9-74)

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

Sec. 4-7. - Cruelty to animals.

(a)

Any person who:

(1)

Overrides, overdrives, overloads, tortures, ill-treats, abandons (except as provided in section 4-8), willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation to, or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to him or another, or deprives any animal of necessary sustenance, food, drink or shelter, or causes any of the above things or, being the owner of such animal, permits such acts to be done by another; or

(2)

Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or

(3)

Shall carry or caused to be carried, in or upon any vehicle or vessel or otherwise, any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering.

shall be guilty of a Class 1 misdemeanor.

(b)

Nothing in this section shall be construed to prohibit the dehorning of cattle.

(Code 1971, § 4-6)

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

State law reference— Similar provisions, Code of Virginia, § 18.2-392; general authority of town to prevent cruelty to animals, § 15.1-870; specific authority to adopt above section, § 15.1-29.1:1.

Sec. 4-8. - Abandoning domesticated animals in public place or on property of another.

Any person who shall abandon any dog, cat or other domesticated animal in any public place, including the right-of-way of any public highway, road or street, or on the property of another shall be guilty of a Class 3 misdemeanor.

Cross reference— Penalty for Class 3 misdemeanor, § 1-11.

State law reference— Similar provisions, Code of Virginia, § 18.2-392; general authority of town to prevent cruelty to animals, § 15.1-870; specific authority to adopt above section, § 15.1-29.1:1.

Sec. 4-9. - Application of sections 4-7 and 4-8 to birds and fowl.

The word "animal," as used in sections 4-7 and 4-8, shall be construed to include birds and fowl.

(Code 1971, § 4-6)

State law reference— Similar provisions, Code of Virginia, § 18.2-396.

Sec. 4-10. - Disposition of dead animals and fowl.

(a)

The owner of any animal or grown fowl which has died, when he knows of such death, shall be forthwith have its body cremated or buried. If he fails to do so, then, pursuant to section 18.2-510 of the Code of Virginia, any judge of a general district court, after notice to the owner, if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer, or other person designated for the purpose, and the officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried, the actual cost of the cremation or burial, not to exceed seventy-five dollars (\$75.00), and of the owner of every such fowl so cremated or buried, the actual cost of the cremation or burial, not to exceed five dollars (\$5.00), to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.

(b)

Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.

(c)

Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

Cross reference— Penalty for Class 4 misdemeanor, § 1-1.1.

State law reference— Similar provisions, Code of Virginia, § 18.2-510; burial or cremation of dead dogs, Code of Virginia, § 29-213.27.

Secs. 4-11—4-20. - Reserved.

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 designated by the council. Reasonable notice of the date fixed by the council for such removal shall be given by newspaper publication, mail or delivery of a written notice to each owner of 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.

Sec. 13-32. - Removal of trash, garbage, etc., weeds and other foreign growth; disposal of trash and garbage.

(a)

The owners of property in the town shall, at such time or times as the council may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the town, and shall cut or provide for the cutting thereon of grass, weeds and other foreign growth at intervals to be designated by council or as often as may be necessary to prevent breeding and harboring places for insects, reptiles and rodents and to prevent other hazards to the health or safety of residents of the town or other nuisances. Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law. In the

event the owner of any property in the town shall fail to take such action, council may, whenever it is deemed necessary, and after reasonable notice, have such trash, garbage, refuse, litter and other like substances which might endanger the health of other residents of the town, removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes and levies are collected.

(b)

The owners of vacant developed or undeveloped property in the town, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth on such property or any part thereof at such time or times as council shall prescribe. Council may, whenever it is deemed necessary, after reasonable notice, have such grass, weeds or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the town as taxes and levies are collected.

(c)

Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law.

(d)

That every charge authorized by this section with which the owner and lienholder of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1, Code of Virginia, 1950, as amended.

(Code 1971, § 8-4; Ord. of 9-8-87; Ord. of 3-14-92; Ord. of 9-12-95)

Cross reference— Removal of accumulations of garbage and refuse; § 8-2.

State law reference— Authority for above section, Code of Virginia, §§ 15.1-11, 15.1-867.

Sec. 9-9. - License not to be issued contrary to zoning regulations.

The town treasurer shall not issue a license for conducting any business, profession, trade or occupation at a location where the conduct of such business, profession, trade or occupation is prohibited by the zoning regulations of the town. All such licenses shall be subject to verification to ascertain compliance with the zoning regulations. Failure to comply shall be just cause for immediate revocation of the license by the town treasurer.

Sec. 11-16. - Noisy animals and fowl.

No person shall have or keep within the town any animal or fowl which, by making or causing frequent or long continued and unreasonable noise, shall disturb the comfort and repose of any person in the vicinity. Upon complaint being made to the chief of police that the provisions of this section are being violated, such officer may, after investigation, give notice of such complaint to the owner or person in charge of such animal or fowl and order the discontinuance of the disturbance. It shall be unlawful for any person to fail to comply with such order.

Neighboring Municipal Codes Concerning the Keeping of Fowl/Poultry

Town of Boyce
Keeping of Poultry

CHAPTER 93: ANIMALS

GENERAL PROVISIONS.

All regulations concerning animal regulation, which shall include licenses, are under the jurisdiction of the County.

Statutory reference:

Comprehensive Animal Laws, see Code of Virginia § 3.1-796.66 et seq.

§ 93.01 CERTAIN FOWL AND ANIMALS PROHIBITED

(A) **Fowl:** It shall be unlawful for any person to own, keep or maintain any chicken, goose or other domestic fowl within the corporate limits of the Town.

(B) **Swine:** It shall be unlawful for any person to own, keep or maintain any hog, pig, swine or any other porcine animal within the corporate limits of the Town.

(C) **Other Hoofed Animals:** It shall be unlawful for any person to own or keep any other hoofed animal, such as burro, cow, goat, horse, llama, mule, sheep, or any other bovine or equine animal within the corporate limits of the Town on parcels of less than three acres. Such animals may be maintained on parcels of three acres or more provided that the number of such animals does not exceed a total of two adult animals per acre (not including juvenile animals being nursed by permitted animals).

(D) **Exceptions:** The specific prohibitions of animals and fowl listed above are not applicable to the following:

(1) The temporary maintenance or keeping of animals and fowl by a licensed veterinarian in connection with that veterinarian's business, and

(2) The transportation of animals or fowl through the Town when the length of stay in the Town is no longer than 24 hours.

Penalty: Class 3 misdemeanor. See Paragraph 10.99

Town of Purcellville
Keeping of Poultry

Chap. 10, Art. 1, Sec. 10-3. - Confinement of fowl.

