

**BERRYVILLE TOWN COUNCIL
MEETING AGENDA
Regular Meeting
Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
Main Meeting Room
Tuesday, November 14, 2017
7:00 p.m.**

<u>Item</u>	<u>Attachment</u>
1. Call to Order – Patricia Dickinson, Mayor	
2. Closed Session – The Berryville Town Council will enter closed session in accordance with §2.2-3711-A-8, Code of Virginia, for consultation with legal counsel regarding specific legal matters requiring the providing of legal advice concerning an application for vacation of land described in the application as a public street.	1↓
a. Adopt motion to enter closed session	
b. Reconvene in open session	
c. Adopt closed session resolution by roll call	
<i>REGULAR SESSION WILL BEGIN NO EARLIER THAN 7:30 pm</i>	
3. Call to Order – Patricia Dickinson, Mayor	
4. Pledge of Allegiance	
5. Approval of Agenda	
6. Public Hearings No public hearings scheduled	
7. Citizens' Forum	
8. Consent Agenda Motion	2↓
Minutes of Regular Meeting – 10/10/17	
Minutes of Budget and Finance Committee Meeting – 10/24/17	
Minutes of Streets and Utilities Committee Meeting – 10/24/17	
Minutes of Police and Security Committee Meeting – 11/6/17	
Minutes of Comm. Improvements Committee Meeting - 11/6/17	
Minutes of Personnel Committee Meeting – 11/7/17	
9. Report of Patricia Dickinson, Mayor	
Red Ribbon Week Proclamation	3

<u>Item</u>	<u>Attachment</u>
10. Report of Harry Lee Arnold, Jr., Recorder	
11. Report of Christy Dunkle, Asst. Town Manager for Community Development Monthly Report	4
12. Report of Keith Dalton, Town Manager Request to Vacate "Wheeler Lane"	5
13. Report of Erecka Gibson -- Chair, Budget and Finance Committee Report of Desiree Moreland, Treasurer	6
14. Report of Donna McDonald -- Chair, Community Improvements Committee	
15. Report of David Tollett -- Chair, Police and Security Committee Report of Neal White, Chief of Police	7
Repeal and replace Chapter 4 of the Berryville Code	8
Repeal and replace Chapter 10 of the Berryville Code	9
16. Report of Patricia Dickinson -- Chair, Streets and Utilities Committee Report of David Tyrrell, Public Utilities Director	10
Report of Rick Boor, Public Works Director	11
Water and Sewer Availability/User Fee Rate Study	12
17. Report of Harry Lee Arnold, Jr. -- Chair, Personnel Committee	
18. Other	
19. Adjourn	

Attachment 1

TOWN OF BERRYVILLE
TOWN COUNCIL
MOTION TO ENTER CLOSED SESSION

DATE: November 14, 2017

MOTION BY:

SECOND BY:

I move that the Council of the Town of Berryville enter a closed session in accordance with §2.2-3711-A-8 Code of Virginia, for consultation with legal counsel regarding specific legal matters requiring the providing of legal advice concerning an application for vacation of land described in the application as a public street.

VOTE:

Aye:

Nay:

Absent/Abstain:

ATTEST: _____
Harry Lee Arnold, Jr., Recorder

TOWN COUNCIL
MOTION
CLOSED SESSION RESOLUTION

DATE: November 14, 2017

MOTION BY:

SECOND BY:

I move that the Council of the Town of Berryville adopt the following resolution certifying it has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act:

Resolution

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

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

VOTE:

Aye:

Nay:

Absent/Abstain:

ATTEST: _____
Harry Lee Arnold, Jr., Recorder

Attachment 2

BERRYVILLE TOWN COUNCIL
MOTION TO APPROVE CONSENT AGENDA

Date: November 14, 2017

Motion By:

Second By:

I move that the Council of the Town of Berryville approve the consent agenda.

VOTE:

Aye:

Nay:

Absent:

ATTEST:

Harry Lee Arnold, Jr., Recorder

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
October 10, 2017
7:30 p.m.

Town Council: Present-Patricia Dickinson, Mayor; Harry Lee Arnold, Jr., Recorder; Allen Kitselman; Erecka Gibson; Donna Marie McDonald; Absent – David Tollett

Staff: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Chief Neal White, Berryville Police Department

Press: Cathy Kuehner, Winchester Star

1. Call to Order

Mayor Dickinson called the meeting to order at 7:00 p.m.

2. Closed Session

On motion of Recorder Arnold, the Berryville Town Council entered closed session in accordance with §2.2-3711-A-7, Code of Virginia, in order to consult with legal counsel concerning the Town entering into an agreement relating to a public transportation project.

Council member McDonald seconded the motion which carried as follows:

Aye: Kitselman, Gibson, McDonald, Arnold

Nay: None

Abstain: Dickinson

Absent: Tollett

Reconvene

At 7:30 p.m., the members of the Town Council being assembled within the designated meeting place in the presence of members of the public and the media desiring to attend, the meeting was reconvened.

On motion of Council Member Gibson, the Council of the Town of Berryville adopted the following resolution certifying it convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with provision of The Virginia Freedom of Information Act. Recorder Arnold seconded the motion with a roll call vote as follows:

Gibson: Aye

Arnold: Aye

Kitselman: Aye

McDonald: Aye

Dickinson: Aye

Tollett: Absent

CERTIFICATION OF CLOSED SESSION

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

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

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

Harry Lee Arnold, Jr., Recorder

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3. Pledge of Allegiance

4. Approval of Agenda

On motion of Council member Kitselman, seconded by Council member Gibson, the agenda was unanimously approved as presented.

5. Citizens’ Forum

Mayor Dickinson recognized Patty Maples, Board President of Berryville Main Street. Mrs. Maples said that new Executive Director Lizzie Ryan is working on a number of items and introducing herself to downtown businesses and residents. She referenced an article in the Winchester Star that featured BMS. She thanked the Town for the ongoing Virginia Commission for the Arts Grant and discussed upcoming holiday events.

6. Consent Agenda

The Consent Agenda was approved on motion of Council member McDonald, seconded by Council member Kitselman. The items on the Consent Agenda were:

- Minutes of Regular Meeting – 9/27/17**
- Minutes of Community Improvements Committee Meeting – 9/25/17**
- Minutes of Budget and Finance Committee Meeting – 9/26/17**
- Minutes of Police and Security Committee Meeting – 9/29/17**
- Minutes of Streets and Utilities Committee Meeting – 9/26/17**

7. Report of Patricia Dickinson, Mayor

Mayor Dickinson read a declaration concerning water supply and asked residents to voluntarily reduce water usage. She said that the annual Veterans’ Day event will be held on Saturday, November 11 at 11:00 a.m. at the Government Center. She added that a committee has been organized for the 100th anniversary of WWI celebration and that Will Watson will chair the committee.

8. Report of Harry Lee Arnold, Jr., Recorder
Recorder Arnold had nothing to report.

9. Report of Christy Dunkle, Assistant Town Manager for Community Development

Ms. Dunkle said she had two action items. She said a resolution for the acceptance of McGuire Circle into the public street system is before Council. She said the street, which is located in the Berryville Glen subdivision, was recently completed and Mr. Boor had submitted lane mileage information to complete the paperwork for the acceptance. She said staff would like to forward the request to VDOT in order to push snow in the subdivision this winter. Ms. Dunkle identified the documents in the staff report.

On motion of Council Member Gibson, the Council of the Town of Berryville approved the following resolution requesting VDOT acceptance of McGuire Circle for inclusion in the VDOT Urban Highway System and Maintenance Inventory in order for the Town to receive municipal assistance maintenance funding. Council member Kitselman seconded the motion which carried as follows:

Aye: Kitselman, Gibson, McDonald, Arnold

Nay: None

Abstain: Dickinson

Absent: Tollett

RESOLUTION OF GOVERNING BODY OF THE TOWN OF BERRYVILLE

The governing body of the Town of Berryville, Virginia, consisting of six members, in a duly called meeting held on the 10th day of October, 2017 at which a quorum was present, RESOLVED as follows:
A RESOLUTION: REQUESTING ACCEPTANCE OF McGUIRE CIRCLE INTO THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) URBAN HIGHWAY SYSTEM AND MAINTENANCE INVENTORY

WHEREAS, the street referenced above has been completed and is now eligible for VDOT maintenance funding; and

NOW, THEREFORE, BE IT RESOLVED the Council of the Town of Berryville, Virginia hereby requests VDOT to accept the street referenced above as identified on the attached U-1 form and accompanying documentation into the Urban Highway System and Maintenance Inventory for maintenance payments in accordance with §33.1-41.1 of the Code of Virginia, 1950, as amended.

