

**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
August 24, 2017
9:00 am**

<u>Item</u>		<u>Attachment</u>
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. Discussion	Speeding Concerns South Buckmarsh Street	
7. Update	Refuse Collection	
8. Closed Session	No Closed Session Scheduled	
9. Other		
10. Adjourn		

Item 4 Berryville Code Chapter 10, Article II

Chief White has provided a revised Chapter 10 for your review. This revision includes amendments to the Chapter that have been discussed to date but no changes to Article II. Desi Moreland will be in attendance and will be able to discuss her thoughts regarding whether the Town should continue the practice of issuing decals. Once the Committee has heard from staff on this matter and has determined which direction it would like to go, the Chief will also prepare an amendment of Article II.

Attachment 1 contains:

- Memorandum from Chief White dated 8/15/17
- Chapter 10 Mark up

Item 5 Berryville Code Chapter 4

At issue is whether the Town Council should amend Chapter 4 of the Berryville Code to eliminate the prohibition on chickens being kept within the Town of Berryville. The proposal to make such a change was introduced by Mr. Bryant Condrey.

This matter was discussed at the Town Council and Police and Security Committee level for several months in late 2013 and early 2014. In February 2014, the Town Council determined that work on an ordinance that would allow chickens in Town should not continue.

This matter was reintroduced at the Town Council level again in 2017. The last time the Committee discussed this matter in detail, the concept of patterning an ordinance after Staunton, Virginia's ordinance was discussed. At that time, staff expressed concerns about the ordinance. Subsequent to the meeting, Mr. Condrey also expressed concerns about the Staunton ordinance.

Staff seeks direction as to how the Committee wishes to proceed.

Attachment 2 contains:

- Staunton, VA ordinance governing the keeping of chickens
- Packets submitted by Bryant Condrey
- Amended Berryville Code Chapter 4 as presented to the Police and Security Committee in late 2013
- Amended Berryville Code Chapter 4 addressing comments from Police and Security Committee in early 2014

Item 6 Speeding Concerns South Buckmarsh Street

Mr. Couture of South Buckmarsh Street appeared before the Town Council on 8 August and expressed his concerns about speeding on South Buckmarsh Street. Mayor Dickenson requested that Mr. Couture's concerns be discussed at this meeting.

Item 7 Refuse Collection

No action has been taken in this regard since the last Committee meeting.

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: 08/15/2017

TO: Keith Dalton, Town Manager

FROM: Chief W. Neal White

CC:

RE: Chapter 10 Revisions

Along with this memo I will be sending a revised Chapter 10 for our discussion at the Police and Security Committee meeting. The chapter has been reviewed, and suggested revisions have been included with the exception of the sections of Article II. Article II deals with the matter of the vehicle license tax and associated decals. I did not want to make revisions to Article II without first securing the direction that the committee wanted to head.

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Chapter 10 - MOTOR VEHICLES AND TRAFFIC

FOOTNOTE(S):

--- (1) ---

Cross reference— Noise from vehicles, § 11-47 et seq.; sound trucks, § 11-627 et seq.; ~~obstructing traffic, § 13-11.1; using vehicle to promote prostitution or unlawful sexual intercourse, § 13-17; injuring, tampering with, etc., vehicles, § 13-23; drinking while operating a motor vehicle § 12-13.2;~~ open storage of inoperative vehicles in certain zoning districts, § 13-30; streets and sidewalks, Ch. 15; washing, greasing, etc., vehicle on street or sidewalk, § 15-14; zoning ordinance, App. A.

State Law reference— Motor vehicles and traffic generally, Code of Virginia, title 46.2 general authority of town to regulate traffic, §§-15.2-2028-15.1-891, 46.2-1300—46.2-1313.

ARTICLE I. - IN GENERAL

FOOTNOTE(S):

--- (2) ---

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

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

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

(Code 1971, § 11-35)

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

(a) (a)— Whenever any person is detained by or in the custody of an arresting officer, including an arrest upon a warrant, for a violation of any provision of this chapter, except section 10-6, the arresting officer shall, except as

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otherwise provided in section 10-3, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing to appear, at a time and place to be specified in such summons or notice, such time to be at least five (5) days after such arrest, unless the person arrested shall demand an earlier hearing, and such person shall, if he so desires, have a right to an immediate hearing or a hearing within twenty-four (24) hours, at a convenient hour and before the court having jurisdiction. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody.

- (b) Notwithstanding the foregoing provisions of this section, if prior general approval has been granted by order of the general district court for the use of this section in cases involving violations of §§ 46.2-301 and 46.2-302, the arresting officer may take the person before the appropriate judicial officer of the county or city in which the violation occurred and make oath as to the offense and request issuance of a warrant. If a warrant is issued, the judicial officer shall proceed in accordance with the provisions of Article 1 (§ 19.2-119 et seq.) of Chapter 9 of Title 19.2.
- (c) Notwithstanding any other provision of this section, in cases involving a violation of § 46.2-341.24 or § 46.2-341.31, the arresting officer shall take the person before a magistrate as provided in §§ 46.2-341.26:2 and 46.2-341.26:3. The magistrate may issue either a summons or warrant as he shall deem proper.
- (d) Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting officer before a magistrate or other issuing officer having jurisdiction, who shall proceed according to the provisions of section 10-3.
- (e) Any person who willfully violates a written promise to appear, given in accordance with this section, shall be guilty of a Class 1 misdemeanor and shall be treated in accord with the provisions of section 46.2-938 of the Code of Virginia.
- (f) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and subject to removal therefrom upon complaint filed by any person in a court of competent jurisdiction. This section shall not be construed to limit the removal of a police officer for other misconduct in office.
- ~~(b) Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting officer before a magistrate or other issuing officer having jurisdiction, who shall proceed according to the provisions of section 10-3.~~
- ~~(c) Any person who willfully violates a written promise to appear, given in accordance with this section, shall be guilty of a Class 1 misdemeanor and shall be treated in accord with the provisions of section 46.2-938 of the Code of Virginia.^[2]~~

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

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

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

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

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

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

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

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

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

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

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~~(a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, 1950 as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, and in effect on and after July 1, 1994, including the section numbers assigned in said title 46.2 to such provisions and requirements, except, however, those provisions and requirements which, by their very nature, can have no application to or within the town, are hereby adopted and incorporated by this chapter by reference and made applicable within the town. Reference to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the~~

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streets, highways and other public ways within the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the town to violate or fail, neglect or refuse to comply with any provisions of title 46.2 of the Code of Virginia, which is adopted by this section, provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.

- (b) All definitions of words and phrases contained in the state law hereby adopted shall apply to such other words and phrases, when used in this chapter, unless indicated to the contrary.
- (c) Pursuant to the authority of section ~~1-2201-13.39:2~~ of the Code of Virginia, 1950, as amended, it is specifically intended and stated that this section adopting the foregoing state statutes shall include all future amendments to such state statutes.