The owner or custodian of any fowl shall keep such fowl on his premises. No roosters are permitted within the corporate limits.

Other Related Code

Chap. 10, Art. II, Sec. 10-53. - Dogs killing, injuring or chasing livestock or poultry.

It shall be the duty of any animal control officer, or other officer who may find a dog in the act of killing or injuring livestock or poultry, to kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight, as shall any owner of the livestock; or chasing livestock on land lawfully utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer. Any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian or harbinger of the dog to produce the animal.

Any animal control officer, who has reason to believe that a dog is killing livestock or poultry, shall be empowered to seize such dog solely for the purpose of examining such animal in order to determine whether it committed any of the depredations mentioned herein. Any animal control officer or other person who has reason to believe that any dog is killing livestock or committing any of the depredations mentioned in this section, shall apply to a magistrate of the county or town wherein such dog may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before the general district court at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the dog be:

- (1) Killed immediately by the animal control officer or other officer designated by the court, or
- (2) Removed to another state, which does not border on the commonwealth and prohibited from returning to the commonwealth.

Any dog ordered removed from the commonwealth, which is later found in the commonwealth shall be order by a court to be killed immediately.

(Ord. No. 00-9-3, 4-10-2001)

Sec. 10-54. - Compensation for livestock and poultry killed by dogs.

Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry, not to exceed \$400.00 per animal or \$10.00 per fowl, provided that: (i) the animal control officer or other officer shall have been notified of the incident within 72 hours of its discovery; (ii) the claimant has furnished evidence within 60 days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog; and (iii) the claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought.

Exhaustion shall mean a judgment against the owner of the animal upon which an execution has been returned unsatisfied.

The requirements of (i) and (iii) may be waived if the animal control officer has investigated the incident and supports the claim. Upon payment under this section the county shall be subrogated to the right of action of the owner of the livestock or poultry against the owner of the dog to the extent of compensation paid, and may enforce the same in an appropriate action at law.

Town of Round Hill Keeping of Poultry

Chapter 3, Sec. 3-2. Confinement of fowl

The owner or custodian of any fowl shall keep such fowl on his premises.

Town of Stephens City Keeping of Poultry

Chap 3, Art I., Sec 3-2 Animals running at large.

- (a) No person shall permit any animal owned or harbored by him to run at large within the Town.
- (b) If an animal is found running at large, its owner shall receive one written notification, either from the affected landowner, the County animal control officer, or any other officer or Town policeman, of the offense. For each subsequent offense, the owner shall pay a fine of \$25.00, in addition to any expenses incurred due to the seizure or penning.

State Law Reference: §3.1-796.93; 3.1-796.94:1, 3.1-796-100.

Sec 3-3 Animals causing disturbances

- (a) No person shall keep or harbor within the Town any animal which causes, emits or gives to vent incessant noises or odors of such a kind or character as to disturb any inhabitant of the Town in the reasonable use and enjoyment of his property, or cause any person of ordinary sensibilities any actual physical discomfort.
- (b) If a complaint is lodged with the Town police regarding a violation of subsection (a) above, the animal's owner shall receive one written notification of the offense. For each subsequent offense, the owner shall pay a fine of not more than \$25.00 for the second offense, and no more than \$50.00 for each subsequent offense. Each occurrence after written notice shall constitute a separate offense.

State Law Reference: 15.2-1115; 3.1-796.94

Sec 3-5 Requirement for coops, pens, etc.

- (a) Each person owning or having custody or control of an animal within the Town shall provide a suitable pen, coop or other enclosure. It shall be his duty to maintain such place at all times in a safe, clean and sanitary condition, free from excrement and other unsanitary or offensive substances, liquids or odors so as not to violate Section 3-3 above.
- (b) If a complaint is lodged with the Town police regarding a violation of subsection (a) above, the animal's owner shall receive one written notification of the offense: For each subsequent offense, the owner shall pay a fine of not more than \$25.00 for the second offense, and no more than \$50.00 for each subsequent offense. Each occurrence after written notice shall constitute a separate offense.

State Law Reference 3.2-6544; 15.2-1115; 3.1-796.94

City of Winchester

Keeping of Poultry

SECTION 5-1. VIOLATIONS OF CHAPTER.

Except as otherwise specifically provided, any person violating any provision of this chapter shall be guilty of a Class 4 misdemeanor. (Code 1978, §4-1).

SECTION 5-4. LIVESTOCK OR FOWL RUNNING AT LARGE.

It shall be unlawful for any person to permit any livestock or fowl owned or kept by him to run at large within the corporate limits of the City.
(Code 1959, §§4-1, 4-4; Ord. No. 003-85, 3-12-85)

SECTION 5-14. KEEPING LIVESTOCK AND FOWL WITHIN THE CITY LIMITS.

(a) For the purposes of this section:

(1) The term "livestock" refers to all breeds of cattle, goats, horses, llamas, sheep, and swine, including miniatures of each.

(2) The term "fowl" refers to all breeds of chickens, ducks, geese, guineafowl, peafowl, swans, and turkeys.

(b) It shall be unlawful for any person to raise or keep livestock or fowl within the City with the exception of the following:

(1) The property on which the livestock or fowl is kept is at least two acres in size, and

(2) The livestock or fowl are securely fenced or are otherwise prevented from escape.

(c) On properties of two or more acres, one animal unit is allowed for each acre in the property which is set aside for animal use.

(1) An animal unit consists of:

(a) one (1) bull, cow, llama, or steer; or

(b) three (3) horses; or

(c) six (6) goats, sheep, or swine or any combination thereof; or

(d) twelve (12) chickens, ducks, geese, guineafowl, peafowl, or swans or any combination thereof.

(2) For horses, goats, sheep, swine, chickens, ducks, geese, guineafowl, peafowl or swans the number of animals shall be rounded to the next higher whole unit.

(3) For the purposes of subsection (c), an animal shall not be counted until it reaches the age of eight months.

(d) Animals' owners shall be subject to the City sound restrictions (Chapter 17 of this Code) with regard to noises.

(Ord. No. 026-93, 9-14-93)

Changes since January 28 are highlighted

CHAPTER 4 Animals and Fowl

ARTICLE I. In General

Sec. 4-1 Fowl and Certain animals prohibited.

