

**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  
November 6, 2017  
5:00 pm**

<u>Item</u>		<u>Attachment</u>
1. <b>Call To Order</b>	Dave Tollett, Chair	
2. <b>Approval of Agenda</b>		
3. <b>Department Update</b>	Neal White, Chief	
4. <b>Discussion</b>	Career Development	1
5. <b>Discussion</b>	Chapter 8: Garbage and Refuse, Recyclables, and Yard Waste	2
6. <b>Discussion</b>	Town Code Review	3
7. <b>Closed Session</b>	No Closed Session Scheduled	
8. <b>Other</b>		
9. <b>Adjourn</b>		

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

# Attachment 1

## Career Development Program Comments

General Order Section	Comment
Purpose Statement	Add language that denotes “engagement of the community” is a critical component of the program, and that engagement is a hallmark of the police department that the community desires.
Policy Statement	Better address how the program would benefit the town. Further explain why retention is vital to a stable police department.
In General	Spell out acronyms for reader understanding. (i.e.: DCJS)
Sec. D, 1b	Remove this statement concerning availability of funding as CDP would be approved by Council and therefore funding would be established by acceptance of program.
Sec. D, 3	Denial of program application procedure outlined in this section should be reviewed by Human Resources to ensure legality.
Sec. D, 3b	Amend to state that an applicant can reapply in the “next cycle” as opposed to “any time all eligibility criteria is met”.
Sec. E, 2a	Years of law enforcement experience outside of the Berryville Police Department should not be credited within this program as those years of experience are credited upon initial hiring of the candidate. Conversely also received comments that outside years should count 1:1
Sec. E, 2b	Redundant, already addressed in sec. C4
Sec. F, 4	Reword to clarify the statement
Sec. G, 1	Better define the distinction between probationary and full-time officer
Sec. G, 2a	Lower years of service requirements from 3 to 2
Sec. G, 2a	Include requirement that officer shall lead effort in an established community engagement program.
In General	Establish and explain how a “preventable traffic crash” is determined and documented.
Sec. G, 3	Require community relations training for Senior Officer tier
Sec. G, 3i	Reduce years of service from 5 to 4
Sec. G, 3vi	Instead of basing community service upon hours of participation, require developing and leading programs that have a measureable impact.
Sec. G, 4i	Reduce years of service from 8 to 6
Sec. G, 6ai	Reduce years of service as supervisor from 3 to 1
Formal Education Requirements	Degrees should be bumped back a level each.

**GENERAL ORDER**

NUMBER : # SUBJECT : <b>General Order Name</b>	EFFECTIVE DATE: **/**/****  REVIEW DATE:  APPROVED BY COUNCIL:
CHIEF OF POLICE :	
MAYOR :	
RECORDER :	

**NOTE:** This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this order, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

**I. PURPOSE**

The purpose of this policy is to provide sworn officers with an understanding of the department's Career Development Program (CDP), a knowledge of the criteria for movement in the CDP and the procedures to be followed.

**II. POLICY**

The employees of this department are the most valuable resources, therefore constant attention must be given to the development of their professionalism and expertise through training and education. The department recognizes this dependency and thus, offers career paths designed to bolster an officer's knowledge and performance within their profession, while simultaneously providing monetary compensation for these achievements.

The department also recognizes that opportunities for promotion are quite limited, and that not all employees will want to advance to supervisory positions. Therefore, some employees will provide leadership to the agency without ever becoming supervisors. These career employees are vital to retain and must be recognized for their contributions to the department and community.

The Career Development Program is voluntary. While participation in the program is strongly encouraged, there is no penalty for non-participation. The

program will be routinely reviewed and evaluated by the Chief of Police to make sure goals are being attained and resources are effectively utilized.

### **III. PROCEDURES**

#### **A. Career Development Program Objectives**

1. The primary objective of the CDP is to encourage the improvement of personal knowledge, skills, and abilities of all sworn personnel in order to successfully meet department mission and tasks.
2. Provide an opportunity for all sworn officers to develop their careers.
3. Ensure that all sworn officers complete DCJS mandated in-service training in a timely manner, preferably through utilization of training opportunities which will enhance career growth.
4. Provide career development guidance to each employee annually in conjunction with the performance evaluation process.
5. Improve employee retention by recognizing and rewarding employee's achievements and contributions to the department.
6. Motivate employees to achieve specialties, proficiencies, and advanced education related to their career.

#### **B. Participation**

1. The CDP is voluntary, those wishing to participate should carefully review the contents of this General Order.
2. All sworn officers will have the same access to training opportunities in order to participate in the CDP.
3. All sworn officers who wish to participate or continue to participate in the CDP must submit a memo of interest and intent to the Chief of Police on an annual basis between April 1 and May 1 of a given calendar year. In addition to the memo, the officer must attach a completed CDP application packet.
4. Completed applications will be reviewed by the Chief of Police and any advancements will take effect at the beginning of the next fiscal year (July 1).

#### **C. Program Tiers**

1. The CDP has paths both for officers and first line supervisors up to the rank of Sergeant.
2. The progression through the sworn officer path is as follows:
  - a) Probationary Officer / Officer
  - b) Officer First Class
  - c) Senior Officer
  - d) Master Officer

e) Career Officer

3. The progression through the first line supervisor path is as follows:

- a) Supervisor I
- b) Supervisor II
- c) Supervisor III

4. An officer may only advance one tier annually through the CDP.

#### D. Approval of Applicants

1. The Chief of Police will approve officer CDP applications, related rank and compensation adjustments:
  - a) On deeming that all eligibility requirements have been met, and
  - b) On verifying that funding is available at that time to support the compensation increase related to tier progression.
2. An officer approved for tier progression will receive an appointment letter detailing the effective date of tier progression, the rank earned and the related compensation adjustment.
3. An officer whose CDP application is denied:
  - a) Will receive a written explanation from the Chief of Police citing the reason(s) for the denial
  - b) Will be eligible to reapply at any time that all eligibility criteria are met
  - c) May request an appeal hearing with the Chief of Police and Town Manager

#### E. Law Enforcement Experience

1. Experience criteria for a tier must be met by July 1 of the year that the requested tier would take effect. For example, if an officer was seeking advancement to Officer First Class an application packet could be submitted as long as the officer would achieve three years of experience by July 1.
2. Officers who are hired with former law enforcement experience must complete one full year with the Berryville Police Department before entering the CDP.
  - a) After completion of year one, an officer can submit an application for the CDP and count every year of law enforcement experience outside of the Berryville Police Department as 2/3 of a year.

- b) An officer with law enforcement experience from another department may only advance one tier annually.

#### F. Demotion in Tier Levels

1. Advancement through the CDP is considered a promotion in rank.
2. Failure to meet and maintain standards of the program, including poor job performance may result in demotion within the CDP.
3. If a program participant fails to meet the requirements of the program, they will be demoted to the next lower tier and their pay will be reduced by the same percentage that they were compensated upon ascension to the previously higher tier. This reduction in compensation would only apply to compensation directly related to the CDP and not other merit or cost of living adjustments.
4. In the event of an involuntary demotion in rank due to discipline or performance, the Chief of Police may reinstate the officer up to two tiers below their current status in the program. Involuntarily demoted officers must complete one year at each level before seeking advancement.
5. In the event of an involuntary demotion from a supervisory rank (Supervisor I, II, III), the officer will return to the rank obtained within the Officer path prior to promotion. Involuntarily demoted officers must complete one year at each level before seeking advancement.
6. In the event of a voluntary demotion from a supervisory rank, and pending approval by the Chief of Police, an officer will be reinstated at the level of rank within the CDP attained prior to their promotion.