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

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

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Pursuant to the authority of section 46.2-1313, and section 18.2-268.12 of the Code of Virginia, 1950, as amended, all of the provisions of the laws of the Commonwealth of Virginia contained in Article 2 (Section 18.2-266 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, including the section numbers assigned to such provisions in said Article 2, of Chapter 7 of Title 18.2 of the Code of Virginia, and in effect on and after September 12, 1995, are hereby adopted and incorporated in this chapter by reference and made applicable within the town. Reference to "highways of the state" contained in such provisions and requirements shall be deemed to refer to the streets, highways and other public ways within the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the town to violate or fail, neglect or refuse to comply with any such provision or requirement, provided, however, that the provisions of § 18.2-270 of the Code of Virginia pertaining to offenses of driving while intoxicated that constitute felonies are not incorporated into or made a part of this section. Pursuant to the authority of section ~~1-2201-13.39:2~~ of the Code of Virginia, 1950, as amended, it is specifically intended and stated that this Ordinance adopting the foregoing state statutes shall include all future amendments to such state statutes. This ordinance shall be effective July 13, 1999.

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

Sec. 10-6.1. - Reserved.

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

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

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- (a) The town manager, except as otherwise provided by this chapter and except as otherwise directed, from time to time, by the council, shall have the power and is hereby authorized to regulate the operation and parking of vehicles within the corporate limits of the town by the erection or placing of proper signs or markers indicating prohibited or limited parking, angle parking, the parking of buses, trucks and other vehicles of various weights, "U" turns, turning at intersections, hazardous intersections, school zones, hospital zones, loading and unloading zones, quiet zones, traffic-control signals exhibiting colored lights or the words "go," "caution" or "stop" and other signs or markers indicating the place and manner of operating or parking vehicles in the town.
- (b) The town manager shall also have the power and is hereby authorized:
 - (1) To regulate the movement of pedestrians upon the streets and sidewalks of the town by the erection or placing of proper signs or markers indicating the flow of pedestrian traffic.
 - (2) To designate bus stops and to erect signs prohibiting the parking of vehicles other than buses at such stops.
 - (3) To mark off traffic lanes on streets and parts of streets indicting and directing the flow of traffic.
 - (4) To designate and mark fire lanes on private property, including alleys in which lanes the parking of vehicles shall be prohibited.
- (c) On proper application, the town manager may assign to taxicab operators such space along the public streets of the town for parking vehicles actively in service in such business as the town manager may deem best suited and to the interest of the public, provided permission of the abutting property owner is secured. Fees for the use of such space shall be as prescribed, from time to time, by the council.
- (d) The town is authorized to secure all signs, signals or markers to be erected or placed on any street or part of a street in order to carry out the purposes of this section.

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- (e) The existence of signs, signals or markers referred to in this section at any place within the corporate limits of the town shall be prima facie evidence that such signs, signals or markers were erected or placed by and at the direction of the town manager in accordance with the provisions of this section and it shall be unlawful for any person to disobey the directions of any such sign, signal or marker.
- (f) No sign, signal or marker referred to in this section shall be erected or placed on any street which is a part of the state highway system, without the approval of the state department of highways and transportation.

(Code 1971, §§ 11-3, 11-38, 11-58)

State Law reference – Authority for above section. Code of Virginia § 46.2-1300

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

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

Commented [NW1]: This section may need to be repealed as the enabling legislation for this section is specific to towns with a population less than 3,500.

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(Code 1971, § 11-4)

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

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

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

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(Code 1971, § 11-5)

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

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

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

(Code 1971, § 11-19)

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

Sec. 10-11. - Reserved.

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

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

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(a) No operator of a vehicle shall drive between the vehicles, persons or animals comprising a funeral or other authorized procession, except when otherwise directed by a police officer. This provision shall not apply to operators of authorized emergency vehicles meeting the requirements of section 46.2-920 of the Code of Virginia.

(b) Each driver in a funeral procession shall drive as near to the right-hand edge of the roadway as is practicable and shall follow the vehicle ahead as close as is practicable and safe. Drivers also may display high beam headlights and flas all four turn signals or hazard lights to identify themselves as part of the procession

(Code 1971, § 11-9)

State Law reference— Right-of-way of funeral processions under police escort, Code of Virginia, §§ 46.2-828 and 46.2-828.1.-

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

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

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(Code 1971, § 11-11)

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

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

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(Code 1971, § 11-12)

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

Commented [NW2]: Consider changing to 10-20

(a) It shall be unlawful for any person to use roller skates or skateboards and/or ride a bicycle, electric personal assistive mobility devices, motorized skateboards or foot scooters, motor-driven cycles, or electric power-assisted bicycles on designated sidewalks or crosswalks, including those of any church, school, recreational facility or any business property open to the public where such activity is prohibited. Signs indicating such prohibition shall be conspicuously posted in general areas where use of roller skates and skateboards and/or bicycle, electric personal assistive mobility devices, motorized skateboards or foot scooters, motor-driven cycles, or electric power-assisted bicycle riding is prohibited.

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(b) A person riding a bicycle, electric personal assistive mobility devices, motorized skateboards or foot scooters, motor-driven cycles, or electric power-assisted bicycle on a sidewalk, or across a roadway on a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian.

(c) No person shall ride a bicycle, electric personal assistive mobility devices, motorized skateboards or foot scooters, motor-driven cycles, or electric power-assisted bicycle on a sidewalk, or across a roadway on a crosswalk where such use of bicycles, electric personal assistive mobility devices, motorized skateboards or foot scooters, motor-driven cycles, or electric power-assisted bicycle is prohibited by official traffic control devices.

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- (d) A person riding a bicycle, electric personal assistive mobility devices, motorized skateboards or foot scooters, motor-driven cycles, or electric power-assisted bicycle on a sidewalk, or across a roadway on a crosswalk, shall have all the rights and duties of a pedestrian under the same circumstances.
- (e) Any violation of this section shall be punishable by a civil penalty of not more than fifty dollars (\$50.00).

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

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

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

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

Commented [NW3]: Consider changing to 10-21

Commented [NW4]: Can also add electric personal assistive mobility device, toy vehicle, and electric power-assisted bicycle

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(Ord. of 8-12-97)

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

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

~~Every person operating a moped, as defined in Sec. 46.2-100, Code of Virginia, 1950, as amended, on a public street or highway shall wear a face shield, safety glasses, or goggles of a type approved by the Superintendent of the Department of State Police of the Commonwealth or have his moped equipped with safety glass or a windshield at all times while operating such vehicle, and operators and passengers thereon, if~~

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~~any, shall wear protective helmets of a type approved by the Superintendent. Pursuant to Section 46.2-915.2, Code of Virginia, 1950, as amended, violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a moped or motor vehicle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action. Any person who knowingly violates this section shall be guilty of a traffic infraction and be subject to a fine of not more than fifty dollars.~~

~~(Ord. of 8-12-97)~~

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

~~Sec. 10-15. - Blocking intersection.~~

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~~No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.~~

~~(Code 1971, § 11-21)~~

~~State Law reference – Authority for above section. Code of Virginia. § 46.2-1220.~~

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

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

~~(Code 1971, § 11-33; Ord. of 3-3-93)~~

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

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

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

(Ord. of 10-8-02)

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

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

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

State Law reference— Code of Virginia, §§ 46.2-613, 46.2-1157, 46.2-1158 and 46.2-1220.