(a) It shall be unlawful and a ~~Class 3 misdemeanor~~ for any person to keep and maintain any hog, pig, swine, horse, mule, donkey, llama, alpaca, goat, or other animal of the livestock kind, or any chicken, goose, duck or other domestic fowl within the corporate limits of the town; except that with a valid livestock animal/fowl permit:

1. horses, mules, donkeys, cattle, llamas, alpacas, or goats may be maintained on residentially zoned parcels larger than ten (10) acres in size, provided that the total number of such animals complies with the requirements of Sections 4-1-b and 4-1-d of this Code does not exceed one (1) animal per each four acres, and
2. chicken hens may be maintained on residentially zoned parcels larger than 2/10 of an acre seven thousand five hundred (7,500) square feet in size, provided that the total number of such animals complies with the requirements of Sections 4-1-b and 4-1-d of this Code and that no eggs or the products produced by the chicken hens may be sold.

(b) The number of animals kept within the corporate limits of the town in accordance with Sections 4-1 (a) 1 and 4-1 (a) 2 of this Code may not exceed:

1. The total number of horses, mules, donkeys, cattle, llamas, alpacas or goats may not exceed one (1) animal per each two (2) acres.
2. The total number of chicken hens may not exceed the number enumerated below for the size of the parcel on which the chicken hens are maintained:
4 hens on parcels between 2/10 of an acre and 1 acre 7,500 and 13,559 square feet in size
8 hens on parcels larger than between 1 and 5 acres in size
16 hens on parcels larger than 5 acres in size

(c) Any person keeping an animal in accordance with Sections 4-1 (a) 1 and 4-1 (a) 2 of this Code shall maintain the animals and the property on which they are kept in accordance with the following standards and in accordance with other applicable code requirements:

1. No owner or custodian of animals shall cause or allow animals to run free in the Town outside of the boundaries of the owner's or custodian's property.
2. No owner or custodian of animals shall keep or harbor any animal which causes, or emits or gives to vent incessant noises or odors of such a kind or character as to disturb any inhabitant of the Town in the reasonable use and enjoyment of this property, or cause any person of ordinary sensibilities any actual physical discomfort.

3. No owner or custodian of animals shall allow property or enclosures to become unsanitary and must keep property and enclosures free from excrement and other unsanitary or offensive substances or liquids.
4. No owner or custodian of animals shall feed said animals or chicken hens or store feed materials in a manner that attracts rodents or other vermin.
5. No owner or custodian of chicken hens shall erect or maintain any coop, pen, or other such enclosures within five (5) feet of any property line, within forty (40) feet of any principal structure on adjoining centerline parcels, within five (5) ten (10) feet of the centerline of a defined channel, drainage ditch, or swale, or at any point between a street and the rear wall of the principal structure on the parcel in question. No coop, pen or other such enclosure may exceed six (6) feet in height.

(d) Permits

1. A livestock animal/fowl permit shall be obtained by a property owner prior to keeping any animals regulated under this section. The Permit shall, at a minimum, provide certification by the owner of the property on which the animals will be maintained that the owner and any tenants will abide by all provisions of the Chapter and consent by all adjoining property owners.
2. The Council shall establish a permit fee.
3. Livestock animal/fowl permits, once issued, will remain valid for a period of five (5) years unless the material facts provided as a part of the permitting change or such permit is revoked for non-compliance with provisions of this section.
4. No livestock animal/fowl permit may be issued to maintain permitted animals on any property for which a livestock animal/fowl permit has been revoked in the preceding twelve (12) months.
5. Citizens may initiate their own criminal or civil proceeding to resolve a violation of this section by entering a complaint by a warrant issued against the owner of the animals involved.

(e) Enforcement

1. Violation of this section shall constitute a Class 3 misdemeanor.
2. Each day upon which a violation of this section shall continue shall constitute a separate violation enforceable and punishable by law.
3. In addition to initiation of enforcement remedies, upon property owner's failure to bring their property and animals in to compliance with this section within 15 days of the date of the issuance of a non-compliance notice, the Town shall also revoke livestock animal/fowl permit.

Sec. 4-2. - Commercial kennels and breeding operations prohibited; limitation of dogs kept or maintained.

(a) It shall be unlawful and a Class 3 misdemeanor for any person to keep or maintain any outdoor commercial boarding and/or breeding kennel or other commercial breeding operation or business, or keep or maintain more than four (4) dogs of more than four (4) months of age within the corporation limits of the town. This prohibition shall not apply to any otherwise lawful pet shop or store located within a fully enclosed structure in a commercial zoning district.

(b) Enforcement

1. Violation of this section shall constitute a Class 3 misdemeanor.
2. Each day upon which a violation of this section shall continue shall constitute a separate violation enforceable and punishable by law.

Secs. 4-3--4-5. - Reserved.

Sec. 4-6. - Destructive cats running at large. Animals.

~~(a) For the purposes of this section, a "destructive cat" is a cat which injures, damages or destroys property of any person other than the owner or custodian of the cat or which disturbs or scatters garbage or trash canned or bagged for disposal. No owner of an animal shall cause or allow an animal to go upon the land of any other person and damage or destroy any garden, shrub, grass, or other property thereon or scatters garbage canned for disposal.~~

~~(b) It shall be unlawful for any person to permit a destructive cat owned by him or in his possession or under his control to run at large within the town. Any person owning property which is damaged or destroyed by any violation described in this section may ~~initiate~~ ^{institute} their own criminal or civil proceeding by entering a complaint by a warrant issued against the owner of the animal involved.~~

~~(c) Upon complaint being made to the chief of police that the provisions of this section are being violated, such officer may, after investigation, give notice of such complaint to the owner or person in possession of such cat and order such owner or person to confine or dispose of such cat. It shall be unlawful for any person to fail to comply with such order.~~

~~(d) A violation of this section shall constitute a Class 4 misdemeanor. Upon a second conviction within one (1) year of a violation of this section involving the same animal, in addition to imposing a fine for the violation, the judge may order the owner of the animal to take it into custody and to confine it in such a way that it will not be permitted to run at large at any time.~~

Sec. 4-7. - Cruelty to animals.

~~(a) Any person who:~~

- ~~(1) Overrides, overdrives, overloads, tortures, ill-treats, abandons (except as provided in section 4-8), willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation to, or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to him or another, or deprives any animal of necessary sustenance, food, drink or shelter, or causes any of the above things or, being the owner of such animal, permits such acts to be done by another; or~~

~~(2) Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or~~

~~(3) Shall carry or caused to be carried, in or upon any vehicle or vessel or otherwise, any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering, shall be guilty of a Class 1 misdemeanor.~~

~~(b) Nothing in this section shall be construed to prohibit the dehorning of cattle.~~

~~Sec. 4-8. - Abandoning domesticated animals in public place or on property of another.~~

~~Any person who shall abandon any dog, cat or other domesticated animal in any public place, including the right-of-way of any public highway, road or street, or on the property of another shall be guilty of a Class 3 misdemeanor.~~

Secs. 4-7-4-8 Reserved

Sec. 4-9. - Application of sections 4-7 and 4-8 to birds and fowl.