#### G. Tier Requirements

1. Probationary Officer / Officer
  - a) This is the entry level designation for an officer where they receive basic certification from DCJS and complete field training within the department.
2. Officer First Class
  - a) In order to be considered for advancement for the position of Officer First Class, the officer must meet the following criteria:
    - i. Be a police officer with the Town of Berryville for three (3) years
    - ii. Have received acceptable annual performance evaluations for the preceding three (3) years
    - iii. Has not been suspended without pay within the preceding twelve (12) months

- iv. Has no more than one (1) preventable traffic crash in the preceding twelve (12) months
  - b) Achievement of the Officer First Class tier will result in a compensation rate increase of 5% and designation to be worn on the uniform to acknowledge such achievement.
3. Senior Officer
- a) In order to be considered for advancement to the position of Senior Officer, the officer must meet the following criteria:
    - i. Be a police officer with the Town of Berryville for five (5) years, including at least one (1) year as an Officer First Class.
    - ii. Have a minimum of an Associate's Degree in a field applicable to criminal justice or related social sciences.
    - iii. Have received acceptable annual performance evaluations for the preceding three (3) years.
    - iv. Has not been suspended without pay within the preceding twelve (12) months
    - v. Has no more than one (1) preventable collision in the preceding twelve (12) months.
    - vi. Has participated in at least ten (10) hours of community engagement programs within the preceding eighteen (18) months.
    - vii. Has at least one of the following skill areas:
      - Field Training Officer
      - Crisis Intervention Team (CIT)
      - General Instructor
      - Firearms Instructor
      - Speed Measurement Instructor
      - Defensive Tactics Instructor
      - Driver Training Instructor
  - b) Achievement of the Senior Officer tier will result in a compensation rate increase of 5% and designation to be worn on the uniform to acknowledge such achievement.
4. Master Police Officer
- a) In order to be considered for advancement to the position of Master Police Officer, the officer must meet the following criteria:
    - i. Be a police officer with the Town of Berryville for eight (8) years, including one (1) year as a Senior Police Officer.

- ii. Have received acceptable annual performance evaluations for the preceding three (3) years.
  - iii. Has not been suspended without pay for the preceding twelve (12) months.
  - iv. Has no more than one (1) preventable collision in the preceding twelve (12) months.
  - v. Has participated in at least twenty (20) hours of community engagement programs within the past eighteen (18) months.
  - vi. Has completed at least forty (40) hours of specialized training in the preceding two (2) years beyond the DCJS mandated minimum recertification requirements.
  - vii. Has conducted at least twenty-four (24) hours of instruction as a Field Training Officer, Instructor, or combination of both in the preceding twelve (12) months.
- b) Achievement of the Master Officer tier will result in a compensation rate increase of 5% and designation on the uniform to acknowledge such achievement.

5. Career Officer

- a) In order to be considered for advancement to the position of Career Officer, the officer must meet the following criteria:
  - i. Be a police officer with the Town of Berryville for thirteen (13) years, including one (1) year as a Master Officer.
  - ii. Have received acceptable annual performance evaluations for the preceding three (3) years.
  - iii. Has not been suspended without pay for the preceding twelve (12) months.
  - iv. Has no more than one (1) preventable collision in the preceding twelve (12) months.
  - v. Has participated in at least twenty (20) hours of community engagement programs in the past eighteen (18) months.
  - vi. Has completed at least forty (40) hours of specialized training in the preceding two (2) years beyond the DCJS mandated minimum recertification training.
  - vii. Has conducted at least twenty-four (24) hours of instruction as a Field Training Officer, Instructor, or combination of both in the preceding twelve (12) months.
  - viii. Serve the department as one or more of the following in the preceding twelve (12) months:
    - Training Officer
    - Fleet Manager
    - Supply Officer
    - OSHA / Haz-Mat / Safety Officer

- Evidence Room Officer
- Breath Alcohol Instrument Officer
- Firearms Officer
- Technology Officer
- Community Relations Officer

b) Achievement of the Career Officer tier will result in a compensation increase of 5% and designation on the uniform to acknowledge such achievement.

#### 6. Supervisor I

a) In order to be considered for the advancement to the position of Supervisor I, the officer must meet the following criteria:

- i. Be a first line supervisor with the Berryville Police Department for the preceding three (3) years.
- ii. Have received acceptable annual performance evaluations for the preceding three (3) years.
- iii. Has not been suspended without pay for the preceding twelve (12) months.
- iv. Has no more than one (1) preventable collision in the preceding twelve (12) months.
- v. Have a minimum of an Associate's Degree in a field applicable to criminal justice or related social sciences
- vi. Has completed twenty (20) hours of supervision / leadership training in the preceding two (2) years.
- vii. Has participated in twenty (20) hours of community engagement programs in the preceding eighteen months.

b) Achievement of the Supervisor I tier will result in a compensation increase of 3% and designation on the uniform to acknowledge such achievement.

#### 7. Supervisor II

a) In order to be considered for advancement to the position of Supervisor II, the officer must meet the following criteria:

- i. Be a first line supervisor with the Berryville Police Department for seven (7) years, including one (1) year as Supervisor I.
- ii. Have received acceptable annual performance evaluations for the preceding three (3) years.
- iii. Has not been suspended without pay for the preceding twelve (12) months.

- iv. Has no more than one (1) preventable collision in the preceding twelve (12) months.
  - v. Have a minimum of a Bachelor's Degree in a field applicable to criminal justice or related social sciences.
  - vi. Has completed forty (40) hours of specialized leadership / supervision training in the preceding two (2) years.
  - vii. Has participated in twenty (20) hours of community engagement programs in the preceding eighteen (18) months.
- b) Achievement of the Supervisor II tier will result in a compensation rate increase of 3% and designation on the uniform to acknowledge such achievement.
8. Supervisor III
- a) In order to be considered for advancement to the position of Supervisor III, the officer must meet the following criteria:
    - i. Be a first line supervisor with the Berryville Police Department for twelve (12) years, including one (1) year as Supervisor II.
    - ii. Have received acceptable annual performance evaluations for the preceding three (3) years.
    - iii. Has not been suspended without pay for the preceding twelve (12) months.
    - iv. Has no more than one (1) preventable collision in the preceding twelve (12) months.
    - v. Has completed forty (40) hours of specialized leadership / supervision training in the preceding two (2) years.
    - vi. Has participated in twenty (20) hours of community engagement programs in the preceding eighteen (18) months.
  - b) Achievement of the Supervisor III tier will result in a compensation rate increase of 3% and designation on the uniform to acknowledge such achievement.

H. Criteria

- 1. The Chief of Police has the responsibility of reviewing the criteria contained in each CDP packet submitted by May 31<sup>st</sup> of each year in order for potential compensation rates to be adjusted by July 1<sup>st</sup> in accordance with the annual budget process.

2. The Chief of Police retains the discretion as to whether a training, educational, or community engagement participation meets the criteria outlined in this policy.
3. Any officer who has a question regarding if a particular training or community project falls within the required criteria for a tier should discuss such matter with the Chief of Police in advance of submitting the item for consideration in their application packet.

I. Process Review Procedures

1. Officers who believe that their CDP application has been adversely affected, by either by the process as a whole or some specific component thereof, may make a direct appeal to the Chief of Police.
  - a) Any such appeal must be initiated within five (5) business days of the date on which the officer received notice that their application for the CDP was denied.
  - b) The officer must submit a memorandum to the Chief of Police outlining the specific career development program event(s) or action(s) which, in the officer's opinion, adversely affected their progression opportunity.
  - c) The Chief of Police will:
    - i. Review the information provided in the appeal memorandum
    - ii. Conduct any additional inquiries regarding the CDP process that he deems necessary
    - iii. Consult with any other members of staff involved in the developing or administering aspects of the CDP
    - iv. Meet with the affected officer to discuss the officer's outlined concerns and the Chief's decision regarding the officer's appeal.
2. Career Development Program forms and attachments submitted for review will be maintained in a secure location approved by the Chief of Police. Access to these files will be subject to prior approval by the Chief of Police.
3. The Chief of Police, or designee, will be responsible for periodically reviewing the Career Development Program and for making necessary program revisions as deemed necessary.

DRAFT

# Attachment 2

Please find attached a first draft of an amended Chapter 8 of the Berryville Code.