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

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

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

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

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

Sec. 10-22. – Limitations on operation of mopeds.

- (a) No moped shall be driven on any highway or public vehicular area faster than 35 miles per hour. Any person who operates a moped faster than 35 miles per hour shall be deemed, for all the purposes of this chapter, to be operating a motorcycle.
- (b) No moped shall be driven on any highway by any person under the age of 16, and every person driving a moped shall carry with him a government-issued form of photo identification that includes his name, address, and date of birth.
- (c) Violation of any provisions of this section shall constitute a traffic infraction punishable by a fine of no more than \$50.

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Sec. 10-22.1. - Safety equipment for mopeds; effect of violation; penalty.

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

(Ord. of 8-12-97)

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

Secs. 10-230—10-26. - Reserved.

ARTICLE II. - VEHICLE LICENSE

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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.

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

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(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.

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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:

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

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(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.

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

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

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

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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.

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

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

Sec. 10-31. - Issuance of decal.

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

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

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Sec. 10-32. - Contents of decal.

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

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

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

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

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

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

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

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

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

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Sec. 10-35. - Replacement decals.

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

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

Sec. 10-36. - Transfer of decal.

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

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

Sec. 10-37. - Reserved.

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

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

(b) Application by an active volunteer for such exempt tax license shall be made between March 15th and April 15th or within thirty (30) days of registration with the Commonwealth of Virginia. The treasurer shall not issue such tax exempt license to applicants who fail to apply within this prescribed period.

(c) The prerequisites set forth in section 10-30 herein shall apply to any motor vehicle license issued pursuant to these provisions.

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

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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.

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

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

Secs. 10-40—10-47. - Reserved.

ARTICLE III. - STOPPING, STANDING AND PARKING

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

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

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

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(a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

- (1) On a sidewalk.

- (2) In front of a public or private driveway.
- (3) Within an intersection, or within twenty (20) feet from the intersection of curb lines, or if none, then within fifteen (15) feet of the intersection of property lines at an intersection of streets.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) On a crosswalk.
- (6) Within twenty (20) feet of a crosswalk at an intersection; provided, that where there is no crosswalk at an intersection, no person shall park a vehicle within twenty (20) feet from the intersection of curb lines or, if none, within fifteen (15) feet of the intersection of property lines.
- (7) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.
- (8) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.
- (9) Within fifty (50) feet of the nearest rail of a railroad grade crossing. [§](#)
- (10) Within fifteen (15) feet of the driveway entrance to any fire station and, on the side of a street opposite the entrance to any fire station, within seventy-five (75) feet of the entrance when properly signposted.
- (11) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.
- (12) On the roadway side of any vehicle parked at the edge or curb of a street. (Double parked)
- (13) Upon any bridge or other elevated structure on a street or highway or within a tunnel.
- (14) At any place where official signs prohibit parking.
- (15) In any duly-identified parking space reserved for the handicapped by a vehicle which does not display a license plate, decal or special parking permit issued under sections 46.2-731, 46.2-739 or 46.2-1238 of the Code of Virginia, 1950, as amended.
- (16) No person shall leave any vehicle, attended or unattended, or a portion or part thereof, upon the paved, improved or main-travelled portion of any highway when it is practicable to leave such vehicle standing off the paved, improved or main-travelled portion of such highway. If it is not practicable to leave such vehicle standing off the paved, improved or main-travelled portion of such highway, then such vehicle shall not be stopped or parked except close to and parallel to the right-hand edge of the curb or roadway; except that a vehicle may be stopped

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close to and parallel to the left-hand curb or edge of the road on one-way streets or may be parked at an angle where permitted by the State Highway and Transportation Board or the Town of Berryville with respect to streets and highways under their jurisdiction. (Parked facing traffic)

- (17) It shall be unlawful for any person to park any vehicle across any line or marking designating a parking meter space, or to park any vehicle in any way that such vehicle shall not be wholly within a parking meter space as designated by such lines or markings.
- (b) No person, other than a police officer, shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful.

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

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

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

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- (a) No person shall park or leave standing any commercial vehicle in any residentially zoned area of the town; provided that, during regularly scheduled school hours, school buses may be parked in such residentially zoned areas by their drivers for a continuous period not to exceed six (6) hours.
- (b) No vehicle intended or designed to transport caustic, flammable, explosive or otherwise dangerous or hazardous materials shall be permitted to be parked or left standing in any residentially zoned area.
- (c) This section shall not be applicable to commercial vehicles picking up or discharging passengers or merchandise or pursuant to performance of work or service in residential areas.
- (d) For the purpose of this section, the term "commercial vehicle" shall mean a motor vehicle:
- (1) In excess of twenty-two (22) feet in length; or
 - (2) In excess of ten (10) feet in height; or
 - (3) With a gross weight (GW), registered gross weight (RGW), empty weight (EW), or curb weight (CW) in excess of ten thousand (10,000) pounds; or
 - (4) With a manufacturers gross vehicle weight rating (MGVWR), gross vehicle weight rating (GVWR), or gross combined weight rating (GCWR) in excess of twenty thousand (20,000) pounds.

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- (5) The term shall include any semitrailers, construction equipment, cranes, well drilling apparatus and other heavy equipment; however, this section shall not prohibit parking of such equipment if being used for construction activities at sites where valid building or land disturbance permits are in force or such activity is otherwise allowed.
- (e) Any violation of this section shall constitute a misdemeanor punishable by a fine not exceeding one hundred dollars (\$100.00).

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

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

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

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

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

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

Sec. 10-51. - Angle parking.

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

(Ord. of 6-10-97)

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

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

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(Code 1971, § 11-47; Ord. of 6-10-97)

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

Sec. 10-53. - Backing to curb.