Passed on this 10th day of October, 2017.

Signed: _____
Patricia Dickinson, Mayor

Attest: _____
Harry Lee Arnold, Jr.

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Ms. Dunkle said that the second action item is the release of an existing letter of credit for Jackson Pond located on the corner of Jackson Drive and West Main Street. She said that Mr. Echols would like the bond released from Ketocin Land Company and a new one established in his name as the trustee for the

Battlefield Center Trust. Mr. Dalton recommended specifying a three-month deadline to complete the work as part of the Construction and Bonding Agreement.

Council member Gibson moved to approve the release of the current letter of credit for Jackson Pond in the amount of \$34,877 and to approve a new Construction and Bonding Agreement and cash surety in the name of A.C. Echols, Jr., Trustee for Battlefield Center Trust in the amount of \$10,875 for Jackson Pond, and to complete the work within 90 days of executing the agreement or the bonds will be used to complete the work. Council member McDonald seconded the motion which carried as follows:

Aye: Gibson, McDonald, Kitselman, Arnold

Nay: None

Abstain: Dickinson

Absent: Tollett

10. Report of Keith Dalton, Town Manager

Mr. Dalton said that Bill Bowerman, an original member of the Architectural Review Board who served for 17 years on that board had passed away over the weekend. He said Mr. Bowerman was a true public servant who focused his best efforts for the community and represented the Town well. He said the mayor had signed a resolution for his family and the Berryville flag will be lowered to half-staff and a drape will be hung at the front of the Government Center for five days in his honor.

Mr. Dalton said that an agreement has been drafted between the Town and McDonald's Corporation allowing the latter to contribute \$13,375 to the Town in order to rehabilitate the temporary turnaround that currently exists at the terminus of McNeil Drive. There was a discussion about the \$1,000 referenced in the agreement which Mr. Dalton said was to be used for reimbursement of legal costs. He concluded by requesting Council action in order to authorize him to complete the negotiation and execute the agreement. **Council member McDonald made the motion to authorize the Town Manager to finalize the negotiation and execute the agreement referenced above. Council member Kitselman seconded the motion which carried as follows:**

Aye: Gibson, McDonald, Kitselman, Arnold

Nay: None

Abstain: Dickinson

Absent: Tollett

11. Report of Erecka Gibson – Chair, Budget and Finance Committee

Council member Gibson said that the next meeting has been scheduled for Tuesday, October 24 at 10:00 a.m.

12. Report of Donna McDonald – Chair, Community Improvements Committee

Council member McDonald said that the Community Improvements Committee met on September 25th and Council member Kitselman presented the structural evaluation received for the livery stable in her absence. She said four bids were received and Damron Engineering & Consulting was awarded the contract. Recorder Arnold asked, for the public's information, the cost of the project. Council member Gibson said that the evaluation cost \$13,000. There was a question about the source of the funding for the project. Mr. Dalton said that this was funded through a line item in the approved budget. He described the property maintenance budget items which included a new roof for the house on Smithy Lane; tree work at the same location; and a new roof on the livery which had been previously anticipated. He reiterated that the evaluation was a separate line item which had identified a budget of \$15,000.

Council member McDonald moved that the Council of the Town of Berryville authorize the Town Manager to finalize negotiations with Damron Engineering and sign any and all contract related documents in regard to the Livery Stable Evaluation. Council member Kitselman seconded the motion which carried as follows:

- Aye: Gibson, McDonald, Kitselman, Arnold
- Nay: None
- Abstain: Dickinson
- Absent: Tollett

13. Report of David Tollett – Chair, Police and Security Committee

In Council member Tollett’s absence, Chief White said that the Police and Security Committee will be meeting on Thursday, October 26th at 9:00 a.m.

Council member McDonald said that the Community Improvements Committee will be meeting on October 23 at 7:00pm.

14. Report of Patricia Dickinson – Chair, Streets and Utilities Committee

Mayor Dickinson said there had been some modifications to the FY2018 street work priorities. Council member Gibson confirmed that these changes are in alignment with option C identified in previous reviews.

Recorder Arnold made the motion that the Council of the Town of Berryville approve the amended Street Work Priorities for FY 18. Council member Kitselman seconded the motion which carried as follows:

- Aye: Gibson, McDonald, Kitselman, Arnold
- Nay: None
- Abstain: Dickinson
- Absent: Tollett

VDOT FUNDED SECONDARY SYSTEM MAINTENANCE/STREET WORK PRIORITIES
FY18

<u>VDOT Reimbursement Limit</u>	\$ 521,000
<u>Work Items and Equipment Purchase</u>	
Patch/Repair trouble areas in streets	\$ 20,000
Sidewalk repair	\$ 15,000
Engineering	\$ 5,000
Public Works Pole Barn	\$ 140,250
Equipment Purchase/Maintenance/Repair (purchase backhoe (53,040*), tractor (26,102*), signs (5,000), safety equipment (1,500). Maintenance (27,358)	\$ 113,000
Routine Street Maintenance (snow removal, tree trimming, drainage ditch cleaning, street cleaning, etc.)	\$100,000
<u>Subtotal</u>	\$ 393,250
<u>Funds available within Reimbursement</u>	\$ 127,750

Specific Street Repair Work Priorities

Summer and fall (2017) paving

Jackson Drive	\$ 55,592*
Ewell Court	\$ 13,044*
Treadwell Street	\$ 8,852*

TOTAL Summer/Fall 2017 \$ 77,488*

Spring and summer (2018) paving

Treadwell Street (from Smith Street to Crown Street)	\$ 7,500
Rosemont Circle	\$37,000

TOTAL Spring/Summer 2018 \$ 44,500

Remaining within Reimbursement \$ 5,762

*Actual Cost

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Mayor Dickinson said that VDOT's Revenue Sharing program is a two year process and not wanting to wait until the next funding cycle, she would like to request funding for traffic calming at South Buckmarsh and Hermitage Boulevard to include a roundabout and for sidewalks on East Main Street from Jack Enders Boulevard to Battletown Drive. Council member Kitselman said that a roundabout would not be feasible because of the truck traffic. He said the radius of such a facility would be enormous and asked if there was rationale for this request. He said some traffic calming is necessary but the roundabout is not feasible. He referenced the trucking lobby's attendance at a previous Council meeting concerning proposed changes on 340.

Recorder Arnold said that he has lived in this area all of his life and he is opposed to the idea of a roundabout. He said that truck traffic has increased like everywhere else and is not aware of a VDOT study justifying this effort. He said properties would likely be condemned to obtain sufficient right-of-way for a roundabout adding this is not a good fit. Recorder Arnold said that he is also opposed to speed bumps on the US highway. Mayor Dickinson asked for input on general traffic calming and there was a consensus that this should be reviewed.

Council members Kitselman and McDonald and Recorder Arnold were in favor of extending a sidewalk on East Main Street.

Council member McDonald said that there was no benefit to a roundabout on South Buckmarsh. She referenced the widening of US 340 in West Virginia. Mayor Dickinson said that the road narrows coming into Berryville which results in traffic calming.

Mr. Dalton wanted to make two points concerning revenue sharing. He said the funding is a 50/50 match between VDOT and the Town. He said VDOT is currently working on a schematic of East Main Street Improvements which is intended to be submitted with a Smart Scale application in the spring of 2018. He

confirmed that after the discussion, Council is not looking at a roundabout on South Buckmarsh but at some form of traffic calming.

15. Report of Harry Lee Arnold, Jr., Chair, Personnel Committee

Recorder Arnold said he had nothing to report and did not schedule a Personnel Committee meeting for October.

16. Other

Mr. Dalton confirmed that there will be no work session scheduled for November.

17. Adjourn

There being no other business, upon motion of Council member Kitselman, seconded by Council member Gibson, the meeting was adjourned at 8:04 p.m.

Harry Lee Arnold, Jr., Recorder

Christy Dunkle, Recording Secretary

BERRYVILLE TOWN COUNCIL
Budget & Finance Committee
Tuesday, October 24, 2017
Berryville-Clarke County Government Center
10:00 a.m.

MINUTES

Roll:

Town Council:

Present: Erecka Gibson, Chair; Patricia Dickinson

Staff: Keith Dalton, Town Manager; Desiree Moreland, Treasurer; Ann Phillips, Town Clerk

Press: None

Other: Diane Harrison, Alton Echols

1. **Call to Order**

Chair Gibson called the continued meeting to order at 10:03 a.m.

2. **Approval of Agenda**

The agenda was approved as presented.