As the attached draft is a first draft (read rough), there are several things that must be noted at this time:

- The draft is not complete
- There are many differences in font that will be addressed
- Code references and the like will be revised

Staff recommends that the committee work through this review in the following steps or phases:

- Review general structure and approach (Meeting 1 – 6 November 2017)
- Review Article I: In General – excluding definitions (Meeting 2)
- Review Article II: Collection by Town (Meetings 2 & 3)
  - o Refuse
  - o Recycling
  - o Special service area
  - o Yard waste
- Review Article III: Collection by Others (Meeting 4)
- Definitions (Meeting 4)
- Legal Review
- Public Input (Meeting 5)
- Forward to Town Council (TBD)

With regard to details of the revised chapter, staff has worked to incorporate input it has received from the Mayor regarding her concerns about issuance of totes, business/commercial service, and dumpsters. A policy will be adopted in accordance with the provisions of this chapter that will provide specific tote limits etc. Lastly, while the boundaries the specific boundaries of the special service area will be established in the chapter, a policy will address issues such as to what properties are qualified for town collection and what limitations will be placed on that collection service. A copy of the Mayor's draft trash collection policy detail is attached.

Staff would like to review the general structure and approach at this meeting and provide the Committee a new draft after the first of the year.

It is also recommended that the committee set a goal of seeking public input by May 2018.

Please find attached:

- Current Berryville Code Chapter 8 – Garbage and Refuse
- Draft Berryville Code Chapter 8 – Garbage and Refuse, Recyclables, and Yard Waste
- Draft Trash Collection Policies (Mayor Dickinson)

## **Current Berryville Code Chapter 8 – Garbage and Refuse**

## Chapter 8 - GARBAGE AND REFUSE

## FOOTNOTE(S):

--- (1) ---

**Cross reference**— Disposition of dead animals and fowl, § 4-10.

## ARTICLE I. - IN GENERAL

## Sec. 8-1. - Violations of chapter.

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

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

## Sec. 8-2. - Unlawful accumulations.

- (a) It shall be unlawful for any owner or occupant of any premises within the town to allow garbage, ashes, refuse, trash, litter or other substances which might endanger the health of other residents of the town to accumulate on such premises.
- (b) The owner of any property in the town shall remove accumulations referred to in subsection (a) above from such property at intervals to be 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.

(Code 1971, §§ 8-1, 8-3)

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

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

Sec. 8-3. - Littering generally.

- (a) Any person who shall dump or otherwise dispose of trash, garbage, refuse, litter or other unsightly matter on a public street or highway, right-of-way, property adjacent to such street or highway or right-of-way, or on any public property of the town or private property within the town, without the written consent of the owner thereof or his agent, shall be guilty of a Class 1 misdemeanor.
- (b) When any person is arrested for a violation of this section, and the matter alleged to have been dumped or disposed of has been ejected from a motor vehicle, the arresting officer may comply with the provisions of section 10-2 of this Code in making such arrest.
- (c) When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage, refuse, litter or other unsightly matter. Such presumption shall be rebuttable by competent evidence.
- (d) Upon conviction of any person for a violation of this section, the court may suspend the imposition of any sentence on condition that the defendant volunteer his services, for such period of time as the court may designate, to remove litter from streets, highways and other public property in the town.

(Ord. of 12-12-72)

**Cross reference**— Penalty for Class 1 misdemeanor, § 1-11; deposit of hazardous material on streets, § 15-15.

**State Law reference**— Similar provisions and authority to adopt above section, Code of Virginia, §§ 33.1-346, 33.1-346.1.

Sec. 8-4. - Disposal in town of trash, garbage, etc., accumulated outside town.

- (a) It shall be unlawful and a Class 1 misdemeanor for any person to place, dump or otherwise dispose of trash, garbage, refuse, litter or any other unsightly matter that has been accumulated or collected outside the corporate limits of the town at any place within the town. This section shall not apply to a person using the public facilities of the town for the disposal of such matter, with the express permission of the town council or its designated agent.
- (b) The provisions of subsections (b) and (c) of section 8-3 shall apply to violations of this section to the same extent as if set out at length in this section.

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

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

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

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

(Ord. of 1-12-99)

Sec. 8-6. - Upsetting, tampering and misusing litter receptacles maintained by the town.

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

(Ord. of 2-13-01)

**State Law reference**— Authority for above section, Code of Virginia, Section 15.2-927.

Secs. 8-6—8-14. - Reserved.

ARTICLE II. - COLLECTION BY TOWN

FOOTNOTE(S):

--- (2) ---

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

**State Law reference**— Authority of town to operate a garbage and refuse collection and disposal system, Code of Virginia, § 15.1-857.

Sec. 8-15. - Report of violations of article.

If any person fails to comply with the provisions of this article, the employees of the town engaged in the collection and removal of garbage, ashes and refuse shall report such failure to the town manager.

(Ord. of 2-13-79, § 8-12)

Sec. 8-16. - Containers generally—For garbage.

- (a) All garbage, consisting of food waste and organic matter, to be collected by the town shall be placed in tied disposable plastic bags or in water-tight containers of durable construction which shall be rust-resistant, nonabsorbent, easily washable, with tight fitting covers and handles and with a capacity of not less than five (5) nor more than thirty-two (32) gallons. All such nondisposable containers shall be of such construction as to prevent disturbance by animals and entrance by insects and to allow safe handling by one collector.
- (b) The total weight of any garbage container, together with its contents, shall not exceed fifty (50) pounds.

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

Sec. 8-17. - Same—For ashes.

- (a) Ashes to be collected by the town shall be placed separately from garbage and other refuse, in cans or other light noncombustionable containers that can be handled without coming apart. Such containers shall not be filled closer than two (2) inches to the top and shall be covered to prevent spilling.
- (b) The total weight of any container for ashes, together with its contents, shall not exceed seventy-five (75) pounds.

(Ord. of 2-13-79, §§ 8-6, 8-7)

Sec. 8-18. - Same—For other refuse.

Rubbish consisting of cans, bottles, rags, paper, weeds, leaves, grass cuttings, tree cuttings, solid waste materials from homes, stores and commercial buildings and other refuse to be collected by the town, other than that provided for in sections 8-16 and 8-17, shall be placed in cans, plastic bags or other containers that can be safely handled without coming apart, of such size, not exceeding thirty-two (32) gallons capacity, that can be handled by one collector and filled and secured so as to prevent spillage of the contents.

(Ord. of 2-13-79, § 8-8)

Sec. 8-19. - Preparation of garbage.

No person shall place any garbage in any container required by section 8-16, without first draining the liquid from such garbage and wrapping the garbage in paper or plastic.

(Ord. of 2-13-79, § 8-5)

Sec. 8-20. - Preparation of cardboard and other bulky materials.

Cardboard containers and other bulk materials to be collected by the town need not be placed in containers, but will be collected by the town if flattened and securely tied in compact bundles that can be handled by one collector. No such bundle shall exceed four (4) feet in length and fifty (50) pounds in weight.

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

Sec. 8-21. - Collection times and routes.

The town manager shall establish and specify the days and hours each week when town employees shall collect garbage, ashes and refuse and the routes to be served at the times so specified.

(Ord. of 2-13-79, § 8-14)

Sec. 8-22. - Placement of containers on collection day; collectors not to enter building.

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

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

Sec. 8-23. - Preparation of tree branches, brush, leaves and other yard waste.

- (a) Tree branches and brush to be collected by the town shall be securely tied in compact bundles that can be handled by one collector. No such bundle shall exceed four (4) feet in length, twelve (12) inches in diameter and fifty (50) pounds in weight.
- (b) Leaves and grass clippings to be collected by the town shall be placed in plastic bags. No such bag shall exceed fifty (50) pounds in weight.

(Ord. of 10-13-98)

Sec. 8-24. - Certain refuse not to be collected.