The word "animal," as used in ~~sections 4-7 and 4-8~~ this chapter, shall be construed to include birds and fowl.

Sec. 4-10. - Disposition of dead animals and fowl.

(a) The owner of any animal or grown fowl which has died, when he knows of such death, shall be forthwith have its body cremated or buried. If he fails to do so, then, pursuant to section 18.2-510 of the Code of Virginia, any judge of a general district court, after notice to the owner, if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer, or other person designated for the purpose, and the officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried, the actual cost of the cremation or burial, not to exceed seventy-five dollars (\$75.00), and of the owner of every such fowl so cremated or buried, the actual cost of the cremation or burial, not to exceed five dollars (\$5.00), to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.

(b) Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.

(c) Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

Secs. 4-11—4-20. - Reserved.

Sec. 4-21. - Running at large.

During all months of the year, it shall be unlawful for the owner of any dog to permit his dog to run at large within the town.

For the purposes of this article running at large shall mean the act of roaming, running or self-hunting off the property of its owner or custodian and not under the immediate control of its owner or custodian.

Sec. 4-22. - License.

It shall be unlawful for any person to own a dog unless such dog is licensed as required by the Code of the County of Clarke, Virginia. Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed and the burden of proof of the fact that such dog has been licensed, or is not otherwise required to bear a tag at the time, shall be on the owner of the dog.

Sec. 4-23. - Displaying license receipts; dogs to wear tags.

Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal warden or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. The owner of the dog may remove the collar and license tag required by this section when (i) the dog is competing in a dog show, (ii) the dog is confined, or (iii) the dog is under the immediate control of its owner.

Sec. 4-24. - Leash law.

(a) It shall be unlawful for the owner, custodian or any person having a dog in his possession to fail to keep and maintain the dog under restraint and control at all times.

(b) For the purposes of this section, a dog is deemed under restraint and control only when:

- (1) The dog is securely confined within a parked or moving motor vehicle; or
- (2) The dog is properly confined within a secure enclosure with the permission of the owner of the property where the enclosure is located; or
- (3) The dog is securely restrained by a secure collar and leash or other device, not harmful to the dog, having a minimum tensile strength sufficiently in excess of that required to restrict the dog's movements to a radius of no more than three (3) feet of the person owning, having custody of or possessing the dog who shall be physically capable of restricting the dog's movements.

(c) This section shall not apply to any person whose dog is under the direct supervision while such dog is participating in a supervised dog show or exhibition, or in a formal dog obedience training class or program.

Sec. 4-25. - Unlawful to allow dogs to urinate or defecate on public or private property; exception. It shall be unlawful for any owner or person in custody of a dog to:

- (1) Knowingly or willfully allow the dog to urinate or defecate on the private property of other persons without the consent of such persons.

(2) Knowingly or willfully allow the dog to ~~urinate or~~ defecate on public property, except that defecation by a dog on public property shall not constitute a violation of this section if the owner or person in custody of the dog immediately removes the material defecated and disposes of it in a safe and sanitary manner.

(3) Any person owning property on which a dog is permitted to urinate or defecate without consent may enter a complaint by a warrant issued against the owner of the dog involved.

Sec. 4-26. - Barking dogs to be controlled; citizen cooperation; direction by a law enforcement officer.

(a) It shall be unlawful for any owner of a dog to keep a dog without exercising proper care and control of such dog to prevent it from disturbing the peace of others by unprovoked barking in a continuous or untimely manner, after the owner has been notified of such disturbance. Owners of dogs shall be responsible for exercising control of such dog under this section.

(b) For the purpose of this section, a continuous manner shall be deemed a dog barking for an uninterrupted period of thirty (30) minutes.

(c) For the purpose of this section, an untimely manner shall be deemed between the hours of 11:00 p.m. and 7:00 a.m.

(d) Citizens affected by a barking dog are requested to contact the dog's owner, prior to contacting the town to attempt to resolve differences and objections with the owner of the barking dog.

(e) A law enforcement officer may direct the owner of a dog found barking in a loud, continuous or untimely manner to exercise proper control and care of such dog to prevent it from barking in such manner. A law enforcement officer assigned to investigate a violation of this section shall record all initial violations through the use of a compliance notice. Any subsequent violations that occur twenty-four (24) hours after a compliance notice is issued will cause a law enforcement officer on behalf of the town to institute a criminal or civil proceeding against any person he finds in violation of this section.

(f) Citizens may ~~initiate institute~~ their own criminal or civil proceeding to resolve a barking dog problem by entering a complaint by a warrant issued against the owner of the dog involved.

Sec. 4-27. - Confinement in case of hydrophobia.

Whenever there may be a case of hydrophobia in the town, the town manager, chief of police, animal control officer and/or health department official shall have the power to direct that all dogs be confined for a reasonable length of time. Upon issuance of a declaration of confinement of all dogs, all dogs shall be confined in accordance with the terms thereof.

Sec. 4-28. - Duties and liabilities of parents or other persons standing in loco parentis.

Any custodial parent or other person standing in loco parentis to a child who has knowledge that such child owns, possesses, harbors, has custody of or is sheltering a dog shall be subject to all the duties, liabilities and responsibilities imposed by this chapter as if such parent or person were the owner of such dog.

Sec. 4-29. - Severability.

If any section, sentence, clause, phrase or provision of this article or the application thereof to any person or circumstance is held invalid or unconstitutional by any court of competent jurisdiction, that holding or decision shall not affect other provisions or applications of this article which can be given effect without the invalid provisions or application, and to this end the provisions of this article are severable.

Sec. 4-30. - Violation of article.

Unless otherwise provided, any violation of the provisions of this article shall constitute and be punishable as a Class 4 misdemeanor.