3. **Discussion – Work Plan Internal Audit of Cash Disbursements and Procurement**

The Committee and staff discussed the Work Plan and possible changes in the timelines listed in the Work Plan. The Committee and staff discussed the terms ‘competitive bidding,’ ‘solicitations,’ ‘bids,’ and ‘quotes.’ There was discussion of the requirement for signatures on both the Request for Payment form and the invoice.

4. **Discussion – Purchasing Policy**

There was discussion of the brief on the policy provided by Ms. Dickinson. Ms. Dickinson said she provided the brief out of concerns that certain small purchase limits are too high and the purchasing policy did not require competitive bids. Chair Gibson noted a concern about micromanaging in reference to the brief. Mr. Dalton stated that it appears there are two unresolved issues remaining: the dollar thresholds identified under the small purchase procedures, and the process for notifying Town Council when a requested number of quotes is not received. Chair Gibson said she had not had the opportunity to properly review the brief and that it would be after the first of the year before she would be ready to meet and discuss the matter. Chair Gibson said she would prepare a response to Ms. Dickinson's brief by December 21, 2018.

It was agreed that the Committee will meet again on January 23, 2018, to review the brief and the draft purchasing policy.

6. **Adjourn**

There being no further business, the meeting was adjourned at 11:40 a.m.

BERRYVILLE TOWN COUNCIL
Streets and Utilities Committee
Tuesday, October 24, 2017
Berryville-Clarke County Government Center
12:00 p.m.

MINUTES

Town Council:

Present: Patricia Dickinson, Chair; David Tollett

Staff: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager / Planner; Dave Tyrrell, Director of Public Utilities; Ann Phillips, Town Clerk;

Press: None

Others: Grant Sanders of VDOT; Harry Lee Arnold, Jr.; Diane Harrison; Alton Echols

1. Call to Order

Chair Dickinson called the meeting to order at 12:03 p.m.

2. Approval of Agenda

The agenda was approved as presented.

3. Project Updates

Staff provided updates on various projects including the water tank painting project; the planned crosswalk signage; the water/sewer user and availability fee study; the Livery Stable analysis; the Swan Avenue walking path and demolition of sidewalk; the Public Works Pole Barn; the Treadwell Street Phase 2 project; and the Smithy Cottage.

Mr. Dalton reviewed the FY 2019 Street Work Priorities (Attachment A) noting several projects under consideration for inclusion in the Priorities.

Grant Sanders of VDOT provided information on traffic signal timing for Main and Church Streets and Main and Buckmarsh Streets. It was agreed that the Committee recommend that the Town Council request VDOT change the pedestrian traffic signal at Main and Church to allow pedestrians access to the crosswalk before the traffic light is green (leading pedestrian signal).

The Committee discussed possible application for Smart Scale funding. Mr. Dalton said VDOT has been requested to develop a schematic plan for improvements to East Main Street that can be used for creation of project cost estimates. It was noted that the Smart Scale application is due in spring 2018 with a decision expected within six months.

The Committee discussed options for traffic calming on South Buckmarsh Street. Mr. Dalton said he would request that VDOT provide schematic drawings of options for traffic calming in the area of concern.

4. Adjourn

There being no further business, the committee adjourned at 1:30 p.m.

Attachment A

VDOT Funded Secondary System Maintenance / Street Work Priorities

FY 2019

<u>VDOT Reimbursement Limit</u>	\$ 521,000
<u>Work Items and Equipment Purchase</u>	
Patch/Repair trouble areas in streets	\$ 20,000
Sidewalk repair	\$ 17,000
Engineering	\$ 5,000
Equipment Purchase/Maintenance/Repair (1/2 Purchase 1 ton truck (26,000) Maintenance/Repair (25,000))	\$ 51,000
Routine Street Maintenance (snow removal, tree trimming, drainage ditch cleaning, street cleaning, etc.)	\$ 100,000
<u>Subtotal</u>	\$ 193,000
<u>Funds available within Reimbursement</u>	\$ 328,000

Specific Street Repair Work Priorities

<i>Summer and fall (2018) Paving</i>	
Treadwell Street (from Smith Street to Dorsey Street and from Willow Lane to Buckmarsh Street)	\$ 50,000
South Church Street (from Taylor Street to South Buckmarsh Street)	\$ 71,000
Rosemont Circle	\$ 37,000
Swan Avenue (from South Buckmarsh Street west to terminus)	\$ 50,000 ¹
Total Summer/Fall (2018)	\$ 208,000
<i>Spring and summer (2019) Paving</i>	
Rice Street	\$ 40,000
First Street	\$ 80,000
Total Spring/Summer (2019)	\$ 120,000

¹ Estimated cost includes paving, engineering and construction of improvements to shoulder and engineering and construction a drainage improvement

* Actual Cost

Draft Submitted to Streets and Utilities 10/24/17

Future Paving Projects to consider

Hermitage Blvd. \$260,000

This is one of four collector roads in Berryville. This important street section is showing its age and needs attention in the near future. While it is desirous to complete this work, Phase 5 of the Hermitage Subdivision has not been completed. The construction of Phase 5 will put a good bit of wear on the street. It is staff's understanding that work on Phase 5 is expected to start this year. As such, at this time staff recommends review of this matter next year and giving strong consideration to completing this project in FY20.

Josephine Street \$125,000

At this point this dead end street is holding up well. The eastern portion of the street (from Berryville Graphics entrance to the eastern terminus), which was in poor condition, was paved in 2015. While the street does not get a great deal of traffic and is a present in good condition, it will be an expensive paving project and it is important for the Council to have it on its radar.

The Town utilities on the street also need to be a part of the discussion. Several years ago a water main was extended just over 400 feet into Josephine Street from Church Street. The 10-inch main was extended to improve fire protection in the area. In the future it is desirous to extend the new main, replace laterals, and abandon original 4" water main. This work should be done before any paving project is completed.

Bel Voi \$ 40,000

This low volume dead end street is deteriorating. The street that feeds this section (Battletown Drive), was paved in 2016.

The Town utilities on the street need to be a part of this project. The water main in Battletown Drive was updated in 2016. It is expected that a portion of the water main that extends from Main Street to the western terminus of Bel Voi will be replaced when the property surrounding the hardware store is developed. Before the street is paved the water main in Bel Voi should be replaced.

Town Funded Street Maintenance / Street Work Priorities

FY 2019

Repair and seal Virginia Avenue

\$ 16,000

Please note that this project has been included in the current CIP. It is also important to note that staff would like to discuss expanding the project beyond that which was anticipated when the CIP was first submitted. Further, staff will discuss drainage issues that exist in the area.

Draft Submitted to Streets and Utilities 10/24/17

MINUTES
BERRYVILLE TOWN COUNCIL
POLICE AND SECURITY COMMITTEE
Berryville-Clarke County Government Center
Called Meeting
November 6, 2017
5:00 p.m.

Committee members: Present- Dave Tollett, Chair; Pat Dickinson

Staff: Keith Dalton, Town Manager; Neal White, Chief of Police; Ann Phillips, Town Clerk

Press: None

1. Call to Order

The meeting was called to order at 5:24 p.m. by Committee Chair Tollett.

2. Approval of Agenda

The agenda was approved as presented.

3. Department Update

Chief White said the Department received the donation of an AED unit from a local F.O.P. organization, and the unit will float between cruisers.

4. Discussion – Career Development

The Committee and staff discussed proposed revisions to General Order regarding the Career Development Program for the police department. It was agreed to forward the draft General Order to legal counsel for review.

5. Discussion – Berryville Code Chapter 8: Garbage and Refuse, Recyclables, and Yard Waste

Mr. Dalton reviewed nomenclature used in the chapter as well as the general structure and approach. He began review of the chapter with the Committee.

6. Discussion – Town Code Review

The Committee and staff agreed that Chapters 4 and 10 be sent to the Town Council for review and action.

7. Other

The next meeting was set for November 30, 2017, at 9:00 a.m.

8. Adjourn

There being no further business, the meeting was adjourned at 6:33 p.m.

MINUTES
BERRYVILLE TOWN COUNCIL
COMMUNITY IMPROVEMENTS COMMITTEE
Berryville-Clarke County Government Center
Regular Meeting
November 6, 2017

Committee members: Present- Donna Marie McDonald, Chair; Allen Kitselman

Staff: Keith Dalton, Town Manager; Christy Dunkle, Planner; Ann Phillips, Town Clerk

Press: None

Other: Mike Damron of Damron Engineering, Kara Rodriguez

1. Call to Order

Chair McDonald called the meeting to order at 7:03 p.m.