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

(Ord. of 2-13-79, §§ 8-5, 8-6, 8-10)

**Draft Berryville Code Chapter 8 – Garbage and Refuse,  
Recyclables, and Yard Waste**

Chapter 8

**Garbage and Refuse, Recyclables, and Yard Waste**

Art. I. In General, §§ 8-1 – 8-14

Art. II Collection by town, §§ 8-15 – 8-34

Art. III Collection by others, §§ 8-35 -

**ARTICLE I. - IN GENERAL**

Sec. 8-1. – Definitions

For the purposes of this chapter, the following words and terms shall have the meanings ascribed to them by this section.

Chief of police – The chief of police of the Town of Berryville, Virginia, or authorized designee.

Collection – Removal of solid waste and/or recyclable materials from its place of origin or storage to a collection vehicle.

Collection vehicle – Any vehicle used to collect or transport solid waste or recyclable materials.

Collector – Any person engaged in the business of collection and transportation of solid waste or recyclable materials.

Commercial /business waste. Solid waste or recyclable materials emanating from establishments engaged in business. This category includes but is not limited to solid waste or recyclable materials emanating from such establishments as stores, markets, offices, restaurants, and contractor establishments.

Construction, clearing and/or demolition debris- The waste building material, packaging, and rubble resulting from construction, land clearing, remodeling, repair, and demolition operations on pavements, houses, vacant land, commercial buildings, and other structures.

Dumpster - Any container having an capacity in excess of one hundred (100) gallons designed to contain solid waste, refuse, garbage, or recyclable materials and which is emptied by mechanical means.

Dumpster enclosure – A gated solid opaque wood fence or masonry wall six (6) feet in height in which a dumpster is placed.

Garbage- Putrescible animal or vegetable waste resulting from the handling, preparation, cooking, serving, or consumption of food.

Hazardous waste – Solid waste which because of its inherent nature and/or qualities requires special handling during disposal to avoid creating environmental damage or hazards to public health or safety or landfill operations. Hazardous waste includes but it not limited to such items as petroleum waste, paints, plastics, explosives, acids, caustics, chemicals, poisons, drugs, radioactive materials, asbestos fibers,

imported wool fibers, pathogenic wastes from hospitals, sanitariums, nursing homes, clinics and veterinary hospitals, waste from slaughterhouses, poultry processing plants and the like. (Residential solid waste normally contains very small amounts of hazardous waste but because they are found in such small amounts present no special problems for landfill operations. Therefore, residential waste is not considered to be hazardous waste within the meaning of hazardous waste used in the chapter).

Household waste – See “residential/household waste”.

Industrial waste- All solid waste or recyclable materials emanating from manufacturing, assembly of material, recycling, and other industrial.

Mixed paper- Paper accepted for recycling the Town.

Occupant – The person who resides on premises as owner or tenant.

Public works director – The public works director of the Town of Berryville, Virginia, or authorized designee.

Qualified commercial/business occupancy – A licensed business located within the special collection zone and meeting the requirements for collection within that zone.

Recyclable Materials – Raw or processed material that can be recovered from the waste stream for reuse.

Refuse – All solid waste of the community.

Residential/household waste - Solid waste or recyclable materials emanating from single-family detached homes or condominiums, attached residential units, and apartments.

Sanitary landfill – A landsite on which engineering principles are utilized to bury deposits of solid waste without creating nuisances or hazards to public health or safety.

Solid Waste – As defined in 9 VAC 20-80-140 of the Solid Waste Management Regulations, Department of Environmental Quality, Commonwealth of Virginia.

Toter – Town or contractor furnished wheeled waste containers for each designated household or qualified commercial/business occupancy.

Town manager – The town manager of the Town of Berryville, Virginia, or authorized designee.

Town planner – The assistant town manager for community development/operations of the Town of Berryville, Virginia, or authorized designee.

Transportation – The transporting of solid waste or recyclable materials from the place of collection to a disposal facility.

Unacceptable waste – Items enumerated in Sec. 8-22 of this chapter.

Vacant Property – A lot or parcel of real property either not improved by any structure or having a structure or structures neither occupied as a residence or devoted to any other use involving the presence of employees or other persons on business days.

Waste – Useless, unwanted, or discarded materials.

Waste generator – The person who actually produces the commercial, household, industrial, or institutional/governmental solid waste.

Yard waste – Leaves, twigs, branches less than six (6) inches in diameter, and shrubbery.

Sec. 8-2. - Violations of chapter.

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

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

Sec. 8-3. - Unlawful accumulations.

- (a) It shall be unlawful for any owner or occupant of any premises within the town to allow refuse, garbage, recyclable materials, 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 as may be prescribed by the town manager or his designee. Reasonable notice of the date fixed by the town manager for such removal shall be given by mail or delivery of a written notice to the owner of such property.
- (c) Upon the failure of the owner of property to remove refuse, garbage, trash, 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 refuse, garbage, trash, litter and other substances removed and bill the owner for the work. Upon the owner's failure to pay such bill by tax billing time, such bill shall be placed upon the tax bill of the owner so delinquent and collected as taxes are collected.

(Code 1971, §§ 8-1, 8-3)

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

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

Sec. 8-4. - Disposal in town of refuse, garbage, trash etc., accumulated outside town.

It shall be unlawful and a Class 2 misdemeanor for any person to place, dump or otherwise dispose of refuse, garbage, trash, litter, recyclable materials or any other unsightly matter that has been accumulated or collected outside the corporate limits of the town at any place within the town.

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

**Cross reference**— Penalty for Class 2 misdemeanor, § 1-11.

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

Sec. 8-5. - Upsetting, tampering and misusing litter receptacles maintained by the town.

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

(Ord. of 2-13-01)

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

Sec. 8-6. – Dumpsters, placement, enclosure, prohibited times for emptying.

- (a) No person shall locate any dumpster in the town without written authorization from the town.
- (b) Placement or location of dumpsters for less than 180 days.
  - a. No person shall place any dumpster in the public right-of-way without written authorization from the town planner, who may as a condition of approval require safety measures he deems necessary, proof of insurance, and maximum time dumpster may remain on said right-of-way.
  - b. No person shall place any dumpster on private property without written authorization from the town planner, who may as a condition of approval require safety measures he deems necessary and a maximum time the dumpster may remain on said property.
- (c) Placement or location of dumpsters for more than 180 days.
  - a. No person shall place any dumpster in the public right-of-way for a period exceeding 180 days.
  - b. No person shall place a dumpster on private property without written authorization from the town planner, who in such a way that the collection of solid waste or recyclable materials will impede pedestrian or vehicular traffic or otherwise create a safety hazard.
  - c. All dumpsters visible from a public right-of-way shall be completely enclosed with a solid opaque wood fence or masonry wall at least six (6) feet high.
  - d. The town planner shall review the placement of dumpsters and required dumpster enclosures.
- (d) All dumpsters, and the immediate area around them, shall be kept clean and sanitary at all times. Solid waste shall be completely contained within such container, all doors of the unit shall be kept closed, and all drain plugs shall be tightly secured.
- (e) It shall be unlawful for any business or corporation to empty a dumpster in town between the hours of 10:00 p.m. and 7:00 a.m. except within industrially zoned areas of the town.

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

(Ord. of 1-12-99)

Sec. 8-7. – Requirements for collection vehicles

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

Sec. 8-8. – Picking through contents toters or dumpsters.

It shall be unlawful for any person to pick through, handle or interfere with the contents of any toter or dumpster under the provisions of this article. Employees of the town or other governmental agencies involved in duly authorized investigations, as well as the occupant or waste generator utilizing the toter or dumpster shall be exempt from this prohibition.

Secs. 8-9—8-14. - Reserved.

ARTICLE II. - COLLECTION BY TOWN

FOOTNOTE(S):

--- (2) ---

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

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

Sec. 8-15 – Collection of garbage and recyclable materials

The town will furnish garbage and recyclable materials collection for all single-family detached, duplexes, and townhouses in the town in accordance with provisions of this chapter and procedures established by the council or town manager.