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

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(Code 1971, § 11-38; Ord. of 6-10-97)

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

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

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

(Code 1971, § 11-40, Ord. of 6-10-97)

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

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

(Code 1971, § 11-41; Ord. of 6-10-97)

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

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

(Code 1971, § 11-45; Ord. of 6-10-97)

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

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~~(a) Whenever any motor vehicle, trailer, semitrailer, or parts thereof, are left unattended on a public highway or other public property and constitutes a traffic hazard or it is parked illegally, or it is left unattended for more than ten (10) days either on public property or private property, without the permission of the owner, lessee or occupant, or it is immobilized on a public roadway by weather conditions or other emergency situation, such motor vehicle, trailer, semitrailer, or parts thereof, may be removed for safekeeping by or under the direction of a police officer to a storage area; provided, however, that no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof.~~

~~(b) The person at whose request a motor vehicle, trailer, semitrailer, or parts thereof are removed from private property under this section shall indemnify the town against any loss or expense incurred by reason of the removal, storage or sale thereof.~~

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~~(c) — For the purposes of this section, it shall be presumed that a motor vehicle, trailer or semitrailer, or part thereof, is abandoned, if it (i) lacks either a current license plate or a current town license plate or sticker or a valid state inspection certificate or sticker and (ii) has been in a specific location for four (4) days without being moved.~~

~~(d) — Each removal under this section shall be reported immediately to the police department and to the owner of the motor vehicle, trailer or semitrailer as promptly as possible. The owner of such vehicle or trailer, semitrailer, or part thereof, before obtaining possession thereof, shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating the owner of such motor vehicle, trailer or semitrailer. Should such owner fail or refuse to pay the cost, or if his identity or whereabouts is unknown and unascertainable, after a diligent search has been made and after notice to him at his last known address and to the holder of any lien of record with the office of the Department of Motor Vehicles against the motor vehicle, trailer or semitrailer, or part of a motor vehicle, trailer, or semitrailer, the vehicle shall be treated as an abandoned vehicle under the provisions of Article IV (sections 10-72, et seq.) of this chapter.~~

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

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

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

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

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~~(Code 1971, § 11-43; Ord. of 6-10-97)~~

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

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

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(Code 1971, § 11-44; Ord. of 6-10-97)

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

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

(a) — In addition to the provisions of section 10-57, upon complaint of the owner of property on which a motor vehicle, trailer or semitrailer, or part thereof, has been abandoned for more than five (5) days, such motor vehicle, trailer or semitrailer, or part thereof, may be removed by or under the direction of a police officer to a storage garage or area; provided, that the person at whose request such motor vehicle, trailer or semitrailer, or part thereof, is so removed shall indemnify the town against any loss or expense incurred by reason of the removal, storage or sale thereof.

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(b) — In the case of the removal of a motor vehicle, trailer or semitrailer, or part thereof, from private property under this section, when the same cannot be readily sold, such motor vehicle, trailer or semitrailer, or part thereof, may be disposed of in such manner as the town council may provide. In all other respects, the provisions of section 10-57 shall apply to such removals; provided, that the disposal of a motor vehicle, trailer or semitrailer may, at the option of the council be carried out under either the provisions of section 10-57 or under the provisions of this section, after a diligent search for the owner, after notice to him at his last known address and to the holder of any lien of record in the office of the division of motor vehicles of this state against such motor vehicle, trailer or semitrailer, and after the motor vehicle, trailer or semitrailer has been held at least sixty (60) days.

(Code 1971, § 11-46; Ord. of 6-10-97)

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

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

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

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(Code 1971, § 11-46; Ord. of 6-10-97)

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

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

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- (a) Unless otherwise provided, any person violating the provision of section 10-70 relating to parking in metered spaces shall be guilty of a traffic infraction and punished as prescribed in section 10-1; provided, however, that any such violation may be satisfied, in full, by payment to the town treasurer of five dollars (\$5.00) within twenty-four (24) hours of such violation, or seven dollars (\$7.00) within fifteen (15) days of such violation. If payment for such violation is not received within fifteen (15) days, the fine shall be assessed at thirty dollars (\$30.00).
- (b) Unless otherwise provided, any person violating the provision of section 10-48(a)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (16) or (17) shall be guilty of a traffic infraction and punished as prescribed in section 10-1; provided however, that any such violation may be satisfied, in full, by payment to the town treasurer of ten dollars (\$10.00) within five (5) days of such violation.
- (c) Unless otherwise provided, any person violating the provisions of section 10-18(a) shall be guilty of a traffic infraction and punished as prescribed in section 10-1; provided, however, that any such violation may be satisfied, in full, by payment to the town treasurer of twenty-five (\$25.00) within five (5) days of such violation.
- (d) Any person violating section 10-34 shall be guilty of a Class 4 misdemeanor provided, however, that any such violation may be satisfied, in full, by payment to the town treasurer of twenty-five dollars (\$25.00) within fifteen (15) days of such violation, thirty-five dollars (\$35.00) within thirty (30) days of such violation or forty-five dollars (\$45.00) after thirty (30) days of such violation provided further, that in each such case, such person provide satisfactory evidence that the local license required by section 10-34, or the license of another locality required under ordinance enacted pursuant to Section 46.2-752 of the Code of Virginia, has been obtained.
- (e) All uncontested parking citations paid under this section shall be accounted for by the town treasurer.

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

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

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

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

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- (a) The ~~town manager~~Chief of Police shall cause a complaint or summons to be issued for delinquent parking citations.

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

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

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

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

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(a) It shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under section 46.1-731 of the Code of Virginia or DV disabled license plates issued under subsection B of section 46.2-739 of the Code of Virginia to be parked in a parking space reserved for persons with disabilities that limit or impair their ability to walk or for a person who is not limited or impaired in his ability to walk to park a vehicle in a parking space so designated except when transporting a person with such a disability in the vehicle. A summons or a parking ticket for violation of this section may be issued by town police officers and other uniformed personnel employed by the town to enforce parking regulations without the necessity of a warrant's being obtained by the owner of any private parking area.

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

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

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

Sec. 10-64.1 – Two hours' free parking in time restricted or metered spaces

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- (a) The disabled person, vehicle owner, or volunteer for an institution or organization to which disabled parking license plates, organizational removable windshield placards, permanent windshield placards, or temporary removable windshield placards are issued or to whom disabled parking license plates have been issued under subsection B of §46.2-739 Code of Virginia shall be allowed to park the vehicle on which such license plates or placards are displayed for up to two hours in metered or unmetered parking zones restricted as to the length of time permitted and shall be exempted from paying parking meter fees of the town.
- (b) This section shall not apply to zones where stopping, standing, or parking is prohibited, or parking zones for special types of vehicles, or where parking would clearly present a traffic hazard.

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State Law Reference – Similar provision, Code of Virginia §46.2-1245

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

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

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

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(Ord. of 2-14-06)

Sec. 10-66. - Reserved.

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DIVISION 2. - PARKING METERS

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FOOTNOTE(S):

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

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

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

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

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

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

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

(Code 1971, § 11-50)

Sec. 10-69. - Reserved.

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

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

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(a) When any vehicle shall be parked in any parking space adjacent to a parking meter installed under this division, the operator of such vehicle shall, upon entering such parking space, immediately deposit, or cause to be deposited, in such parking meter, a coin or coins money of the United States, the denominations of which shall be indicated on the meter, which shall put such meter in operation for the time prescribed on the meter. Failure to so deposit such coin or coins money and to put the meter in operation, ~~the parking space may be lawfully occupied by such vehicle during the period of time prescribed for the particular amount deposited~~ shall constitute a violation of this section. If such vehicle

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shall remain in such parking space beyond the prescribed time limit for the particular amount deposited, and the parking meter shall indicate illegal parking, violation, or expired, such vehicle shall be considered as being parked overtime and beyond the prescribed period of legal parking time. It shall be unlawful for any person to cause, allow, permit, or suffer any vehicle owned or operated by him to be parked overtime or beyond the period of legal parking time in any parking meter zone established under this division.