2. Approval of Agenda

The agenda was approved.

3. Update – Livery Stable Evaluation Project Update

Mike Damron of Damron Engineering provided a progress report on the evaluation project. He said that 80% of the measurements are complete, and he has found nothing catastrophically wrong. He noted a few areas of minor concern and said he is on schedule to meet the requested due date for deliverables. He provided photos showing a few areas of concern (Attachment A).

4. Discussion- John Rixey Moore Playground

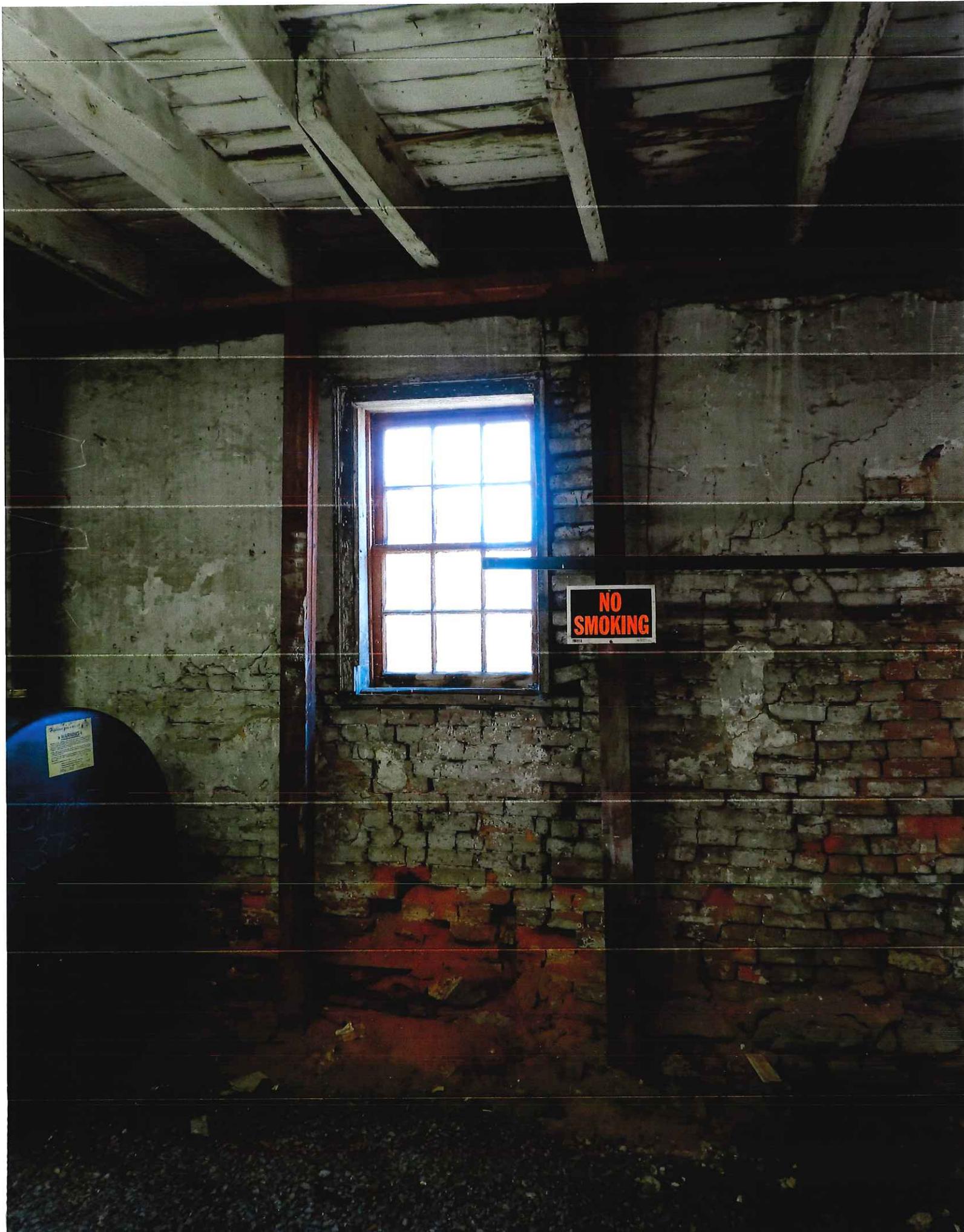
Mr. Dalton explained the need to begin discussion and budgeting for replacing the play set in the John Rixey Moore Playground in Rose Hill Park. The Committee discussed the project and agreed the target age group for new equipment should be age two though age five. Mr. Dalton said the current staff proposal will be added to the Town website. It was agreed that public input would be sought on the matter at the next Committee meeting scheduled for December 4, 2017, at 7:00 p.m. Mrs. Rodriguez stated that she would seek input from various interested parties and provide information to the Committee in December.

5. Discussion – Christmas Tree Decoration

Chair McDonald noted the tree lighting ceremony is handled by Berryville Main Street while the Town is responsible for decorating the tree in Rose Hill Park.

6. Adjourn

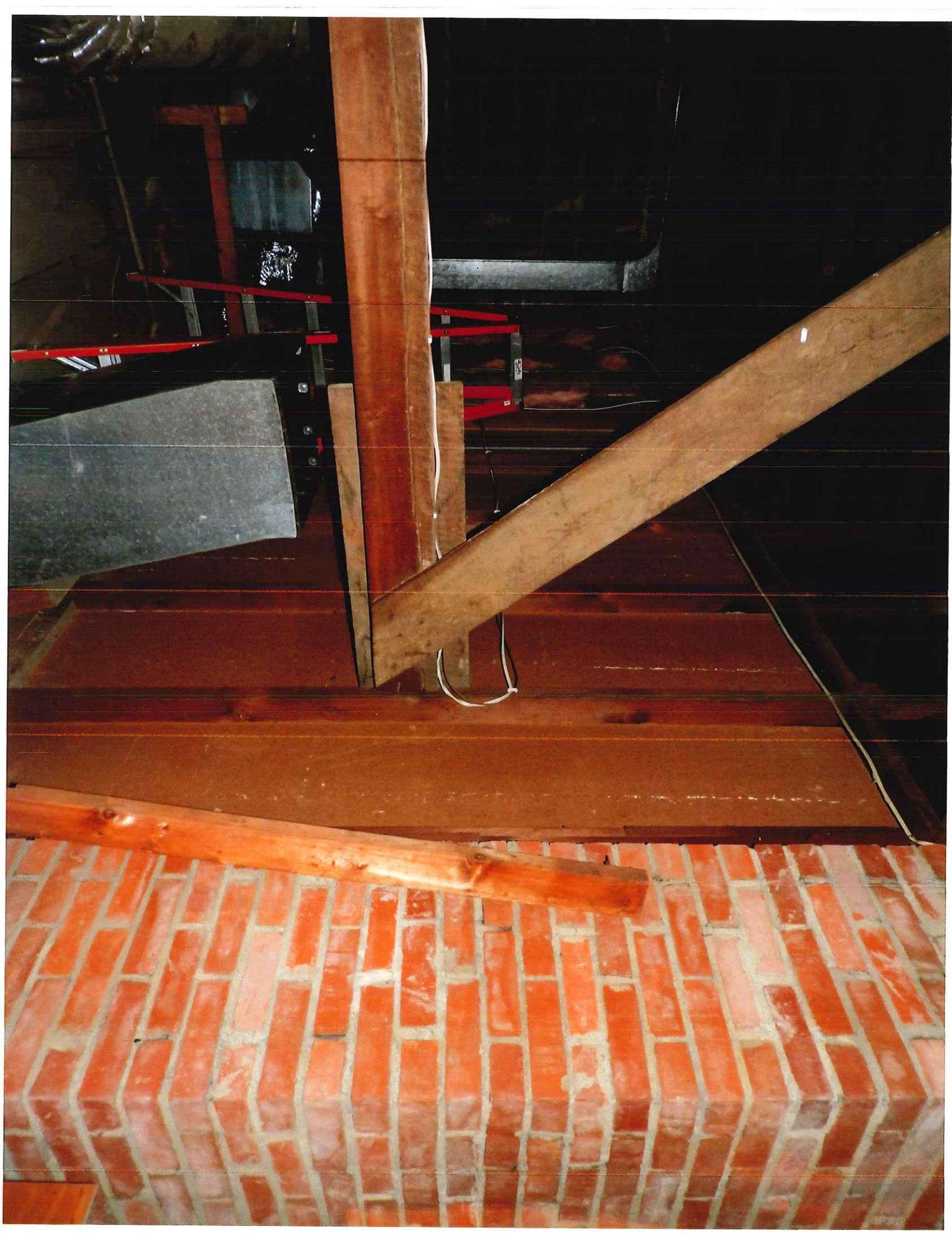
There being no further business, the meeting was adjourned at 8:01 p.m.