Sect. 8-16 - Special service area established

The council may by ordinance establish a special service area, in which the town will furnish garbage and recyclables collection to qualified commercial/business occupancies and multi-family

residential developments. The ordinance establishing the special service area will delineate boundaries of the area and establish requirements for provision of collection services. Upon establishment of a special service area the Town will furnish garbage and recyclables collection to qualified occupancies within the town's special service area town in accordance with provisions of this chapter and procedures established by the council and town manager.

Sec. 8-17. - Collection times and routes – garbage and recyclable materials.

The town manager shall establish and specify the days and hours each week when garbage and recyclable materials will be collected and the routes to be served at the times so specified.

(Ord. of 2-13-79, § 8-14)

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

Sec. 8-18. - Containers generally - garbage.

- (a) All garbage to be collected by the town shall be placed in tied disposable plastic bags and placed in approved containers. All such non-disposable containers, whether totes or dumpsters, shall have an integrated lid to prevent the intrusion of water and disturbance by animals and entrance by insects.
- (b) Garbage collected by the town shall be placed in approved containers.
- (c) Garbage shall be placed inside the approved container in such a manner that allows for the integrated lid to completely close.
- (d) No person shall place any waste in approved container without first draining any liquid from such waste.
- (e) The occupant of the premises supplied with the toter(s) to maintain it in a clean and sanitary condition.
- (f) Containers issued by the town or its contractor are the property of issuing entity. Toters shall not be removed from the assigned toter address. Damaged totes reported to the town will be repaired or replaced. The cost to replace or repair totes that are intentionally damaged or removed will be charged to the owners or tenants at the assigned address. The owners or tenants will be assessed a replacement fee to be determined by the town manager, not to exceed 120 percent of the actual replacement cost.

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

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

Sec. 8-19. – Containers generally – For recyclable materials.

- (a) All recyclable materials to be collected by the town shall be placed in a non-disposable container provided by the town or its contractor. All liquids shall be drained from the item prior to placement in the container.

- (b) All items placed in the non-disposable container shall be done in a manner to prevent escape as a result of wind and weather conditions.

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

Sec. 8-20. - Preparation of cardboard for collection with recyclable materials.

Cardboard containers to be collected by the town or its contractor for recycling, need not be placed in containers but will be collected if flattened and securely tied in compact bundles that can be handled by one collector. No such bundle shall exceed four (4) feet in length and fifty (50) pounds in weight.

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

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

Sec. 8-21. - Placement of containers on collection day; collectors not to enter building.

- (a) All garbage and recycling containers containing materials for collection by the town shall be set out not later than 7:00 a.m. on collection days. No containers may be set out for collection more than twenty-four (24) hours before the established collection time and empty containers shall be removed on the same day of collection.
- (b) Toters set out for collection shall be placed near the edge of pavement, edge of road, or in a location approved by the town manager to enable the automatic arm of the collection vehicle to pick up the toter. No collector shall enter any building for removal of garbage.
- (c) Recycling containers set out for collection shall be placed near the edge of pavement, edge of road, or in a location approved by the town manager, so they can be reached easily by the collectors. No collector shall enter any building for removal of recyclable materials.

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

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

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

- (a) Rejected building materials, tin, contractors' waste, industrial waste, automobiles or parts thereof, tires, and hazardous materials shall not be collected by the town. In the event such material is found at collection points, the persons placing the same for collection shall be required to remove the same immediately and notify the town manager. Radioactive materials, drugs, poison and like substances shall only be removed under the supervision of persons qualified in the handling of such materials.
- (b) No animal or fowl excrement shall be collected by the town and no such excrement shall be placed in any container set out for collection by the town.

(c) Ashes containing live coals shall not be collected by the town.

(Ord. of 2-13-79, §§ 8-5, 8-6, 8-10)

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

Sec. 8-23. – Yard waste collection general.

The Town will furnish collection of yard waste from single-family detached, duplexes, and townhouses in the town in accordance with provisions of this chapter and procedures established by the council or town manager.

{Not contractor generated

Limit amount total weight / number of bags / number of bundles

No grass clippings will be collected by the town.

Agents of the town will collect such bags once the property owner schedules a collection date with the town office}

Sec. 8-24. – Collection times and route – yard waste.

The town manager shall establish and specify the days and hours when yard waste will be collected and the routes to be served at the times so specified.

Sec. 8-25. - Preparation of yard waste for collection.

- (a) Small tree branches and brush to be collected by the town shall be securely tied in compact bundles that can be handled by one collector. No such bundle shall exceed four (4) feet in length, twelve (12) inches in diameter and fifty (50) pounds in weight. Large branches to be collected shall not exceed four (4) feet in length, six (6) inches in diameter and fifty (50) pounds in weight. Bundles and large branches to be collected by the town shall be placed near the edge of pavement, or edge of road, or in a location approved by the town manger so they can be easily reached by the collectors.
- (b) Leaves to be collected by the town during the annual leaf collection period shall be piled adjacent to street curbs, but shall not cover any portion of a sidewalk. Leaf piles shall contain no rocks or other items that might damage the leaf collection equipment. During the annual leaf collection period leaves will be collected by the town in accordance with standards and a schedule approved by the town manager and posted on the town website.
- (c) Loose yard waste to be collected by the town shall be placed in large paper bags and placed near the edge of pavement, edge of road, or in a location approved by the town manager, so they can be reached easily by the collectors. No such bag may exceed fifty (50) pounds in weight. All paper bags containing loose yard waste for collection by the town shall be set out not later than 7:00 a.m. on

collection days. No such bags may be set out for collection more than twenty-four (24) hours before the established collection time.

- (d) No single collection shall exceed a total of 10 bundles, branches, or bags.
- (e) The town manager may suspend or modify yard waste preparation requirements and collection limits if he determines such a suspension or modification necessary; provided that, the determination is made in writing, is reported to the council within fifteen (15) days of the denervation, and no single such determination suspends or modifies requirements for more than ninety (90) days.

(Ord. of 10-13-98)

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

Sec. 8-26. – Certain yard waste not to be collected

Rocks and hardscape materials, large stumps, any stumps containing rocks and dirt, dirt, sod, plastic bags, food waste shall not be collected by the Town.

Secs. 8-27—8-35. - Reserved.

### ARTICLE III. - COLLECTION BY OTHERS

Sec. 8-36. – Collection provided by others

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

Secs. 8-37—8-45. - Reserved.

# **Draft Trash Collection Policies (Mayor Dickinson)**

# Trash Collection Policies

Curbside Service				
	Frequency	Trash Containers	Recycle Bins	Notes
Single Family Homes (DR-1-2-3-4)	Once Weekly	Max 2 Bins	No Limit	3 <sup>rd</sup> bin is \$20 per year
Town Houses (AR)	Once Weekly	Max 2 Bins	No Limit	3 <sup>rd</sup> bin is \$50 per year  Town House HOA may request dumpster service (at no cost to HOA), requires town manager approval.
Business (Downtown)	Twice Weekly	Max 2 Bins	No Limit	No additional bins are permitted.
Home Occupations, Home Offices	Once Weekly	Max 2 Bins	No Limit	3 <sup>rd</sup> bin is \$50 per year  The amount of trash must closely approximate the volume of refuse generated by a typical residential unit.
Churches, Organizations and Government Agencies	Once Weekly	Max 2 Bins	No Limit	3 <sup>rd</sup> bin is \$50 per year  Amount of refuse must closely approximate the volume of refuse generated by a typical residential unit. If the volume is greater, the business must make other arrangements for trash pickup.

No Curbside Service Offered	
Apartments (MR)	Residential apartment complexes must have dumpster service, provided by the town.
Businesses (Shopping Centers and Nursing – Convalescent – Rest Homes) and other businesses by SUP	If the amount of refuse is greater than the volume of refuse generated by a typical residential unit, the business must make private arrangements for trash pickup.
Commercial (C1, C2, LI, BC, B, BP, ITL)	Commercial trash pickup is not provided by the town.