~~ARTICLE III. - DANGEROUS OR VICIOUS DOGS {3}~~

~~Sec. 4-41. - Dangerous or vicious dogs.~~

~~{a} - As used in this article, dangerous dog means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal, and vicious dog means a canine or canine crossbreed which has:~~

~~{1} - Killed a person;~~

~~{2} - Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of bodily function; or~~

~~{3} - Continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.~~

~~{b} - Any animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3-1-796.119 of the Code of Virginia.~~

~~{c} - No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the local governing body prohibit the ownership of a particular breed of canine or canine crossbreed. No animal shall be found to be dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was:~~

~~{1} - Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;~~

~~{2} - Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or~~

~~(3) — Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.~~

~~No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous or vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous or a vicious dog.~~

~~(d) — The owner of any animal found to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of fifty dollars (\$50.00) in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.~~

~~(e) — All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence:~~

~~(1) — Of the animal's current rabies vaccination, if applicable; and~~

~~(2) — That the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed,~~

~~In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that:~~

~~(3) — Their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and~~

~~(4) — The animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.~~

~~(f) — While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.~~

~~(g) — If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.~~

~~(h) — After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal:~~

~~(1) — Is loose or unconfined;~~

~~(2) — Bites a person or attacks another animal;~~

~~(3) — Is sold, given away, or dies; or~~

~~(4) — Has been moved to a different address.~~

~~(i) — The owner of any animal which has been found to be a dangerous dog who willfully fails to comply with the requirements of this section shall be guilty of a Class 1 misdemeanor.~~

~~(j) — All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by the section, shall be paid into a special dedicated fund in the treasury of the locality for the purposes of paying the expenses of any training course required under § 3.1-796.104:1 of the Code of Virginia.~~

~~Sec. 4-50. - Exceptions.~~

~~(a) — This article shall not apply to ownership of dangerous animals in conjunction with the conduct in the town of a lawful, licensed business.~~

~~(b) — This article shall not apply to any dangerous animal within the town in connection with a circus; carnival; wildlife exhibit or educational program; humane society operation; bona fide scientific endeavor or exhibit; public amusement; religious observance; or the like.~~

~~(c) — This article shall not apply to any dangerous animal exhibit within the town in connection with the work or activity of a licensed wildlife rehabilitator.~~

~~(d) — This article to any animal used in conjunction with any police department activity.~~

~~Sec. 4-51. - Severability.~~

~~If any section, sentence, clause, phrase or provisions of this article or the application thereof to any person or circumstance is held invalid or unconstitutional by any court of competent jurisdiction, that holding or decision shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provision of this article are severable.~~

Secs. 4-51 - 4-52. - Reserved.

MINUTES
BERRYVILLE TOWN COUNCIL
Tuesday, February 11, 2014
Berryville-Clarke County Government Center
Regular Meeting
7:30 p.m.

Town Council:

Present: Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Allen Kitselman; Mary Daniel; Douglas Shaffer; David Tollett

Absent: None

Staff: Keith Dalton, Town Manager; Desiree Moreland; Assistant Town Manager/Treasurer; Christy Dunkle, Assistant Town Manager/Planner; Neal White, Chief of Police; Celeste Heath, Town Clerk

Press: Val Van Meter, Winchester Star

1. **Call to Order:** Wilson Kirby, Mayor
Mayor Kirby called the regular meeting to order at 7:30 p.m.

2. **Pledge of Allegiance**

3. **Public Hearings**
Two Public Hearings were called to order at 7:31 p.m.

Special Use Permit

David Anderson, Owner (Anderson Control Inc.), is requesting a Special Use Permit in order to operate a professional office at the property located at 105 South Buckmarsh Street, identified as Tax Map Parcel number 14A4-((A))-53, zoned R-2 Residential under Section 202.2(b) of the Berryville Zoning Ordinance. SUP 01-14

There was no public comment.

Text Amendments

The Berryville Planning Commission is recommending text amendments to the Berryville Zoning Ordinance, Articles II and III, establishing Section 204.1(qq) allowing apartments other than first story storefront as a use by right and requiring a Special Use Permit for first story storefront apartments by deleting Section 204.2(c) and establishing Section 204.2(h), both in the C General Commercial Zoning District and modifying Section 310.9(a) requiring one off-street parking space for apartments 1,000 square feet or less and two off-street parking spaces for apartments larger than 1,000 square feet. TA-01-14

There was no public comment.

Upon motion by Council member Kitselman, seconded by Council member Daniel the Public Hearings were closed at 7:34 p.m.

4. Approval of Minutes

January 14, 2014

Upon motion by Recorder Arnold, seconded by Council member Tollett, the minutes of the January 14, 2014 meeting were unanimously approved.

5. Citizens Forum

There was no public comment.

6. Report of the Mayor

FY 2014 Audit

The Mayor introduced Josh Roller from the firm of Robinson, Farmer and Cox. Mr. Roller presented the findings of the Fiscal Year 2014 Audit of the Town of Berryville. He said that the audit gives an unqualified opinion which is the best opinion you can get. Mr. Roller then pointed out some highlights of the audit. There was no comment from the Town Council.

7. Planning and Zoning Matters

Action Items – Public Hearings

Special Use Permit

Ms. Dunkle reported that the Planning Commission held a public hearing on the following matter at their January 28, 2014 meeting and recommended that the Town Council approve the request as presented.

David Anderson, Owner (Anderson Control Inc.), is requesting a Special Use Permit in order to operate a professional office at the property located at 105 South Buckmarsh Street, identified as Tax Map Parcel number 14A4-((A))-53, zoned R-2 Residential under Section 202.2(b) of the Berryville Zoning Ordinance. SUP 01-14

Ms. Dunkle said that Mr. Anderson has purchased the property located at 105 South Buckmarsh Street in order to operate his office there and that professional offices are a use by special permit in the R-2 zoning district. She said that there is sufficient off-street parking per Section 305 of the Berryville Zoning Ordinance and that the business will not have any outdoor storage.

Upon motion by Recorder Arnold, seconded by Council member Kitselman the Council of the Town of Berryville approved the Special Use Permit at the property located at 105 South Buckmarsh Street, identified as Tax Map Parcel number 14A4-((A))-53, zoned R-2 Residential in order to operate a professional office under Section 202.2(b) of the Berryville Zoning Ordinance.

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman

	Douglas Shaffer
	David Tollett
Nays:	None
Absent:	None
Abstain:	None

Text Amendments

Ms. Dunkle reported that the Planning Commission held a public hearing on the following matter at their January 28, 2014 meeting and recommended that Council approve the request a presented.

The Berryville Planning Commission is recommending text amendments to the Berryville Zoning Ordinance, Articles II and III, establishing Section 204.1(qq) allowing apartments other than first story storefront as a use by right and requiring a Special Use Permit for first story storefront apartments by deleting Section 204.2(c) and establishing Section 204.2(h), both in the C General Commercial Zoning District and modifying Section 310.9(a) requiring one off-street parking space for apartments 1,000 square feet or less and two off-street parking spaces for apartments larger than 1,000 square feet. TA-01-14

Ms. Dunkle said that the Planning Commission has been discussing this issue since last year. She said that they have recommended changes to Section 204 General Commercial adding second story apartments as a use by right in Section 204.2 and modifying Section 204.2(c) to require a Special Use Permit for first story storefronts and basement apartments. She said they also recommended an amendment to Section 310 Apartments requiring one off-street parking space for apartments 1,000 square feet or less and two off-street parking spaces for those larger than 1,000 square feet. The current ordinance requires two off-street spaces for every apartment.