- (b) In the event a vehicle parked overtime in violation of this section remains so parked overtime in the same space for more than one hour, each additional hour, or fraction thereof, during which the vehicle is so parked shall constitute a separate violation.
- (c) The provisions of this section shall be in effect from 8:00 a.m. to 5:00 p.m. of each day, except Saturdays, Sundays and holidays observed by the town government.

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

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

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

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

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

ARTICLE IV. -- ABANDONED, INOPERABLE AND UNATTENDED VEHICLES.

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FOOTNOTE(S):

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

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Sec. 10-72. - Definitions.

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As used in this article:

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(1) Abandoned motor vehicle means a motor vehicle, trailer, or semitrailer or part of a motor vehicle, trailer, or semitrailer that:

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a. ~~In inoperable and is~~ Is inoperable and is left unattended on public property for more than forty-eight (48) hours, or

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b. Has remained illegally on public property for more than forty-eight (48) hours, or

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c. Has remained for more than forty-eight (48) hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property.

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(2) Inoperable abandoned motor vehicle means an abandoned motor vehicle which is inoperable and whose fair market value, as determined by the Clarke County official responsible for assessing motor vehicles under section 58.1-3503, Code of Virginia, 1950, as amended, is less than the cost of its restoration to an operable condition.

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

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

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

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

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

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

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- (a) When the town takes into custody an abandoned motor vehicle it shall, within fifteen (15) days, by registered or certified mail, return receipt requested, notify the owner of record of the motor vehicle and all persons having security interests in the vehicle of record, that it has been taken into custody. The notice shall (i) state the year, make, model, and serial number of the abandoned motor vehicle; (ii) set forth the location of the facility where it is being held; (iii) inform the owner and any persons having security interests of their right to reclaim it within fifteen (15) days after the date of the notice after payment of all towing, preservation and storage charges resulting from placing the vehicle in custody. The notice shall state that the failure of the owner or persons having security interests to reclaim the vehicle within the time provided shall constitute (i) a waiver by the owner and all persons having any security interests of all right, title, and (ii) interest in the vehicle, and consent to the sale of the abandoned motor vehicle at a public auction.
- (b) If records of the Virginia Department of Motor Vehicles contain no address for the owner or no address of any person shown by such records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the motor vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this article as to any person who cannot be notified pursuant to the provisions of subsection (a) of this section. Such notice by publication may contain multiple listings of abandoned motor vehicles. Any such notice shall be within the time requirements prescribed by this section for notice by mail and shall have the same contents required for a notice by mail.
- (c) The consequences of failure to reclaim an abandoned motor vehicle shall be as set forth in a notice given in accordance with and pursuant to this section.

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

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

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

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If an abandoned motor vehicle has not been reclaimed as provided for in section 10-74, the town, or its authorized agent, shall notwithstanding the provisions of section 46.2-617, Code of Virginia, 1950, as amended, sell it at public auction. the purchaser of the motor vehicle shall take title to the motor vehicle free of all liens and claims of ownership of others, shall receive a sales receipt at the auction and shall be entitled to apply to and receive from the Virginia Department of Motor Vehicles a certificate of title and registration card for the vehicle. The sales receipt from the sale shall be sufficient title only for the purposes of transferring the vehicle to a demolisher for demolition, wrecking, or

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dismantling, and in that case no further titling of the vehicle shall be necessary. From the proceeds of the sale of an abandoned motor vehicle, the town, or its authorized agent, shall reimburse itself for the expenses of the auction, the cost of towing, preserving and storing the vehicle which resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred pursuant to section 10-74. Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interests in the vehicle, as their interests may appear, for ninety (90) days, and then shall be deposited into the treasury of the town wherein such abandoned motor vehicle was abandoned.

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

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

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

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Notwithstanding section 10-72, any motor vehicle, trailer, semitrailer, or part thereof shall be considered abandoned and may be reported by the garagekeeper to the town if it has been left in a garage for more than ten (10) days or for more than ten (10) days beyond the period the vehicle was to remain on the premises pursuant to a contract, after notice by registered or certified mail, return receipt requested, to the owner of record and all persons having security interests of record therein, to reclaim the vehicle within fifteen (15) days of the notice. Any abandoned motor vehicle left in a garage may be taken into custody by the town in accordance with section 10-73 and shall be subject to the notice and sale provisions contained in sections 10-74 and 10-75. If, however, the vehicle is reclaimed in accordance with section 10-74, the person reclaiming it, in addition to the other charges required to be paid, shall pay the reasonable charges of the garagekeeper, unless otherwise provided by contract or ordinance. If the vehicle is sold pursuant to section 10-75, and garagekeeper's charges shall be paid from, and to the extent of, the excess of the proceeds of sale after paying the expenses of the auction, the costs of towing, preserving, and storing the vehicle which resulted from placing the vehicle in custody and all notice and publication costs incurred pursuant to section 10-74. Except as otherwise provided in this article, nothing in this section shall restrict any rights conferred on any persons under sections 43-32 through 43-36, Code of Virginia, 1950, as amended.

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

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

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

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

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

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

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

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

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(a) No demolisher who purchases or otherwise acquires a motor vehicle for wrecking, dismantling, or demolition shall be required to obtain a certificate of title for the motor vehicle in his own name. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender to the Virginia Department of Motor Vehicles for cancellation the certificate of title or sales receipt for the vehicle. The demolisher shall use the forms and follow the rules and regulations of the Department of Motor Vehicles in the surrender of sales receipts and certificates of title as are appropriate.

(b) Demolishers shall keep accurate and complete records of all motor vehicles purchased or received by them in the course of their business. These records shall contain the name and address of the person from whom each motor vehicle was purchased or received and the date on which purchases or receipts occurred. These records shall be open for inspection by the Virginia Department of Motor Vehicles at any time during normal business hours.

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

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

Sec. 10-79. - Open storage of inoperative vehicles in certain zoning districts.

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(a) It shall be unlawful and a Class 4 misdemeanor for any person, firm or corporation to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial purposes, any motor vehicle, trailer, or semi-trailer, as such are defined in § 46.2-100 of the Code of Virginia, which is inoperative. As used in this section, an "inoperative motor vehicle" shall mean any motor vehicle which is not in operating condition; or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle, or on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this act shall not apply to licensed business which on June 26, 1970, is regularly engaged in the business as an automobile dealer, salvage dealer or scrap processor.

(b) A maximum of one (1) inoperable motor vehicle, trailer, or semi-trailer may be kept outside of a fully enclosed building or structure, as long as such vehicle, trailer, or semi-trailer is shielded or screened from view. "Shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located or the vehicle is covered by a cover made for vehicles.