# Attachment 3



# Berryville Police Department

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

[policeadmin@berryvilleva.gov](mailto:policeadmin@berryvilleva.gov)

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

W. Neal White – Chief of Police

## MEMO

**DATE: 11/02/2017**

**TO: Police & Security Committee**

**FROM: Chief W. Neal White**

**CC:**

**RE: Chapters 4 & 10, Town of Berryville Ordinances**

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On November 1, 2017 a legal review of Chapters 4 and 10 was completed with legal counsel for the Town. Concerning Chapter 4, there were no additional comments received and the chapter appears in order. There were some minor revisions to Chapter 10 which I will go over in the Police and Security Committee meeting on November 6, 2017.

Both of the Chapters have now been vetted, with corrections being made, and are included with this memo for your review.

## Chapter 4 - ANIMALS AND FOWL

FOOTNOTE(S):

--- (1) ---

**Cross reference**— Noisy animals and fowl, § 11-16.

**State Law reference**— General authority of town to regulate animals and fowl, Code of Virginia, § 15.1-870.

### ARTICLE I. - IN GENERAL

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

(a) It shall be unlawful 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, and
2. chicken hens may be maintained on residentially zoned parcels larger than 2/10 of an acre 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.

(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:

06 hens on parcels between 2/10 of an acre and 1 acre  
12 hens on parcels larger than 1 acre 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 his 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 fowl or store feed materials in a manner that attracts rodents or other vermin.
5. No owner or custodian of fowl 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 parcels, within 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 this Chapter.
2. The Council may establish a permit fee.
3. Livestock, animal/fowl permits, once issued, will remain valid until and 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 to any individual 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 the permit holder'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) 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;
- (4) 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 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.**

### **ARTICLE II. - DOGS**

FOOTNOTE(S):

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**Editor's note**—Ord. of June 18, 1992, amended the Code by adding provisions designated as Ch. 21. For the purpose of classification and indexing, said provisions have been redesignated as Art. II, §§ 4-21—4-30, at the discretion of the editor.

**State Law reference**— Authority for above article, Code of Virginia, § 15.1-839; general grant of powers necessary or desirable to secure and promote the general welfare of the inhabitants of the Town of Berryville and the safety, health, peace, good order and comfort of the inhabitants of the Town of Berryville.

#### **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.

(Ord. of 6-18-92)

**State Law reference**— Authority for above section, Code of Virginia, § 3.1-796.93.

#### **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.

(Ord. of 6-18-92)

**State Law reference**— Authority for above section, Code of Virginia, § 3.1-796.94; authorizing the adoption of ordinances which parallel Code of Virginia, §§ 3.1-796.85, § 3.1-796.89.

#### **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.

(Ord. of 6-18-92)

**State Law reference**— Authority for the above section, Code of Virginia, § 3.1-796.94; authorizing the adoption if ordinances which parallel Code of Virginia, § 3.1-796.92.

**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.

(Ord. of 6-18-92; Ord. of 7-14-92)

**State Law reference**— Authority for the above section, Code of Virginia, § 3.1-796.94; authorizing the adoption of ordinances which parallel Code of Virginia, § 3.1-796.95.

**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.

(Ord. of 6-18-92)

**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.

(Ord. of 6-18-92; Ord. of 9-8-92; Ord. 11-8-11)

#### **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.

(Ord. of 6-18-92; Ord. of 9-8-92)

**State Law reference**— Authority for above section, Code of Virginia, § 3.1-796.94; authorizing the adoption of ordinances which parallel Code of Virginia, § 3.1-796.100.

#### **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.

(Ord. of 6-18-92)

**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.

(Ord. of 6-18-92)

**Sec. 4-30. - Violation of article.**

Any violation of the provisions of this article shall constitute and be punishable as a Class 4 misdemeanor.

(Ord. of 6-18-92)

**Cross reference**— Penalty for misdemeanors, § 1-11.

**State Law reference**— Authority for above section, Code of Virginia, § 15.1-901; authorizing municipalities to impose penalties for the violation of ordinances.

**Secs. 4-31—4-40. - Reserved.**

**ARTICLE III. - DANGEROUS OR VICIOUS DOGS**

FOOTNOTE(S):

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**Editor's note**—Ord. of June 19, 1992, amended the Code by adding provisions designated as Ch. 22. For the purposes of classification and indexing, said provisions have been redesignated as Art. III, §§ 4-41—4-52 at the discretion of the editor.

**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.

(Ord. of 6-18-92; Ord. of 10-9-01(1))

**State Law reference**— Authority for above section, Code of Virginia, § 3.1-796.93:1

**Secs. 4-42—4-49. - Reserved.**

**Editor's note**— An ordinance adopted on Oct. 9, 2001, repealed §§ 4-42—4-49. Former §§ 4-42—4-49 pertained to dangerous animals and derived from an ordinance adopted on June 18, 1992.

**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.

(Ord. of 6-18-92)

**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.

(Ord. of 6-18-92)

**Sec. 4-52. - Reserved.**

**Editor's note**— An ordinance adopted on Oct. 9, 2001, repealed § 4-52. Former § 4-52 pertained to violations of this chapter and derived from an ordinance adopted on June 18, 1992.

## Chapter 10 - MOTOR VEHICLES AND TRAFFIC

### FOOTNOTE(S):

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**Cross reference**— Noise from vehicles, § 11-4 et seq.; sound trucks, § 11-6 et seq; 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, 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) Whenever any person is detained by or in the custody of an arresting officer, including an arrest upon a warrant, for a violation of any provision of this chapter, except section 10-6, the arresting officer shall, except as otherwise provided in section 10-3, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing to appear, at a time and place to be specified in such summons or notice, such time to be at least five (5) days after such arrest, unless the person arrested shall demand an earlier hearing, and such person shall, if he so desires, have a right to an immediate hearing or a hearing within twenty-four (24) hours, at a convenient hour and before the court having jurisdiction. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody.

- (b) 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.

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

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

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

If any person arrested for a violation of this chapter is: (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.**

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

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

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

- (a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, 1950 as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, and in effect on and after July 1, 1994, including the section numbers assigned in said title 46.2 to such provisions and requirements, except, however, those provisions and requirements which, by their very nature, can have no application to or within the town, are hereby adopted and incorporated by this chapter by reference and made applicable within the town. Reference to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the town to violate or fail, neglect or refuse to comply with any provisions of title 46.2 of the Code of Virginia, which is adopted by this section, provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.
- (b) All definitions of words and phrases contained in the state law hereby adopted shall apply to such other words and phrases, when used in this chapter, unless indicated to the contrary.
- (c) Pursuant to the authority of section 1-220 of the Code of Virginia, 1950, as amended, it is specifically intended and stated that this section adopting the foregoing state statutes shall include all future amendments to such state statutes.

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

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

Pursuant to the authority of section 46.2-1313, and section 18.2-268.12 of the Code of Virginia, 1950, as amended, all of the provisions of the laws of the Commonwealth of Virginia contained in Article 2 (Section 18.2-266 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, including the section numbers assigned to such provisions in said Article 2, of Chapter 7 of Title 18.2 of the Code of Virginia, and in effect on and after September 12, 1995, are hereby adopted and incorporated in this chapter by reference and made applicable within the town. Reference to "highways of the state" contained in such provisions and requirements shall be deemed to refer to the streets, highways and other public ways within the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the town to violate or fail, neglect or refuse to comply with any such provision or requirement, provided, however, that the provisions of § 18.2-270 of the Code of Virginia pertaining to offenses of driving while intoxicated that constitute felonies are not incorporated into or made a part of this section. Pursuant to the authority of section 1-220 of the Code of Virginia, 1950, as amended, it is specifically intended and stated that this Ordinance adopting the foregoing state statutes shall include all future amendments to such state statutes. This ordinance shall be effective July 13, 1999.