Upon motion by Council member Daniel, seconded by Council member Shaffer the Council of the Town of Berryville approved the attached ordinance amending Articles II and III, of the Berryville Zoning Ordinance establishing Section 204.1(qq) allowing second story apartments as a use by right; modifying Section 204.2(c) requiring an approved special use permit for first story and basement apartments; and modifying Section 310.9(a) requiring one off-street parking spaces for apartments 1,000 square feet or less and two off-street parking spaces for apartments greater than 1,000 square feet.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor
	Harry Lee Arnold, Jr., Recorder
	Mary Daniel
	Allen Kitselman
	Douglas Shaffer
	David Tollett

Nays:	None
Absent:	None

Abstain: None

AN ORDINANCE AMENDING
ARTICLE II, C GENERAL COMMERCIAL, ESTABLISHING SECTION 204.1(QQ);
MODIFYING SECTION 204.2(C); AND ARTICLE III, APARTMENTS, MODIFYING
SECTION 310.9(A)
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article II, Section 204 General Commercial and Article III, Section 310 Apartments, of the Town of Berryville Zoning Ordinance shall be amended as follows:

ARTICLE II

204.1 USES PERMITTED BY RIGHT

204.1(qq) Second story apartments as set forth in Section 310. (02/14)

204.2 USES PERMITTED BY SPECIAL PERMIT

204.2(c) First story storefront and basement apartments as set forth in Section 310. (02/14)

ARTICLE III

310.9 USES PERMITTED BY RIGHT

310.9(a) Off-street parking, whether in a garage or on-lot, shall be provided on the premises at the rate of one (1) space for each apartment unit 1,000 square feet or less and two (2) spaces for each apartment unit greater than 1,000 square feet. (02/14)

SIGNED: _____
Wilson Kirby, Mayor

ATTEST: _____
Harry Lee Arnold, Jr., Recorder

Planner's Report

Ms. Dunkle reported that the Planning Commission elected Mr. Shaffer as Chair and Kim Kemp as Vice-Chair. She reported that Mr. Lincoln would be leaving the Planning Commission and that a small reception will be held for him before the next Planning Commission meeting. She noted that the BADA meeting was cancelled because of weather.

Safe Routes to Schools

Ms. Dunkle presented a resolution authorizing the Town Manager to sign documents related to the Safe Routes to Schools infrastructure grant.

Upon motion by Recorder Arnold, seconded by Council member Kitselman the Council of the Town of Berryville approved the attached resolution to obtain financial assistance through a Safe Routes to School Infrastructure Grant and to authorize the Town Manager to sign required documents.

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Douglas Shaffer
David Tollett

Nays:

None

Absent:

None

Abstain:

None

RESOLUTION OF GOVERNING BODY OF
The Town of Berryville

The governing body of the Town of Berryville, Virginia, consisting of 6 members, in a duly called meeting held on the 11th day of February at which a quorum was present, RESOLVED as follows:

BE IT HEREBY RESOLVED that, in order to facilitate obtaining financial assistance through a Safe Routes to School Infrastructure Grant from the Virginia Department of Transportation, the funds will provide for construction of a sidewalk on the Johnson-Williams Middle School property adjacent to Swan Avenue in the Town of Berryville, Virginia, Clarke County, Virginia, the governing body does hereby adopt and abide by the covenants contained in the Standard Federal-Aid Project Administration Agreement for the Safe Routes to School infrastructure project referenced above.

BE IT FURTHER RESOLVED that the Town Manager of the Town of Berryville, Virginia be authorized to execute, on behalf of the governing body, the above agreement and to execute such other documents including, but not limited to, debt or grant instruments and security instruments as may be required in obtaining the said financial assistance.

This Resolution, along with a copy of the above-named documents, is hereby entered into the permanent minutes of this meeting of the Town Council.

THE TOWN OF BERRYVILLE

Attest: _____

By: Wilson L. Kirby, Mayor

CERTIFICATION

I hereby certify that the above resolution was duly adopted by the Council of the Town of Berryville, in a duly assembled meeting on the 11th day of February, 2014.

Harry Lee Arnold, Jr., Recorder

Virginia Commission for the Arts (VCA) Local Government Challenge Grant

Ms. Dunkle reported that the Town has been awarded a \$5,000 Local Government Challenge matching grant from the Virginia Commission for the Arts for the past three years and that 100% of these funds were given to Berryville Main Street and the Fire House Gallery. She said she would like to apply for the grant again. The grant for up to \$5,000 is a match to local government's funding of arts organizations. She said that in previous years the match for this grant was made from the Town of Berryville's annual grant to Berryville Main Street (BMS) and that BMS is again requesting these grant proceeds.

Ms. Dunkle said that she sent notification to other non-profit arts organizations to learn about interest in applying for the funds. She reported that Barns of Rose Hill responded initially but that they are now working with Clarke County to receive grant funds from the same source.

Ms. Dunkle said that VCA requires that programming using Local Government Challenge funds include the Virginia Commission for the Arts and National Endowment for the Arts logos on any marketing material and that this requirement is part of the motion authorizing the Town to apply for the grant and award the proceeds to Berryville Main Street.

Recorder Arnold thanked Ms. Dunkle for continually applying for and receiving these funds.

Upon motion by Recorder Arnold, seconded by Council member Tollett the Council of the Town of Berryville agreed to apply for the Virginia Commission for the Arts' Local Government Challenge Grant identifying Berryville Main Street as the recipient of the match, requiring that all marketing material include both Virginia Commission for the Arts (VCA) and National Endowment for the Arts (NEA) logos for projects funded with this grant, per the terms of the VCA. Matching grant funds shall be appropriated from the Town's annual contribution to Berryville Main Street.

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Douglas Shaffer
David Tollett

Nays:

None

Absent:

None

Abstain:

None

8. Report of the Town Manager

Mr. Dalton asked that a Closed Session be added to the agenda. The Town Council agreed.

Mr. Dalton said that we are dealing with a very active snow season and that Public Works is doing a good job. He said that they are preparing for the next storm and appreciate the equipment that the Town Council has provided for them.