**NO
SMOKING**

WARNING





**MINUTES
BERRYVILLE TOWN COUNCIL
PERSONNEL COMMITTEE
Berryville-Clarke County Government Center
Called Meeting
November 7, 2017**

Committee members: Present- Harry Lee Arnold, Jr., Chair; Patricia Dickinson; Erecka Gibson

Staff: Keith Dalton, Town Manager; Ann Phillips, Town Clerk

Press: None

1. Call to Order

Chair Arnold called the meeting to order at 2:00 p.m.

2. Approval of Agenda

The agenda was approved as presented.

3. Discussion – Planning Commission: Term of one member to expire 1/15/2018

The Committee unanimously agreed to recommend William Steinmetz for reappointment to the Planning Commission for four year term beginning 1/16/2018 and expiring 1/15/2022.

4. Discussion – Berryville Area Development Authority: Vacancy

The Committee reviewed talent bank forms and asked Mr. Dalton to check with several individuals about their desire to serve on the BADA. It was agreed that interviews could be scheduled on December 7, 2017, beginning at 6:30 p.m.

5. Adjourn

There being no further business, the meeting was adjourned at 2:32 p.m.

Attachment 3

Red Ribbon Week Proclamation

**14 November 2017
Announcement**

Mayor Dickinson declared October 23-31 as Red Ribbon Week.

Red Ribbon Week was established as a time to encourage Americans to wear a red ribbon to show their support for a drug-free environment. This important effort is lead locally by the Shenandoah Valley Young Marines of the Marine Corps League.

Please find attached the Mayor's proclamation concerning Red Ribbon Week. A representative of the Shenandoah Valley Young Marines of the Marine Corps League is expected to be in attendance at the Town Council meeting.

Town of Berryville
PROCLAMATION
Red Ribbon Week

- WHEREAS, communities across America have been plagued by the numerous problems associated with illicit drug use and those who traffic them; and
- WHEREAS, there is hope in winning the War on Drugs, and the hope lies in education and drug demand reduction, coupled with the hard work and determination of organizations such as the Shenandoah Valley Young Marines of the Marine Corps League to foster a healthy, drug-free lifestyle; and
- WHEREAS, governments and community leaders know that citizen support is one of the most effective tools in the effort to reduce the use of illicit drugs in our communities; and
- WHEREAS, the red ribbon was chosen as a symbol commemorating the work of Enrique “Kiki” Camarena, a Drug Enforcement Administration agent, who was murdered in the line of duty and represents the belief that one person CAN make a difference; and
- WHEREAS, THE Red Ribbon Campaign was established by Congress in 1988 to encourage a drug-free lifestyle and involvement in drug prevention and reduction efforts; and
- WHEREAS, October 23-31 has been designated National Red Ribbon Week, which encourages Americans to wear a red ribbon to show their support for a drug-free environment.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Patricia Dickinson, Mayor of the Town of Berryville, Virginia, do hereby proclaim October 23–31, 2017, as:

Red Ribbon Week

in this Town, and encourage all citizens, businesses, public and private agencies, media, religious and educational institutions to wear and display red ribbons and participate in drug-free activities throughout the week, joining me and the rest of the nation in promoting the Red Ribbon Celebration and drug-free communities.

Patricia Dickinson, Mayor

DATED: _____

Attachment 4

Planning and Community Development

No Action Items

November 14, 2017

Planning Commission

The Planning Commission did not hold an October meeting. Their next meeting is scheduled for Tuesday, November 28, 2017 at 7:30pm.

Berryville Area Development Authority

The BADA did not hold an October meeting. Their next meeting is scheduled for Wednesday, November 22, 2017 at 7:00pm.

Architectural Review Board

The Architectural Review Board did not hold a November meeting. Their next meeting is scheduled for Wednesday, November 29 at 12:30pm in order to accommodate the Parking Meter Contest judging for Berryville Main Street.

Board of Zoning Appeals

The Board of Zoning Appeals has not held a meeting since the last Council meeting.

Attachment 5

Request to vacate "Wheeler Lane"

Carl and Patricia Maples of 207 Swan Avenue submitted the attached "Petition to Vacate Wheeler Lane".

The attachments accompanying this report are lengthy and provide considerable detail. Please find below a brief on the matter.

Issue in brief

The property described as "Wheeler Lane" (Property) was dedicated to the Town of Berryville in a Deed of Dedication dated 9 July 1947. The Dedication provided that the owners of the property (as a part of platting lots) agreed to grant, convey and dedicate Wheeler Lane as a public street.

The Town did not accept or agree to the dedication. The Town has not maintained the Property as a street or otherwise.

Carl and Patty Maples contend that the Property is a public street. They claim that the Town did not have to accept the dedication for it to be valid. They also claim that they alone own the underlying, reversionary, fee simple rights to the Property; therefore, upon vacation of the street, the property will revert to them.

Norma Slattery of 211 Swan Avenue claims that the Property is a part of her parcel. Mrs. Slattery states that she maintains the property, a portion of which constitutes her driveway (only access to Swan Avenue). She notes that the survey attached to the Maples Deed represents the Property as being a part of the Slattery property, the survey attached to the Slattery Deed (which was a transfer from Wheeler) represents the Property as a part of the Slattery property, and Property's real estate taxes are charged to her.

Mr. Maples contacted Keith Dalton, Town Manager about this matter in the summer of 2014 and then again in the summer of 2015. In each instance, Mr. Dalton wrote to Mr. Maples and explained the Town's position in the matter.

This matter was discussed by the Streets and Utilities Committee in the summer of 2015.

Mr. Maples contacted Gordon Russell, Clarke County's Director of Information Technology about this matter in the summer of 2016. Robert T. Mitchell, Jr. Esq. responded to Mr. Maples on behalf of Mr. Russell.

This summer, both Mr. Maples and Mrs. Slattery appeared before the Streets and Utilities Committee to discuss this matter for a second time.

Please find attached

- Petition to Vacate Wheeler Lane, excerpt from VA ACTS OF ASSEMBLY 1946, and 9 July 1947 Dedication (7 Pages)
- Packet prepared for the Streets and Utilities Committee (34 Pages)

Process

The first question before the Council is whether it will consider this request.

If the Council determines that it will consider the request for vacation, then it would set a public hearing on the matter.

At the public hearing the public would be permitted to comment on the vacation ordinance. At this point, the Council has the option of appointing viewers who would observe the area over the course of a defined period and report what they witnessed to the Council.

The Council would make a determination as to whether to adopt the vacation ordinance or not.

If the Council approves the ordinance, then it would be recorded in the land records maintained by the Clerk of the Circuit Court of Clarke County.

Appeal of a vacation or alteration could be made to the Clarke County Circuit Court within 60 days of the adoption of the ordinance.

Petition to Vacate

October 30, 2017

Town of Berryville
101 Chalmers Ct.
Berryville, VA 22611

RECEIVED

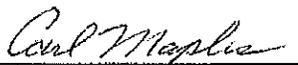
NOV 07 2017
Town of Berryville, VA

Petition to Vacate Wheeler Lane

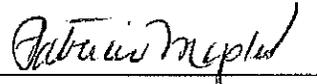
We the undersigned owners of Clarke County Tax Map parcel 14A4-A-29 (207 Swan Ave., Berryville) which is contiguous to Wheeler Lane, a street shown on the Dedication, recorded in Deed Book 35, at page 393, hereby request the Town of Berryville vacate said Wheeler Lane.

We agree to grant an easement of ingress and egress over the existing driveway to the property identified as Tax Map parcel 14A4-A-27; or; agree to the Town of Berryville reserving such an easement on behalf of the property identified as Tax Map parcel 14A4-A-27.

We acknowledge that, from and after the vacation, it will be our responsibility to maintain the paved surface and to pay property taxes on the area of the vacated street.



Carl Maples



Patricia Maples

Attachment: Deed of Dedication (DB 35 p. 393)

ginia Land Subdivision Law", and shall be liberally construed to effectuate its purposes, including the authorization of the governing bodies of the municipalities and counties to adopt regulations to assure the orderly subdivision of land, and its development; and the term "governing body", as used in any of the sections of this chapter, means the governing body of the municipality or county, as the case may be, unless the context requires some other meaning.