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

**Sec. 10-6.1. - Reserved.**

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

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

- (a) The town manager, except as otherwise provided by this chapter and except as otherwise directed, from time to time, by the council, shall have the power and is hereby authorized to regulate the operation and parking of vehicles within the corporate limits of the town by the erection or placing of proper signs or markers indicating prohibited or limited parking, angle parking, the parking of buses, trucks and other vehicles of various weights, "U" turns, turning at intersections, hazardous intersections, school zones, hospital zones, loading and unloading zones, quiet zones, traffic-control signals exhibiting colored lights or the words "go," "caution" or "stop" and other signs or markers indicating the place and manner of operating or parking vehicles in the town.
- (b) The town manager shall also have the power and is hereby authorized:

- (1) To regulate the movement of pedestrians upon the streets and sidewalks of the town by the erection or placing of proper signs or markers indicating the flow of pedestrian traffic.
  - (2) To designate bus stops and to erect signs prohibiting the parking of vehicles other than buses at such stops.
  - (3) To mark off traffic lanes on streets and parts of streets indicting and directing the flow of traffic.
  - (4) To designate and mark fire lanes on private property, including alleys in which lanes the parking of vehicles shall be prohibited.
- (c) On proper application, the town manager may assign to taxicab operators such space along the public streets of the town for parking vehicles actively in service in such business as the town manager may deem best suited and to the interest of the public, provided permission of the abutting property owner is secured. Fees for the use of such space shall be as prescribed, from time to time, by the council.
  - (d) The town is authorized to secure all signs, signals or markers to be erected or placed on any street or part of a street in order to carry out the purposes of this section.
  - (e) The existence of signs, signals or markers referred to in this section at any place within the corporate limits of the town shall be prima facie evidence that such signs, signals or markers were erected or placed by and at the direction of the town manager in accordance with the provisions of this section and it shall be unlawful for any person to disobey the directions of any such sign, signal or marker.
  - (f) No sign signal or marker referred to in this section shall be erected or placed on any street which is a part of the state highway system, without the approval of the state department of highways and transportation.
  - (g) The town manager shall have the authority to remove, or to order the removal of, any sign not erected by the Town which the town manager finds mimics or is similar to town or state erected traffic signs, street name signs, or directional signs and could reasonably confuse or mislead motorists, emergency response personnel, or the public generally. If such sign is erected on private property, the town manager shall provide written notice to the property owner to remove the sign, and if the sign is not removed within seven (7) days of the providing of the notice, the Town may remove the sign and expenses thereof shall be chargeable to and paid by the owner of such property.

(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.**

Draft Revision

Reviewed by Legal Counsel 11/1/2017

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

(Code 1971, § 11-4)

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

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

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

(Code 1971, § 11-5)

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

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

- (1) Page Street, the part north of East Main Street.
- (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, § 46.2-875.

#### **Sec. 10-11. - Reserved.**

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

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

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

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

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

(Code 1971, § 11-11)

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

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

(Code 1971, § 11-12)

**Sec. 10-15. - Blocking intersection.**

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

(Code 1971, § 11-21)

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.**

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

(Code 1971, § 11-33; Ord. of 3-3-93)

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

(Ord. of 10-8-02)

**Sec. 10-17 - Reserved**

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

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

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

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

- (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))

**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. 10-20. - Use of roller skates and skateboards on sidewalks; operation of bicycles on sidewalks and crosswalks.**

- (a) It shall be unlawful for any person to use roller skates or skateboards and/or ride a bicycle, 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 motorized skateboards or foot scooters, motor-driven cycles, or electric power-assisted bicycle riding is prohibited.
- (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, 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, motorized skateboards or foot scooters, motor-driven cycles, or electric power-assisted bicycle is prohibited by official traffic control devices.
- (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. 10-21. - 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 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.

Draft Revision

Reviewed by Legal Counsel 11/1/2017

- (c) Violation of this section shall not constitute negligence, assumption of risk, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation of any bicycle, nor shall anything in this section change existing law, rule or procedure pertaining to any civil action.

(Ord. of 8-12-97)

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

### **Sec. 10-22. – 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.

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

Every person operating a moped, as defined in Sec. 46.2-100, Code of Virginia, 1950, as amended, on a public street or highway shall wear a face shield, safety glasses, or goggles of a type approved by the Superintendent of the Department of State Police of the Commonwealth or have his moped equipped with safety glass or a windshield at all times while operating such vehicle, and operators and passengers thereon, if any, shall wear protective helmets of a type approved by the Superintendent. 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. 10-23—10-26. - Reserved.

## **ARTICLE II. - VEHICLE LICENSE**

FOOTNOTE(S):

--- (3) ---

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

**Cross reference**— Licenses generally, Ch. 9.

### **Sec. 10-27. - License tax imposed.**

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

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

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

### **Sec. 10-28. - Tax levied.**

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

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

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

**Cross reference**— Taxation generally, Ch. 16.

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

**Sec. 10-29. - Proration of taxes.**

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

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

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

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

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

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

**Sec. 10-31. - Repealed**

**Sec. 10-32. - Repealed**

**Sec. 10-33. - Repealed**

**Sec. 10-34. - Repealed**

**Sec. 10-35. - Repealed**

**Sec. 10-36. - Repealed**

**Sec. 10-37. - Reserved.**

**Sec. 10-38. - Repealed**

**Sec. 10-39. - Repealed**

Secs. 10-40—10-47. - Reserved.

### **ARTICLE III. - STOPPING, STANDING AND PARKING**

FOOTNOTE(S):

--- (4) ---

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

### **DIVISION 1. - GENERALLY**

FOOTNOTE(S):

--- (5) ---

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

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

- (a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:
- (1) On a sidewalk.
  - (2) In front of a public or private driveway.
  - (3) Within an intersection, or within twenty (20) feet from the intersection of curb lines, or if none, then within fifteen (15) feet of the intersection of property lines at an intersection of streets; unless parking within an officially designated and marked parking space.
  - (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; unless parking within an officially designated and marked parking space.
  - (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. <sup>[6]</sup>

- (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 close to and parallel to the left-hand curb or edge of the road on one-way streets or may be parked at an angle where permitted by the State Highway and Transportation Board or the Town of Berryville with respect to streets and highways under their jurisdiction.
  - (17) It shall be unlawful for any person to park any vehicle across any line or marking designating a parking meter space, or to park any vehicle in any way that such vehicle shall not be wholly within a parking meter space as designated by such lines or markings.
- (b) No person, other than a police officer, shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful.

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

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

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

- (a) No person shall park or leave standing any commercial vehicle in any residentially zoned area of the town; provided that, during regularly scheduled school hours,

school buses may be parked in such residentially zoned areas by their drivers for a continuous period not to exceed six (6) hours.

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

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

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

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

- (1) The vehicle has displayed all required licenses,
- (2) The vehicle is located no closer to any street than the principal structure; except that said vehicle may be parked closer to the street than the principle structure for a period not to exceed forty-eight (48) hours when the owner of the vehicle is a resident of the street and is arriving or departing on a journey utilizing the vehicle,

(3) The vehicle does not exceed thirty-two (32) feet in length or nine (9) feet in height, and

(4) The vehicle is not inhabited while parked in said residentially zoned area.

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

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

**Sec. 10-51. - Angle parking.**

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

(Ord. of 6-10-97)

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

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

(Code 1971, § 11-47; Ord. of 6-10-97)

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

**Sec. 10-53. - Backing to curb.**

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

(Code 1971, § 11-38; Ord. of 6-10-97)

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

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

- (1) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zone are in effect. All delivery vehicles other than regular delivery trucks using such loading zone shall be identified by the owner's or company's name in letters three (3) inches high on both sides of the vehicle.

- (2) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers or bundles when such stopping does not interfere with any vehicle used for the transportation of materials which is waiting to enter or is about to enter such loading space.

(Code 1971, § 11-40, Ord. of 6-10-97)

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

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

(Code 1971, § 11-41; Ord. of 6-10-97)

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

No person shall stand or park a vehicle on any private lot or lot area without the express or implied consent of the owner thereof.