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(c) The owners of property zoned for residential or commercial purposes shall, at such time or times as the council may prescribe, remove therefrom any such vehicles, trailers or semi-trailer described above that are not kept within a fully enclosed building or structure.

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(d) The town manager through the town's agents and employees may remove such inoperable motor vehicles, trailers, or semi-trailers as hereinabove described whenever the owner of the premises, after reasonable notice, has failed to do so. Reasonable notice may be given by first class and registered or certified mail addressed to the owner of the premises, as shown on the current real estate tax records, at the address to which the real estate tax bill is mailed; personal service upon an owner of the premises upon which the vehicles are located; or conspicuously posting notice of the violation upon the premises where the inoperative motor vehicles are located. In the event any such motor vehicle, trailer, or semi-trailer is so removed, the town manager through the town's agents and employees may dispose of the same, after giving additional notice to the owner of the vehicle.

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(e) The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the town as taxes and levies are collected. Every such cost with which the owner of the premises has

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been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such cost has been made to the town.

(Ord. of 7-18-85; Ord. of 5-9-89; Ord. of 6-13-06; Ord. of 12-9-14(1))

Cross reference— Penalty for Class 4 misdemeanor, § 1-11; zoning ordinance, App. A.

State Law reference— Authority for above section, Code of Virginia, § 15.2-904.

Sec. 10-80. - Removal and disposition of unattended vehicles or immobile vehicles—Generally.

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(a) Whenever any motor vehicle, trailer, semitrailer, or parts thereof, are left unattended on a public highway or other public property and constitutes a traffic hazard or it is parked illegally, or it is left unattended for more than ten (10) days either on public property or private property, without the permission of the owner, lessee or occupant, or it is immobilized on a public roadway by weather conditions or other emergency situation, such motor vehicle, trailer, semitrailer, or parts thereof, may be removed for safekeeping by or under the direction of a police officer to a storage area; provided, however, that no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof.

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(b) The person at whose request a motor vehicle, trailer, semitrailer, or parts thereof are removed from private property under this section shall indemnify the town against any loss or expense incurred by reason of the removal, storage or sale thereof.

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(c) For the purposes of this section, it shall be presumed that a motor vehicle, trailer or semitrailer, or part thereof, is abandoned, if it (i) lacks either a current license plate or a current town license plate or sticker or a valid state inspection certificate or sticker and (ii) has been in a specific location for four (4) days without being moved.

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(d) Each removal under this section shall be reported immediately to the police department and to the owner of the motor vehicle, trailer or semitrailer as promptly as possible. The owner of such vehicle or trailer, semitrailer, or part thereof, before obtaining possession thereof, shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating the owner of such motor vehicle, trailer or semitrailer. Should such owner fail or refuse to pay the cost, or if his identity or whereabouts is unknown and unascertainable, after a diligent search has been made and after notice to him at his last known address and to the holder of any lien of record with the office of the Department of Motor Vehicles against the motor vehicle, trailer or semitrailer, or part of a motor vehicle, trailer, or semitrailer, the

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vehicle shall be treated as an abandoned vehicle under the provisions of Article IV (sections 10-72, et seq.) of this chapter.

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

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

Sec. 10-81. - Same—Contracts with private persons for removal and storage.

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

(Code 1971, § 11-43; Ord. of 6-10-97)

Sec. 10-82. - Same—Sale of personal property found in vehicle.

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

(Code 1971, § 11-44; Ord. of 6-10-97)

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

Sec. 10-83. - Same—Additional procedure for removal from private property.

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(a) In addition to the provisions of section 10-80, upon complaint of the owner of property on which a motor vehicle, trailer or semitrailer, or part thereof, has been abandoned for more than five (5) days, such motor vehicle, trailer or

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semitrailer, or part thereof, may be removed by or under the direction of a police officer to a storage garage or area; provided, that the person at whose request such motor vehicle, trailer or semitrailer, or part thereof, is so removed shall indemnify the town against any loss or expense incurred by reason of the removal, storage or sale thereof.

(b) In the case of the removal of a motor vehicle, trailer or semitrailer, or part thereof, from private property under this section, when the same cannot be readily sold, such motor vehicle, trailer or semitrailer, or part thereof, may be disposed of in such manner as the town council may provide. In all other respects, the provisions of section 10-80 shall apply to such removals; provided, that the disposal of a motor vehicle, trailer or semitrailer may, at the option of the council be carried out under either the provisions of section 10-80 or under the provisions of this section, after a diligent search for the owner, after notice to him at his last known address and to the holder of any lien of record in the office of the division of motor vehicles of this state against such motor vehicle, trailer or semitrailer, and after the motor vehicle, trailer or semitrailer has been held at least sixty (60) days.

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(Code 1971, § 11-46; Ord. of 6-10-97)

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

Sec. 10-84. - Same—State to be notified of removal.

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The state division of motor vehicles shall be notified of the disposition of any motor vehicle, trailer or semitrailer under section 10-55 or 10-81.

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(Code 1971, § 11-46; Ord. of 6-10-97)

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

Attachment 2

18.153.010 Purpose.  [SHARE](#)

This chapter authorizes the keeping in the city of Staunton of what are commonly referred to as backyard hens and prescribes the conditions for the keeping of such chickens within an urban residential environment. It also seeks to protect the residential integrity of the surrounding neighborhood and health and safety of the chickens and other poultry, including the poultry that is a vital part of the agribusiness economy of the Shenandoah Valley of Virginia. (Ord. 2015-08).

18.153.020 Definitions.  [SHARE](#)

The following words and phrases, as used in this chapter, shall have the following meanings:

“Biosecurity measures” means actions, measures and conditions that promote sanitation and the prevention of disease related to the keeping and maintaining and handling of a chicken or chickens, including: the provision and periodic replacement of dry and clean litter for chicken litter; the disposal of chicken litter only in accordance with the provisions of this chapter and other applicable law and otherwise away from any place where chickens or other poultry and wild birds would have access; the provision and maintenance of clean coops and pens and related equipment, with regular, periodic complete cleaning and disinfection; the washing and disinfection of footwear and equipment that may enter pens and coops; and the washing and disinfection of hands and the change of clothing after any contact with a sick or diseased chicken, other poultry, animal or wildlife prior to contact with other chickens.

“Chicken” means adult female domestic chicken kept pursuant to the provisions of this chapter.

“Chicken litter” means any resulting mixture or combination of chicken excreta, manure, feed, feathers and material from the bedding for chickens.

“Coop” means the structure within a pen that houses chickens and is built and maintained with materials as impenetrable barriers so as to keep chickens confined and secure from other animals, providing space of not less than three square feet per chicken.

“Litter” means shavings and other materials to be used or used as chicken bedding.

“Pen” means an area of property enclosed at all times and on all sides, including the top, with a strong fence of mesh wire and other reliable materials as an impenetrable barrier so as to keep all chickens confined and secure from other animals, having space of not less than eight square feet per chicken.