Section 5222-b. (a) From and after the effective date of regulations adopted under the provisions of this chapter, any owner or proprietor of any tract of land who subdivides the same as herein provided, shall cause a plat of such subdivision, with references to known or permanent monuments, to be made and recorded in the office of the clerk of the court of the municipality or county wherein deeds are recorded, and in which county or municipality the land so subdivided lies.

(b) Before the powers granted by this chapter may be exercised by any municipality or county, the governing body thereof shall adopt regulations governing subdivisions within its territorial limits, and authorities of planning as provided in this chapter. Such regulations may provide for the size, scale and other details of the plat to be recorded, for the harmonious and economic development of the municipality or the county, for the coordination of streets within the subdivision with other existing or planned streets within the region in question, for adequate open spaces for traffic, recreation, light and air and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience and prosperity. Such regulations may require monuments of specific type to be erected, establishing street and property lines. Such regulations may provide that unless any such plat shall be filed for recordation within sixty days after final approval thereof, such approval shall be withdrawn and the plat marked void and returned to approving official.

(c) The governing body shall not adopt or amend any regulation under the provisions of this chapter unless and until notice of intention so to do has been published once a week for two successive weeks in some newspaper published, or having general circulation, in such county or municipality. Such notice shall specify the time, not less than ten days after final publication as aforesaid, and place, at which persons affected may appear before the governing body and present their views.

Section 5222-c. (a) When such regulations have been adopted, a certified copy thereof and all amendments thereto shall be filed in the office of the engineer or other official of the municipality or county designated in such regulations, and in the office of the clerk of the circuit or corporation court of the county or municipality where the land or any part lies, and in which clerk's office deeds are recorded. No such plat or subdivision shall be recorded unless and until it shall have been submitted to and approved by the governing body of the county or municipality, as the case may be, wherein the land so subdivided is located, or such official or board including the local planning commission as such governing body designates in such regulations.

(b) After the effective date of the regulations permitted and adopted under the provisions of the preceding section, no clerk of any court

3. Chapter four hundred sixty-four of the Acts of Assembly of nineteen hundred forty-two, approved April six, nineteen hundred forty-two, relating to incorporation of the City of Arlington, shall be, and stand, repealed as of the first moment that the city is created under this act.

4. An emergency exists and this act is in force from its passage.

CHAP. 368.—An ACT to amend Chapter 23 of the Acts of Assembly of 1944, approved February 15, 1944, relating to authority of Commissioner of Corrections to furnish prison labor for farm work under certain conditions by adding a new section numbered 7, providing for a different termination of such authority. [H B 336]

Approved March 28, 1946

Be it enacted by the General Assembly of Virginia: I. That chapter twenty-three of the Acts of Assembly of nineteen hundred forty-four approved February fifteen, nineteen hundred forty-four, be amended by adding a new section numbered seven, as follows:

Section 7. Notwithstanding any other limitation upon the duration of this act it shall remain in full force and effect until the Governor of this Commonwealth, after advising with the Commissioner of Agriculture and Immigration, certifies that the need for which this law was enacted no longer exists; thereupon, this act shall automatically terminate.

CHAP. 369.—An ACT to amend the Code of Virginia by adding a new chapter numbered 211-A and nine new sections numbered from 5222-a to 5222-i, both inclusive, all of which sections are embraced in such new chapter, the object of which is to provide for the regulating by the governing bodies of counties, cities, and towns, of the subdivision of lands within their territorial limits or adjacent thereto, into lots, streets and alleys and other public areas; to provide for the making and recording of plats of such subdivisions, and certain certificates with respect thereto; to provide how such regulations and plats shall be approved, and how such plats may be vacated; and to repeal sections 5217, 5218, 5219, 5220, 5221 and 5222 of the Code of Virginia, and Chapter 159 of the Acts of Assembly of 1922, approved March 10, 1922, and Chapter 468 of the Acts of Assembly of 1924, approved March 21, 1924, relating to the same matters, and all acts amendatory thereof, or of any part or parts thereof. [H B 358]

Approved March 28, 1946

Be it enacted by the General Assembly of Virginia: I. That the Code of Virginia be amended by adding a new chapter numbered two hundred eleven-A and nine new sections numbered from fifty-two hundred twenty-two-a to fifty-two hundred twenty-two-j, both inclusive, which new chapter and new sections are as follows:

CHAPTER 211-A

Subdivisions of Land

Section 5222-a. The laws embraced in the following sections of this chapter constitute, and may be cited and referred to as "The Vir-

shall file or record a plat of a subdivision required by this chapter to be recorded until such plat has been approved as required by the preceding paragraph of this section. Where no regulations have been adopted, such plat or plats may be recorded without such approval.

(c) Beyond the corporate limits and within a distance of five miles therefrom of cities having a population of one hundred thousand or more, and beyond and within a distance of three miles from the corporate limits of cities having a population of less than one hundred thousand, all acceding to the last preceding United States census, and within a distance of two miles from the corporate limits of incorporated towns (except that where the corporate limits of two municipalities are closer together than the sum of the distances from their respective corporate limits as above set forth, in which event the dividing line of jurisdiction shall be halfway between the limits of the overlapping boundaries), the governing body of any such municipality may adopt subdivision regulations both within its corporate limits and within the distance therefrom, as above defined; provided that no such regulations shall be finally adopted by such municipality until the governing body of the county in which such area is located shall have been duly notified in writing by the governing body of the municipality or its designated agent of such proposed regulations, and requested to review and approve or disapprove the same, and if such county fails to notify the governing body of such municipality of its disapproval of such plan within forty-five days after the giving of such notice, such plan shall be considered approved. The governing body of any county may adopt regulations for subdivisions in the unincorporated area of the county, provided that whenever the governing body of a county desires to adopt subdivision regulations in the county area of municipal jurisdiction located within the county, then such county may proceed to adopt subdivision regulations in such area, except that no such regulations shall be finally adopted for such area by such county until the governing body of the municipality adjoining the same shall have been notified in writing of such proposed regulations, and requested to review and approve or disapprove the same, and if such municipality fails to notify the governing body of such county of its disapproval of such plan within forty-five days after the giving of such notice, the same shall be considered approved. In either event where a disagreement arises between the county and municipality as to what regulations should be adopted for the area, and such difference can not be amicably settled, then after ten days prior written notice by either to the other, either or both parties may petition the circuit court of the county wherein said area or a major part thereof lies to decide what regulations are to be adopted, which court shall hear the matter, and enter an appropriate order.

Section 5222-d. In any political subdivision for which regulations requiring approval and recordation of plats have been adopted, whenever an owner or proprietor of any tract of land therein desires to subdivide the same, he shall submit a plat of the proposed subdivision to the governing body of the municipality or its designated agent, when the land involved lies wholly within the corporate limits, or to the governing body of the county or its designated agent when the land involved lies

wholly within the unincorporated area of the county, beyond the area subject to control of the governing body of any municipality. When any part of the land involved lies within an area subject to the joint control of the governing bodies of a county and a municipality, the plat shall be approved by both such governing bodies, or their designated agent; and if such bodies, or such agents, fail to approve the proposed plat within thirty days after it has been submitted for approval, either party may, after ten days' written notice to the other party, petition the circuit court of the county in which the land involved, or the major part thereof is located, to decide whether the plat should or should not be approved, and the court shall hear the matter and make and enter such order with respect thereto, as it deems proper; provided that when the regulations affecting any such area have been adopted by either the county or the municipality without having been approved or disapproved by the other, as provided in this section, then the plat shall be submitted to the other party for approval or disapproval, and if such other party fails to disapprove such plat within forty-five days after the giving of such notice, the plat shall be deemed to be approved. Every such plat shall be prepared by a surveyor or civil engineer duly licensed by this State, who shall endorse upon each such plat a certificate signed by him setting forth the source of title of the owner of the land subdivided, and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat.

Section 5222-e. Every such plat shall contain, in addition to the surveyor's or civil engineer's certificate provided for, a statement to the effect that the above and foregoing subdivision of (here insert a correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any, which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgment of deeds, and when thus executed and acknowledged said plat, subject to the provisions herein, shall be filed and recorded in the office of the clerk of court where deeds are admitted to record for the lands contained in the plat, and indexed under the names of the owners of lands signing such statement, and under the name of the said subdivision.

Section 5222-f. The recordation of such plat shall operate to transfer, in fee simple, to the respective counties and cities in which the land lies such portion of the premises platted as is on such plat set apart for streets, alleys, easements, or other public use and to create a public right of passage over the same; but nothing herein contained shall prevent the persons who set apart such land for streets and alleys, their heirs and assigns, where otherwise they have the right so to do, from erecting, putting down and maintaining gas or water pipes or electric lines along or under the portions so set apart. They shall not, however, obstruct or hinder the passage over such streets or alleys further than is reasonably necessary while laying down, erecting or repairing such work, pipes, wires and fixtures.