9. Standing Committee Reports

a) BADA Liaison – Allen Kitselman

The BADA meeting was cancelled because of inclement weather.

b) Budget Finance / CIP – Jay Arnold

Recorder Arnold said that the Budget and Finance Committee will meet on March 5, 2014 and the Town Council will hold a Budget Work Session on March 12, 2014

c) Community Improvements – Allen Kitselman

Mr. Kitselman reported that the committee had several meetings in January. He said that on January 28 the committee met with representatives of the Farmers Market for a debriefing. He said the market had a great year and that he is looking forward to an even better year.

Council member Kitselman said that Virginia Tourism Corporation representatives came to Berryville on February 5 and the meeting was well attended by about 20 community stakeholders.

Council member Kitselman said that the Committee held a joint meeting with the Police and Security Committee to look at the ordinance regarding chickens in Town.

Council member Kitselman said that the Committee discussed way-finding signs and is in the process of identifying the magnitude of the project including the number of signs and how much they will cost so that we will be ready when VDOT lifts the moratorium on such sign projects. He said that the Committee is also revisiting possible designs for the way-finding signs.

Ms. Dunkle said that she spoke to VDOT about the way-finding signs moratorium and that they are still reviewing the regulations but are encouraging jurisdictions to submit plans for comment and review.

Council member Kitselman said that the Community Improvements Committee will work on this project and then present their recommendations to the full Town Council.

Snow

Council member Kitselman then discussed snow removal downtown. Mr. Dalton explained the economic and logistical details of the snow removal operation. He said that he has talked to Rick Boor and Public Works will work Friday and Saturday nights to remove snow from downtown. Council member Kitselman noted that we rely on business owners to remove snow from the sidewalks in front of their businesses.

Chickens in Town

Council member Kitselman said that he has been doing a lot of thinking about the issue and that he believes that we are getting wrapped around the axle. He said that he has concerns about a few items that have been discussed including the suggestion of requiring neighbors' permission to get a permit. He said that we may want to rely on people to do the right thing and that this type of regulation invites conflict. He said that he feels like the regulations need some more work.

Ms. Daniel said that she also thinks that the idea of neighbor consent is a bad one. She said that she also has other concerns including how long permits would be good for and why there is a 6-foot restriction on coops. Mr. Dalton said that the height restriction is because of fence height restrictions that are already in place. Ms. Daniel said that she anticipated that the Town Council would have a public hearing at their next meeting and update the details of the ordinance after that.

Mr. Dalton said that the draft ordinance has been updated at the direction of the Police and Security and Community Improvements Committee and that the draft still needs work in defining chicken coops and accessory buildings and establishing setbacks on corner lots. Mr. Dalton discussed the changes to the draft including the following:

- A permit requirement;
- Restriction of the use to residentially zoned property;
- Parcel sizes are expressed in acreage and not square feet;
- The number of hens allowed would be four in the vast majority of town;
- The setback from adjoining properties would be ten feet;
- Requirement for adjoining property consent (although Mr. Dalton noted that there have been concerns expressed about this);
- A permit length of 5 years;
- Restrictions on commercial sales were eliminated.

Mr. Dalton said that he would also like to have the Town's attorney review the final draft of the ordinance.

Mayor Kirby said that he is concerned for a number of reasons including the cost and staff time involved for developing this ordinance. He said he believes that it would cost the Town about \$1,000 to hold a public hearing on this matter. He said that he finds the adjacent property owner permission requirement troubling. He said that he also has concerns about health issues. He said that he saw an email from the Lord Fairfax Health District written during the City of Winchester's consideration of this issue and it indicated that there are health concerns with keeping chickens. Mayor Kirby noted that there are also covenants restricting this use in several subdivisions in town.

Mayor Kirby said that he has not met one person who is in favor of chickens in Berryville. He asked if the Town Council really wants to go through the exercise of creating an ordinance if ultimately the majority of citizens are against it.

Council member Daniel replied that she is surprised that the Mayor says that he has not talked to anyone in favor of this when the people attending these meetings are in favor of it. She said that all but one of the comments that she has received so far have been in favor of allowing chickens in town. She said the e-mail and attachments that the Town Council received from the Lord Fairfax Health District pretty clearly state that there is not a significant health risk related to chickens unless there is gross neglect, which is unlikely with this number of chickens.

Council member Daniel said that she feels like allowing this will not cause any big issues and planning on the front end will head off issues at the back end. She said that she has not heard why the ordinance regarding this matter was changed in the 1980s and noted that Berryville, Boyce and Winchester are the only localities in the area that don't allow this use. She said that once she saw the Lord Fairfax Health District report saying that making children wash their hands after handling chickens was the primary health concern she knew that the health risk was not significant.

Council member Daniel said she was unaware that members were uncomfortable with the ordinance because she has received no feedback from any council members except those on the Committees. She said that she would like to see this move along but not until the Town Council is comfortable with the language as well as the idea.

Council member Kitselman said that this was initiated by a constituent and that he is sorry to lead the Council down this path but it is his job to address this constituent interest in changing the ordinance.

Council member Shaffer said that he did an informal poll on the issue visiting different subdivisions in Town. He said that he spoke to 41 people and found 37 people against the idea and 7 people for the idea. He said that when he informed people living in subdivisions with covenant restrictions on the activity many of them said that in that case they had no problem with it. Council member Tollett said that the Police and Security Committee talked about the HOA covenant issue and that residents would have to get permission from their HOAs.

Recorder Arnold said that he has also been around town talking to people about the issue. He said he spoke to 5 people who were very excited about the idea, 2 were okay with it if it is regulated properly, 2 were okay with it as long as it is not next door to them and 35 did not want any parts of it.

Mayor Kirby then called for a motion regarding moving forward with this matter. He said that he does not want to move forward and go to the expense if this is not viable. Council member Daniel asked the Mayor to clarify what he means by move forward. Mayor Kirby said that he would like to have a motion on the matter of setting a public hearing and working on ordinance language if anyone would care to do so, although he is not in favor of any further work on the matter. He said that while a public hearing is not required to change the ordinance he certainly would not be in favor of moving forward on this issue without a public hearing on the matter. Council member Kitselman agreed that

although a public hearing is not required that it is wise to have one before making a decision on this matter.

Council member Tollett made a motion to proceed with work on an ordinance allowing chickens in town including completing staff work, developing a sample permit, finalizing on ordinance language and setting a public hearing for the next regular Town Council meeting. Council member Kitselman seconded the motion.