“Processing of chicken” means slaughtering, cutting, boning, canning, salting, stuffing, or rendering a chicken that was or is kept or maintained on property pursuant to the provisions of this chapter.

“Property” means an area of land, including any buildings and structures located thereon, in the city of Staunton, Virginia, and owned legally or equitably by a person, regardless of ownership titling of interests, or used under a lease or otherwise by a person(s) for the keeping of chickens.

“Rooster” means an adult male domestic chicken.

“Sanitary conditions” mean conditions at all times of keeping or maintaining or handling of a chicken or chickens and related activities on property in accordance with biosecurity measures and other sanitary-related provisions of this chapter.

“Slaughter” means the act of killing a chicken or chickens. (Ord. 2015-08).

18.153.030 General standards. [SHARE](#)

Any person keeping chickens on property shall be permitted to use the property to do so as an accessory use to a single-family, two-family, or multifamily dwelling upon the following conditions:

- (1) No more than six chickens shall be allowed per property, regardless of the number of dwellings or the ownership interests or use arrangements, with or without consent.
- (2) Roosters are prohibited.
- (3) Chickens shall not be allowed to roam free and they shall be kept in a pen or coop at all times.
- (4) All coops and pens shall be deemed accessory structures and shall comply with the rear yard setback requirement of being not less than 10 feet from the property line at all times.
- (5) All coops and pens shall be located in the rear yard only.
- (6) All coops and pens must be kept in a sanitary condition at all times, and must be cleaned on a regular basis to prevent offensive odors.
- (7) Offensive odors from chickens, manure, or other chicken-related substances shall not be detectable at any time at the property boundaries.
- (8) Biosecurity measures as to the pen, coop and chickens and the property shall be maintained at all times, in addition to compliance with all of the provisions and requirements of the SCC and Virginia Code and regulation directives regarding care, shelter, sanitation, health, disease, insect and rodent control and as to cruelty, neglect, noise, reasonable control and other such requirements pertaining to, but not limited to, the adequate care and control of animals in the city.

(9) Absent confinement and security and biosecurity measures being maintained at all times in accordance with the provisions of this chapter, one or more chickens may be removed by an animal control officer.

(10) All feed or other material intended for consumption by a chicken shall be placed and maintained in containers impenetrable by mice, rats, rodents, or other animals, and such container shall be equipped and maintained at all times with tightly fitting caps or lids. The presence of mice, rats, rodents, or other animals on the property in or near an area used for the keeping of chickens shall be proof, without more, that such area is maintained in violation of this chapter.

(11) If any chicken litter or waste is disposed of by use of the city refuse system, it must be double plastic-bagged, with at least 1.5 mil rating, and securely closed and deposited in a city approved receptacle. In addition, any chicken(s) being disposed of shall also be so bagged and securely closed and deposited in a city approved receptacle.

(12) Storage or disposal of litter, waste, and chickens on public land or in or near a sewage or stormwater collection system, facility or stream or pond, water detention facility, or water garden of any kind is strictly prohibited.

(13) There shall be no slaughtering or processing of chicken outdoors.

(14) The sale of chicken eggs on or from the property is prohibited. Off-site sale of chicken eggs shall only be by a home occupation permit issued by the city as provided in Chapter [18.150](#) SCC.

(15) A chicken may be considered a nuisance animal and shall be subject to the provisions of SCC [6.10.240](#), Nuisance animals. (Ord. 2015-08).

18.153.040 Administration.

The following pertains to the permit process for keeping chickens and, when necessary, the revocation of such permit:

(1) It shall be unlawful for any persons to keep one or more chickens on property unless the person has been issued a permit for such by the zoning administrator. The application, which the zoning administrator is authorized to promulgate, must, at a minimum, identify the property by address and parcel ID; include a sketch showing the area where the chickens will be housed and all types and sizes of enclosures in which the chickens will be kept; and show all property dimensions and setbacks. Once a one-time zoning permit fee has been paid as provided in SCC [18.153.060](#) and the site and enclosures have been inspected and approved by the city's zoning administrator, and the application approved, a

permit may be issued. No permit shall be issued to any person or as to any property as to which taxes, fees or other charges owed to the city have not been paid and are in arrears.

(2) The permit applicant must be the owner of the property or must have and submit written consent of the owner of the property as part of the permit application to keep chickens on the property. Upon written notice of the property owner's withdrawal or cancellation or termination of such approval, the permit shall be revoked by the zoning administrator.

(3) If the permit holder is convicted of any city or state code violation associated with the keeping of chickens, the permit shall be revoked.

(4) In the event of the zoning administrator receiving and verifying three substantial and credible complaints of violation of any provision of this chapter and after notice given of such to the permit holder, the permit shall be revoked.

(5) Upon revocation of the permit, chickens must be removed within 30 days or be subject to removal. Any person(s) so having a permit revoked shall not be allowed, at any time, to make application for another permit for five years.

(6) Upon a finding by the zoning administrator that there is warning or equivalent notice or advisory or guidance issued by federal or state authorities regarding a present or forecasted substantial threat of the potential transmission or spread of avian influenza or other poultry disease, no further permits shall be issued until such time that, by similar notice or advisory or guidance, the threat has been recognized by federal or state authorities as having been eliminated. (Ord. 2015-08).

18.153.050 Existing use at the time of enactment.

Notwithstanding the foregoing provisions of this chapter, a person whose use of property involves chickens being kept at the time of enactment of the provisions of this chapter shall have a period of 60 days from such date of enactment to comply with the requirements of this chapter. (Ord. 2015-08).

18.153.060 Fee.

The one-time fee for application for a permit to keep chickens shall be as provided under SCC [18.220.020](#) (zoning permit fee). If the use is discontinued by the applicant for a period of more than two years, a new permit process, as provided in SCC [18.153.040](#), and a new permit fee will be required. (Ord. 2015-08).

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, § 3.2-6544; 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(b)] 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, § 18.2-395.

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. 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 ordered 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 1., 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)

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?