(Code 1971, § 11-45; Ord. of 6-10-97)

**Sec. 10-57. - Reserved**

**Sec. 10-58. - Reserved**

**Sec. 10-59. - Reserved**

**Sec. 10-60. - Reserved**

**Sec. 10-61. - Reserved**

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

- (a) Unless otherwise provided, any person violating the provision of section 10-70 relating to parking in metered spaces shall be guilty of a traffic infraction and punished as prescribed in section 10-1; provided, however, that any such violation may be satisfied, in full, by payment to the town treasurer of five dollars (\$5.00) within twenty-four (24) hours of such violation, or seven dollars (\$7.00) within fifteen

- (15) days of such violation. If payment for such violation is not received within fifteen (15) days, the fine shall be assessed at thirty dollars (\$30.00).
- (b) Unless otherwise provided, any person violating the provision of section 10-48(a)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (16) or (17) shall be guilty of a traffic infraction and punished as prescribed in section 10-1; provided however, that any such violation may be satisfied, in full, by payment to the town treasurer of ten dollars (\$10.00) within five (5) days of such violation.
- (c) Unless otherwise provided, any person violating the provisions of section 10-18(a) shall be guilty of a traffic infraction and punished as prescribed in section 10-1; provided, however, that any such violation may be satisfied, in full, by payment to the town treasurer of twenty-five (\$25.00) within five (5) days of such violation.
- (d) All uncontested parking citations paid under this section shall be accounted for by the town treasurer.

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

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

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

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

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

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

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

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

- (a) It shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under section 46.1-731 of the Code of Virginia or DV disabled license plates issued under subsection B of section 46.2-739 of the Code of Virginia to be parked in a parking space reserved for persons with disabilities that limit or impair their ability to walk or for a person who is not limited or impaired in his ability to walk to park a vehicle in a parking space so designated except when transporting a person with such a disability in the vehicle. A summons or a parking ticket for violation of this section may be issued by town police officers and other uniformed personnel employed by the town to enforce parking regulations without the necessity of a warrant's being obtained by the owner of any private parking area.
- (b) The penalty for violation of this section shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

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

**Editor's note**— The provisions of a non-mandatory 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**

- (a) The disabled person, vehicle owner, volunteer or employee 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.

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

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

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

- (1) All vehicles shall be parked within designated parking spaces only. No vehicles may be parked in a manner that occupies more than one (1) parking space. Parking in the travel way or in landscaped areas is prohibited.
- (2) Restrictions outlined in section 10-65 (1) would not apply during events authorized by the Town and conducted in accordance with conditions established by the Town.
- (3) No vehicle may be parked for a period exceeding nine (9) consecutive hours.
- (4) Any violation of this section shall be punishable by a fine of twenty-five dollars (\$25.00) and the vehicle subject to towing at the owner's expense.

(Ord. of 2-14-06)

**Sec. 10-66. - Reserved.**

**DIVISION 2. - PARKING METERS**

FOOTNOTE(S):

--- (6) ---

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

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

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

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

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

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

On streets designated as parking meter zones, the town manager shall cause parking meter spaces to be marked on the pavement or curb or by other appropriate measures and shall install, or cause to be installed, parking meters in such spaces.

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Each such meter shall indicate the lawful time limit for parking in the space for which it is installed and the denomination of coins required to be deposited thereon.

(Code 1971, § 11-50)

**Sec. 10-69. - Reserved.**

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

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

- (a) When any vehicle shall be parked in any parking space adjacent to a parking meter installed under this division, the operator of such vehicle shall, upon entering such parking space, immediately deposit, or cause to be deposited, in such parking meter, a coin or coins money of the United States, the denominations of which shall be indicated on the meter, which shall put such meter in operation for the time prescribed on the meter. The parking space may be lawfully occupied by such vehicle during the period of time prescribed for the particular amount deposited. Failure to so deposit such coin or coins money and to put the meter in operation shall constitute a violation of this section. If such vehicle shall remain in such parking space beyond the prescribed time limit for the particular amount deposited, and the parking meter shall indicate illegal parking, violation, or expired, such vehicle shall be considered as being parked overtime and beyond the prescribed period of legal parking time. It shall be unlawful for any person to cause, allow, permit, or suffer any vehicle owned or 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.

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

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

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

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

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

**ARTICLE IV. – ABANDONED, INOPERABLE AND UNATTENDED VEHICLES**

FOOTNOTE(S):

--- (7) ---

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

**Sec. 10-72. - Definitions.**

As used in this article:

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

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

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

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

Pursuant to this article and the authority of section 46.2-1201, Code of Virginia, 1950, as amended, the town may take into custody any abandoned motor vehicle. The town may employ its own personnel, equipment and facilities or hire persons,

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equipment and facilities or firms or corporations who may be independent contractors for removing, preserving and storing abandoned motor vehicles.

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

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

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

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

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

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

If an abandoned motor vehicle has not been reclaimed as provided for in section 10-74, the town, or its authorized agent, shall notwithstanding the provisions of section 46.2-617, Code of Virginia, 1950, as amended, sell it at public auction. For the purposes of this section, the term "public auction" shall include an Internet sale by auction. The purchaser of the motor vehicle shall take title to the motor vehicle free of all liens and

claims of ownership of others, shall receive a sales receipt at the auction and shall be entitled to apply to and receive from the Virginia Department of Motor Vehicles a certificate of title and registration card for the vehicle. The sales receipt from the sale shall be sufficient title only for the purposes of transferring the vehicle to a demolisher for demolition, wrecking, or dismantling, and in that case no further titling of the vehicle shall be necessary. From the proceeds of the sale of an abandoned motor vehicle, the town, or its authorized agent, shall reimburse itself for the expenses of the auction, the cost of towing, preserving and storing the vehicle which resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred pursuant to section 10-74. Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interests in the vehicle, as their interests may appear, for ninety (90) days, and then shall be deposited into the treasury of the town wherein such abandoned motor vehicle was abandoned.

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

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

**Sec. 10-76. - Repealed**

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

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

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

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

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

- (a) No demolisher or scrap metal processor 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 or scrap metal processor shall surrender to the Virginia Department of Motor Vehicles for cancellation the certificate of title or sales receipt for the vehicle. The demolisher or scrap metal processor 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 and scrap metal processors shall keep accurate and complete records of all motor vehicles purchased or received by them in the course of their business. Their records shall contain the name and address of the person from whom each motor vehicle was purchased or received and the date on which purchases or receipts occurred. These records shall be open for inspection by the Virginia Department of Motor Vehicles at any time during normal business hours.

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

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

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

- (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.
- (c) Notwithstanding the other provisions of this section, if the owner of such inoperable vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperable vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property.
- (d) 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 inoperable vehicles, trailers or semi-trailer described above that are not kept within a fully enclosed building or structure.

- (e) 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.
- (f) 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 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.**

- (a) Whenever any motor vehicle, trailer, semitrailer, or parts thereof, are left unattended on a public highway or other public property and constitutes a traffic hazard or it is parked illegally, or it is left unattended for more than ten (10) days either on public property or private property without the permission of the owner, lessee or occupant, or it is immobilized on a public roadway by weather conditions or other emergency situation, such motor vehicle, trailer, semitrailer, or parts thereof, may be removed for safekeeping by or under the direction of a police officer to a storage area; provided, however, that no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof.
- (b) The person at whose request a motor vehicle, trailer, semitrailer, or parts thereof are removed from private property under this section shall indemnify the town against any loss or expense incurred by reason of the removal, storage or sale thereof.
- (c) For the purposes of this section, it shall be presumed that a motor vehicle, trailer or semitrailer, or part thereof, is abandoned, if it (i) lacks either a current license plate

or a current town license plate or sticker or a valid state inspection certificate or sticker and (ii) has been in a specific location for four (4) days without being moved.

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

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

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

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

The town shall have the power to enter into contracts with the owners or operators of garages or other places for the removal or storage of vehicles referred to in section 10-80. 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.**

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 10-75.

(Code 1971, § 11-44; Ord. of 6-10-97)

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

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**Sec. 10-83. - Repeal**

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

The Department of Motor Vehicles shall be notified of the disposition of any motor vehicle, trailer or semitrailer under sections 10-73, 10-80 or 10-81.

(Code 1971, § 11-46; Ord. of 6-10-97)

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