Any such plat or part thereof may be vacated with the consent of the governing body or its designated agent of the county or municipality where the land lies, by the proprietors thereof, at any time before the sale of any lot therein, by a written instrument, declaring the same to be vacated, duly executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is recorded, and the execution and recordation of such writing shall operate to destroy all force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest such proprietors with the title to the streets, alleys, easements, and public grounds laid out or described in such plat. In cases where lots have been sold, the plat or part thereof may be vacated upon the application of all the owners of lots in said plat and with the approval of the governing bodies of any county or municipality, or both, where the plat has been approved by both, and their approval shall be obtained as provided herein for the approval and recordation of the original, and shall not be vacated otherwise.

Section 5222-g. The clerk in whose office any plat so vacated has been recorded, shall write in plain legible letters across such plat, or the part thereof so vacated, the word "vacated", and also make a reference on the same to the volume and page in which said instrument of vacation is recorded.

Section 5222-h. If any clause, sentence, paragraph or part of this chapter shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this law, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which the judgment shall have been rendered.

Section 5222-i. This chapter shall become effective July one, nineteen hundred forty-six, provided that during a period, not to exceed ninety days, from and after such effective date, local governing bodies may adopt interim ordinances providing temporary regulations for the laying out, development or approval of subdivisions coming under their respective jurisdictions, as provided in this chapter, or for preventing the laying out or development of subdivisions until the rules and regulations provided for under this chapter become effective.

2. Sections fifty-two hundred seventeen, fifty-two hundred eighty-two, fifty-two hundred nineteen, fifty-two hundred twenty, fifty-two hundred twenty-one, and fifty-two hundred twenty-two of the Code of Virginia, and chapter one hundred fifty of the Acts of Assembly of nineteen hundred twenty-two, approved March ten, nineteen hundred twenty-two, and chapter four hundred sixty-eight of the Acts of Assembly of nineteen hundred twenty-four, approved March twenty-one, nineteen hundred twenty-four, and all acts amendatory of said Code sections or any of them, and all acts amendatory of said chapters or either of them, or any part or parts thereof, are hereby repealed.

CHAP. 370.—An ACT to provide a new charter for the Town of Middletown, in Frederick County, Virginia; and to repeal all acts or parts of acts in conflict herewith.

Approved March 28, 1946

Be it enacted by the General Assembly of Virginia:

1. Section 1. The inhabitants of the territory embraced within the present limits of the Town of Middletown, in Frederick County, Virginia, as hereinafter defined, or as the same may be hereafter altered and established by law, shall constitute and continue a body politic and corporate, to be known and designated as the Town of Middletown, and as such shall have and may exercise all powers which are now, or may hereafter be, conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia as fully and as completely as though such powers were specifically enumerated herein, and no enumeration of particular powers herein shall be held to be exclusive. The territory embraced within the present limits of the Town of Middletown is described by metes and bounds as follows:

Both sides of the main street, beginning at the Valley turnpike toll-house property, on west side, and C. E. Sperry's on east side, and extending southwest to the property of Isaac Rhodes, on both sides of said street, and including all said properties; both sides of west back street, beginning at the property of E. E. Riding's, on east side, and Doctor Davidson's on west side, and extending southwest to the end of the original plan of said town, in the property of Isaac Rhodes, on a line with the ending of Main street, as above, including all of E. C. Riding's property and Doctor Davidson's residence, and so forth, to the alley west; both sides of east back street, beginning at the property of J. S. Guyer, and including the same, on the east side, and A. Jenkins, on west corner, and extending southwest, to embrace the residence and grounds thereof of A. N. Bragg, the several cross streets are now open or hereafter opened, and the alleys parallel with the first-named three streets, all as per original plan of town.

Section 2. The administration and government of the Town of Middletown shall be vested in one body to be known as the council of the Town of Middletown, which said body shall consist of seven members, six of whom shall be known as councilmen and one to be known as Mayor, all of whom shall be residents and qualified voters of the town. Each member of the Council may receive a salary for his services as such member, the amount thereof to be fixed by the Council, but such salary shall not be in excess of One Hundred Dollars (\$100) per year for each such member. The Council may create, appoint or elect such boards, bodies, departments or officers as may be permitted, required, or deemed necessary or proper, and fix their compensation and define their duties.

Section 3. (a) At the regular municipal election to be held on the second Tuesday in June, in the year nineteen hundred forty-six, and every two years thereafter, there shall be elected in the manner prescribed by law, six councilmen and a mayor for terms of two years beginning on the first day of September next following their election, each of whom shall serve until his successor shall have been elected and qualified. The coun-

of the third part shall become a lien upon said real estate.

WITNESS the following signature and seal this the day and year first above written.

Walter D. Loper (SEAL)

State of Virginia,
County of Clarke ss:

I, Roy E. Potts, a Notary Public in and for the County of Clarke, State aforesaid, do hereby certify that Walter D. Loper, unmarried, whose name is signed to the foregoing instrument in writing bearing date July 15, 1947, has personally appeared before me in my said County and acknowledged the same as and for his act and deed.

My commission expires June 11, 1951.
Given under my hand this 15 day of July, 1947.

Roy E. Potts, Notary Public.

Virginia,
Clarke County, ss:

On the 15th day of July, 1947, the foregoing deed of trust, dated 15th day of July, 1947, was received in the clerk's office of the Circuit Court of said County, certified for record and with the certificate admitted to record, at 1 o'clock, P. M.

Teste: *Forney M. H. ...* Clerk.

Paul L. Wheeler and Alma Bruce Wheeler

To (Dedication
Town of Berryville

THIS DEDICATION made this 9th day of July, 1947 by Paul L. Wheeler and Alma Bruce Wheeler, his wife,

WITNESSETH, we the undersigned owners of the land abutting on Wheeler Lane as shown on the attached plats of lots # 1, # 2, and # 3, of Paul L. Wheeler, do hereby grant, convey and dedicate so much of said land as is shown on the said plats as a public street to be known as Wheeler Lane, in compliance with Sections 5217, 5218, and 5219 of the Michie Code of Virginia of 1942 and Acts Amendatory thereto.

This dedication and conveyance is made with the free consent of the undersigned owners, it being their intention, purpose and desire to create a public easement or public right of passage over so much of said land as is designated as Wheeler Lane on the attached plats #1, # 2, and # 3 made by Richard U. Gooda, Certified Surveyor.

WITNESS THE following signatures and seals this the day and year first above written.

Paul L. Wheeler (SEAL)

Alma Bruce Wheeler (SEAL)

State of Virginia
County of Clarke, to-wit:

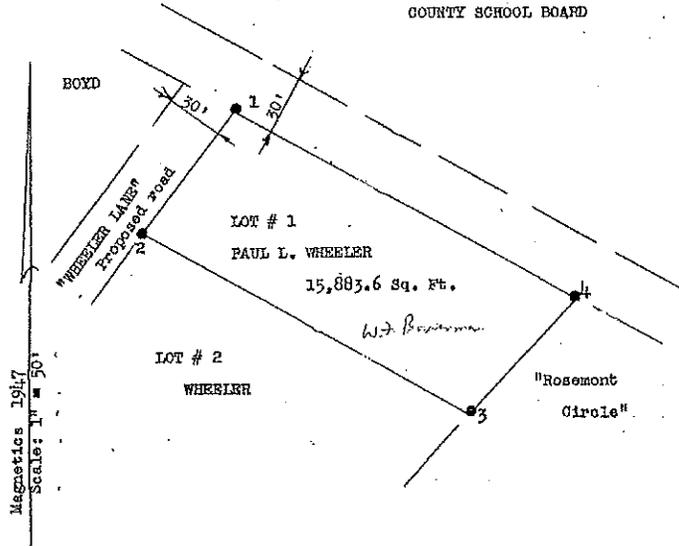
I, Roy E. Potts, a Notary Public of and for the County aforesaid, in the State of Virginia, do certify that Paul L. Wheeler and Alma Bruce Wheeler, his wife, whose names are signed to the writing above, bearing date on the 9th day of July, 1947, have this day acknowledged the same before me in my County aforesaid.

My term of office expires June 11, 1951.
Given under my hand this 15th day of July, 1947.

Roy E. Potts, Notary Public.