Council member Shaffer encouraged the Town Council to seek out 50 people and ask them how they feel about allowing chickens in town. Council member Daniel asked if there is a way to advertise a public hearing without spending 1,000 dollars. She asked if it could be advertised on the bottom of water bills. Mr. Dalton said that the estimated cost is for a public hearing and for legal review and that he would assume that a public hearing should be advertised like a regular public hearing in the local newspaper as required by law.

Mayor Kirby called the question. The motion failed.

VOTE:

Recorded Vote:

Ayes:

Mary Daniel
Allen Kitselman
David Tollett

Nays:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Douglas Shaffer

Absent:

None

Abstain:

None

Approval of Minutes

January 28, 2014

Upon motion by Council member Tollett, seconded by Council member Kitselman, the minutes of the January 28, 2014 Community Improvements Committee meeting were unanimously approved.

d) Planning Commission – Doug Shaffer

Council member Shaffer presented a motion honoring John Lincoln.

Upon motion by Council member Tollett, seconded by Council member Shaffer the Council of the Town of Berryville unanimously approved the attached Resolution of Appreciation and thanks for John Lincoln on his departure from the Planning Commission

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor

Nays:
Absent:
Abstain:

Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselfman
Douglas Shaffer
David Tollett
None
None
None



**COUNCIL OF THE TOWN OF BERRYVILLE
RESOLUTION OF APPRECIATION AND THANKS**

WHEREAS, John Lincoln was first appointed to the Planning Commission on November 11, 1997; and

WHEREAS, Mr. Lincoln was appointed several more times serving on that commission for over sixteen years; and

WHEREAS, During his tenure Mr. Lincoln has faithfully served the citizens of the Town of Berryville, utilizing his expertise to guide and manage development and lead this important commission through a critical time in our town's history; and

WHEREAS, Without fail, in all of his dealings with the public and other public officials, Mr. Lincoln executed the duties of his office in a fair and just manner; and

WHEREAS, Through his work with the Town Mr. Lincoln has served as a shining example of a citizen's concern for his community and has truly positively affected the lives of Berryville's residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Town of Berryville, that John Lincoln's long and distinguished service to this community is recognized and that he is thanked for his hard work and devotion.

By Order of the Council of the Town of Berryville on this the eleventh day of February, 2014.

Wilson L. Kirby, Mayor

The Mayor recognized Council member Kitselman to complete his Community Improvements Committee report.

Community Development Block Grant (CDBG)

Council member Kitselman reported on the community meeting held on Josephine Street regarding a CDBG planning grant. He said that the group has come up with a number of goals for the CDBG plan including a community conservation district that would protect existing housing stock on Josephine Street. He said more information about this grant will be presented to the Town Council in coming months.

e) Police and Security – Mary Daniel

Council member Daniel said the Committee held a joint meeting with the Community Improvements Committee.

Council member Daniel said that along with the discussion about chickens in town the committee has also updated the remainder of the ordinance regarding animals and that those changes need to be addressed. She asked Mr. Dalton if staff has advice on how to proceed on this. Mr. Dalton suggested that staff bring the ordinance back to the Police and Security Committee without the language about chickens.

Council member Daniel asked if the opposition to the chicken language was only about the cost of legal review and advertisement. She noted that the two committees have already done a great deal of work on this matter. Mayor Kirby said that while he heard the citizens attending the December meeting in favor of allowing chickens in Town that he thinks the overall sentiment is opposition to chickens in a neighboring yard. He said he feels it would be offensive to more people in town than not.

Council member Daniel said it is interesting that the three gentlemen who have not worked on this issue at all are saying that they don't want to move on with this process. Mayor Kirby said that he truthfully has not spoken to anybody outside of the December meeting that is in favor of allowing chickens in Town. He said his actions represent what is truly in his heart regarding what he has heard from citizens on this matter.

Approval of Minutes

February 5, 2014

Upon motion by Council member Tollett, seconded by Council member Daniel, the minutes of the February 5, 2014 Police and Security Committee meeting were unanimously approved.

f) Streets and Utilities – Wilson Kirby

Mayor Kirby reported that the Streets and Utilities Committee met on January 30th and spoke to representatives from VDOT about their traffic signal replacement project at Main and Church Streets.

Approval of Minutes

January 30, 2014

Upon motion by Council member Shaffer, seconded by Mayor Kirby, the minutes of the January 30, 2014 Streets and Utilities Committee meeting were unanimously approved.

Mr. Dalton said that at the last Streets and Utilities Committee meeting he introduced the idea of having a meeting with downtown merchants in the near future to talk about downtown parking. He said the Mayor would like to place the idea on the Town Council's agenda to discuss the following issues:

- Do we wish to reinvest in parking meters?
- If so, we need to review all meter related issues.
- What are the expectations for snow removal downtown?
- What would we like to see happen with parking enforcement?

g) Personnel / Appointments – Jay Arnold

Recorder Arnold reported that the Personnel Committee will be interviewing candidates for the Planning Commission seat that John Lincoln is vacating.

10. Closed Session

Closed Session – The Berryville Town Council entered closed session in accordance with §2.2-3711-A-7, Code of Virginia, in order to consult with staff and legal counsel regarding probable litigation related to the construction of the Wastewater Treatment Plant.

a. Motion to enter Closed Session

It was moved by Recorder Arnold, seconded by Council member Shaffer that the Council of the Town of Berryville enter Closed Session in accordance with §2.2-3711-A-7, Code of Virginia, in order to consult with staff and legal counsel regarding probable litigation related to the construction of the Wastewater Treatment Plant.

VOTE:

Recorded Vote:

Ayes:

Mary Daniel
Allen Kitselman
David Tollett
Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Douglas Shaffer

Nays: None

Absent: None

Abstain: None

b. Enter Closed Session

The Town Council entered closed session at 8:33 p.m.

c. Reconvene Open Session

The Town Council reconvened in open session at 9:22 p.m.

d. Certification of Closed Session

Town of Berryville
RESOLUTION

MEETING DATE: February 11, 2014
MOTION BY: Harry Lee Arnold, Jr.
SECOND BY: Mary Daniel

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Council of the Town of Berryville, Virginia (Council), has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Council that such closed meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

VOTE:

Recorded Vote:

Ayes:

Mary Daniel
Allen Kitselman
David Tollett
Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Douglas Shaffer

Nays: None
Absent: None
Abstain: None

Harry Lee Arnold, Jr., Recorder

11. Adjourn

Upon motion by Recorder Arnold, seconded by Council member Daniel and passed, the Council meeting was adjourned at 9:24 p.m.

Wilson Kirby, Mayor

Harry Lee Arnold, Jr., Recorder