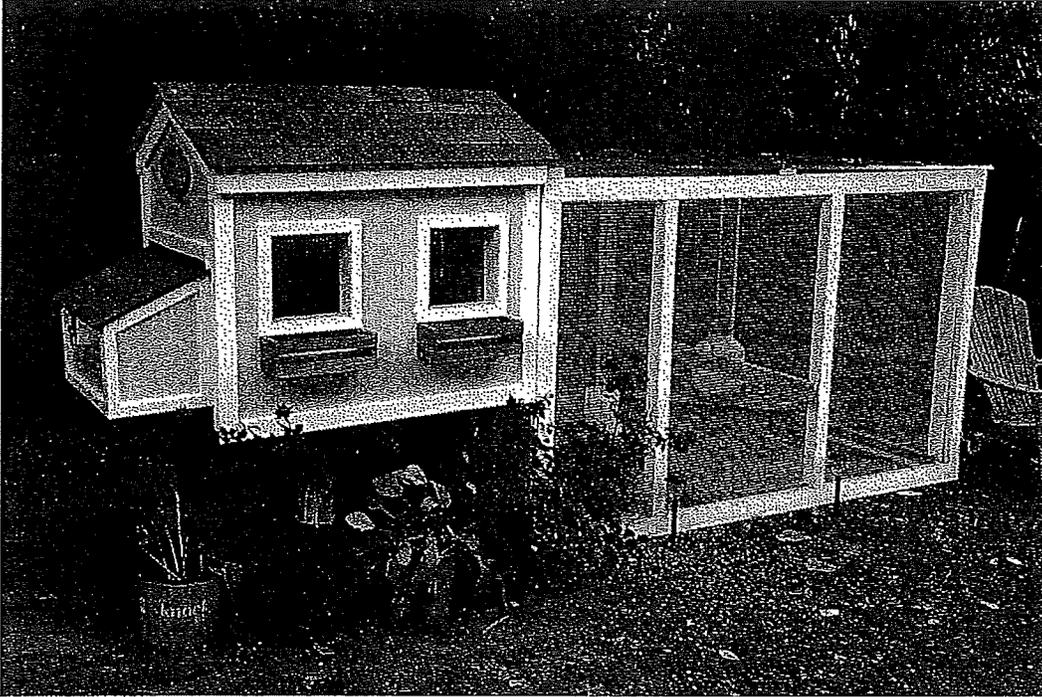
Resident Point of View

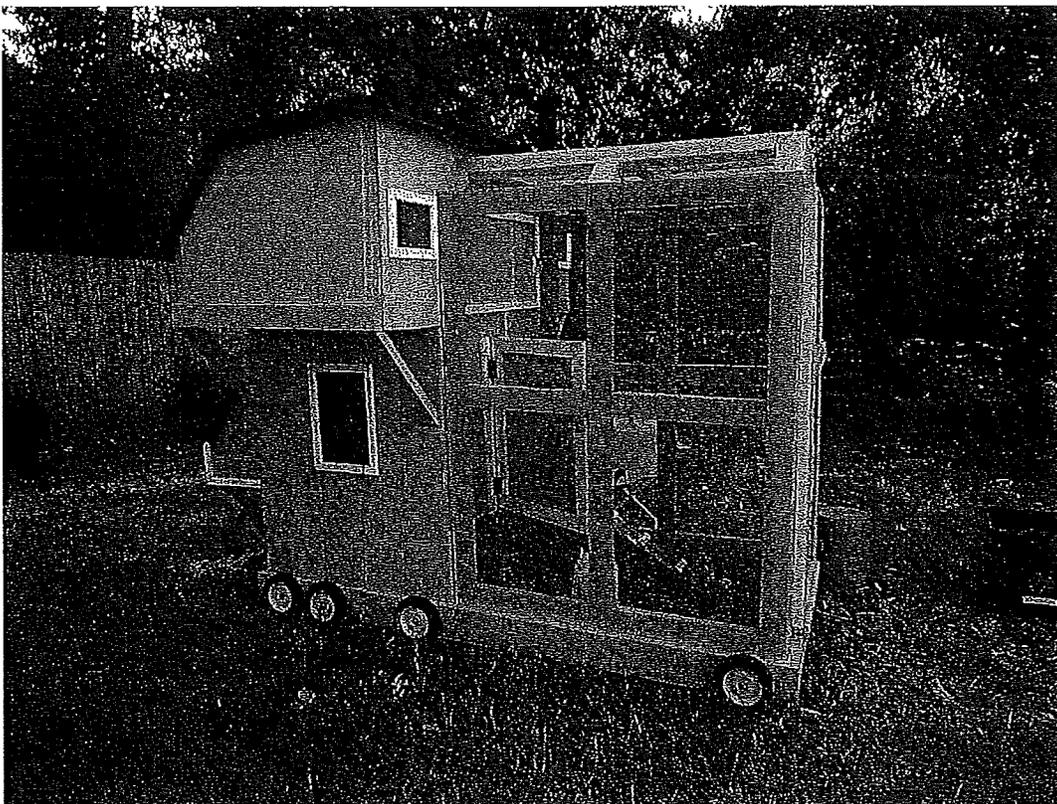
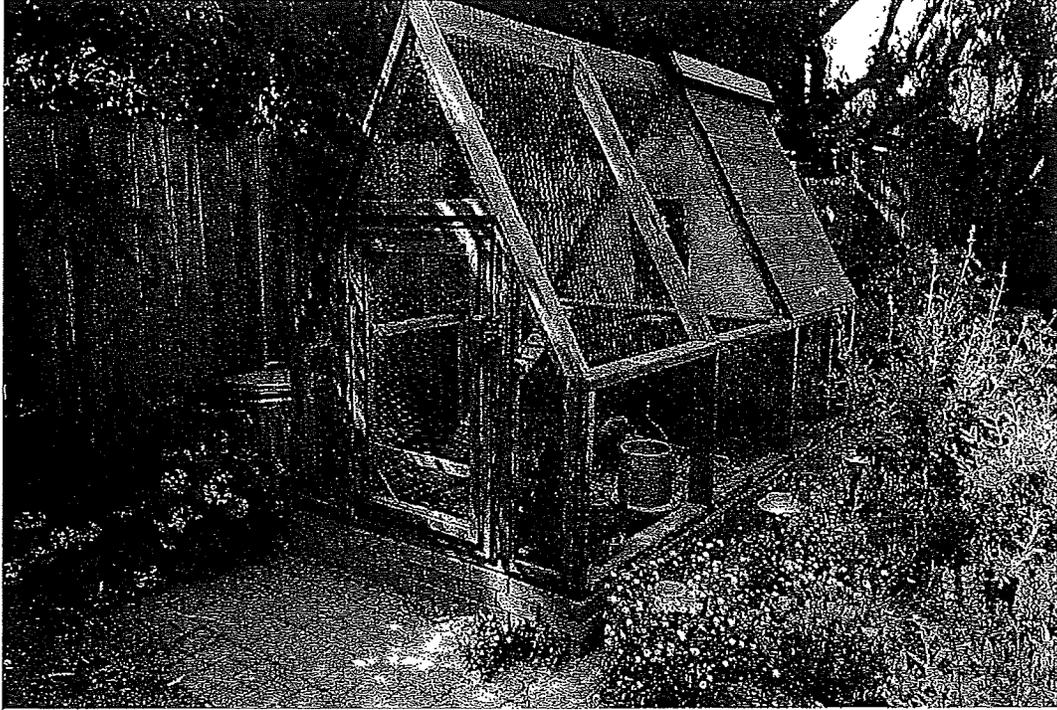
- Freedom to choose healthiest freshest eggs
- Organic and sustainable food sourcing
- Pest Control (Chickens eat bugs in your yard)
- Weed Control (Chickens eat seed heads in your yard)
- Disease Control (Chickens eat ticks, reducing Lyme Disease carriers)
- Greater self-reliance and increased personal 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. I, 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

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.

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 43,559 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, contiguous 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.