No Tax
Fee \$ 4.75
Paid

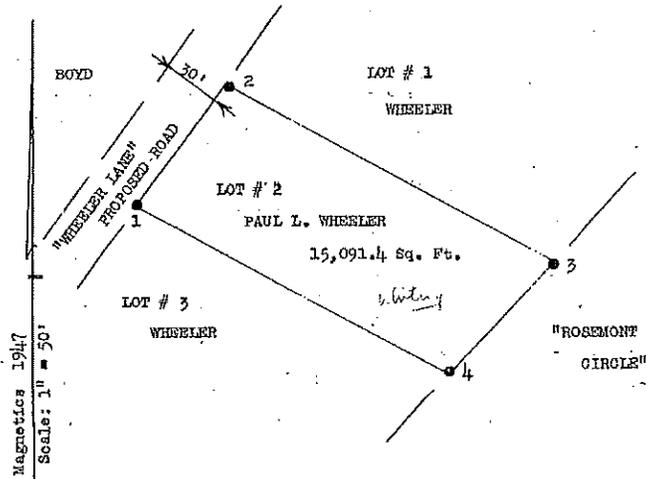
EXAMINED ...
7/18/47 and
mailed to
Town of
Berryville, Va



On June 28, 1947, I surveyed the above lot, located at Berryville, Virginia, and being a portion of a 2.54-acre tract of Paul L. Wheeler, said tract of land lying West of and adjacent to the Moore and Dorsey subdivision known as "Rosemont Circle", bounded on the West by the land of Henry W. Boyd, on the South by the land of Harry F. Byrd, and on the North by a roadway which separates said tract from the land of County School Board of Clarke County. The above lot is bounded as follows:

Beginning at (1) a stake at the intersection of the South side of a road, which runs along the South side of the County School Board property, with the East side of a proposed 30 ft. road leading to Wheeler's other land; thence with said proposed road S 35 deg. 08 Min. W. 80.0 feet to (2) a stake in the East side of said road and Northwest corner of lot # 2; thence leaving road and with the North boundary of Lot # 2 S 62 Deg. E. 195.5 feet to (3) a stake in the West boundary of "Rosemont Circle"; thence with "Rosemont Circle" N 42 deg. 52 min. E. 82.0 feet to (4) a post at Northwest corner of "Rosemont Circle" and on the South side of a road which runs along the South side of the County School Board property; thence with the South side of said road N 62 deg. W 205.5 feet to the point of beginning, containing 15,883.6 square feet more or less.

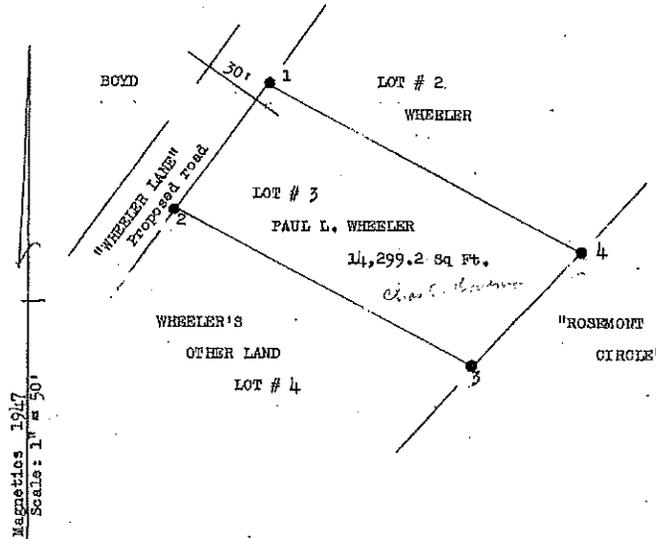
Richard U. Goode,
Certified Surveyor.



On June 28, 1947, I surveyed the above lot, located at Berryville, Virginia, and being a portion of a 2.544-acre tract of Paul L. Wheeler, said tract of land lying West of and adjacent to the Moore and Dorsey sub-division known as "Rosemont Circle", bounded on the West by the land of Henry W. Boyd, on the South by the land of Harry F. Byrd, on the North by a roadway which separates said tract from the land of the County School Board of Clarke County. The above lot is bounded as follows:

Beginning at (1) a stake in the East side of a proposed 30' road leading to Wheeler's other land and Northwest corner of Lot # 3, said point being 160 feet Southwest from the South side of a road which runs along the South side of the County School Board property; thence with the proposed 30' road N 36 deg. 08 min. E. 80.0 feet to (2) a stake in the East side of said road and Southwest corner of Lot # 1; thence leaving road and with the South boundary of Lot # 1 S 62 deg. E. 175.5 feet to (3) a stake in the West boundary of "Rosemont Circle"; thence with "Rosemont Circle" S 42 deg. 52 min. W. 82.0 feet to (4) a stake in the line of "Rosemont Circle" and Northeast corner to Lot # 3; thence with the North boundary of Lot # 3 N 62 deg. W. 185.5 feet to the point of beginning, containing 15,091.4 square feet more or less.

Richard U. Goode,
Certified Surveyor.



On June 28, 1947, I surveyed the above lot, located at Berryville, Virginia, and being a portion of a 2.544-acre tract of Paul L. Wheeler, said tract of land lying West of and adjacent to the Moore and Dorsey sub-division known as "Rosemont Circle", bounded on the West by the land of Henry W. Boyd, on the South by the land of Harry F. Byrd, on the North by a roadway which separates this tract from the land of the County School Board of Clarke County. The above lot is bounded as follows:

Beginning at (1) a stake in the East side of a proposed 30' road leading to Wheeler's other land and Southwest corner of Lot # 2, said point being 160' Southwest from the South side of a road which runs along the South side of the County School Board's property; thence with the East side of the proposed 30' road S 36 deg. 08 min. W. 80.0 feet to (2) a stake in the East side of said road and Northwest corner of Wheeler's other land; thence with the North boundary of said other land S 62 deg. E 175.5 feet to (3) a stake in the West boundary of "Rosemont Circle"; thence with "Rosemont Circle" N 42 deg. 52 min. E. 82.0 feet to (4) a stake in the line of "Rosemont Circle" and Southeast corner to Lot # 2; thence with the South boundary of Lot # 2 N 62 deg. W 185.5 feet to the point of beginning, containing 14,299.2 square feet more or less.

Richard U. Goode
Certified Surveyor.

Virginia,

Clarke County, set:

On the 15th day of July, 1947, the foregoing deed of Medication & Plat, dated 9th day of July, 1947, was received in the clerk's office of the Circuit Court of said County, certified for record and with the certificate admitted to record, at 2 o'clock, P. M.

Tests: Spring Clerk.

Packet Prepared for Streets & Utilities Committee

Citizen Concern regarding his desire to vacate a street

The Chair received a request to address the Streets and Utilities Committee regarding a street he would like to have vacated. The Chair noted that the citizen was Mr. Maples.

Staff assumes that the issue that will be discussed by Mr. Maples is "Wheeler Lane"

Please find attached the following information to provide some background on this matter:

Date	Document	Number of Pages
9/30/14	Letter KRD to CM	3
6/9/15	Letter KRD to CM (date in letter corrected to avoid confusion)	2
8/12/15	Letter JWF to NS	2
9/14/15	Letter NS to JWF	2
9/18/15	Letter NS to CM	1
9/22/15	Letter JWF to MH	2
6/24/15	S&U Committee Packet	14
6/24/15	S&U Committee Minutes	3
8/11/15	S&U Committee Minutes	2
8/23/16	Letter RTM to CM	1

If appropriate, a request to vacate a public street would be heard by the Town Council. The request would be reviewed in accordance with §15.2-2006 of the Code of Virginia (attached). The code section in question requires a public hearing. It also provides for the option of appointing viewers that would observe the area over a period of time and report whether they believe that the proposed vacation would cause any parties inconvenience.

The question in this matter is whether a vacation is an appropriate action for the Town to take in this instance. The Town's legal counsel has advised the Town Council that it has no interest in "Wheeler Lane".

Town of Berryville
Berryville-Clarke County
Government Center
101 Chalmers Court Suite A
Berryville, VA 22611



[T] 540/955-1099
[F] 540/955-4524
[E] info@berryvilleva.gov

www.berryvilleva.gov

30 September 2014

Mr. Carl H.E. Maples
207 Swan Drive
Berryville, VA 22611 (by email: cmaplespaf@aol.com)

Dear Mr. Maples:

It was a pleasure to speak with you last week. I hope to meet you in person soon.

When we spoke you voiced your concerns about "Wheeler Lane". Specifically, you stated that you had been told by your closing attorney that the lane was a public street and in fact there was a dedication of "Wheeler Lane" to the Town of Berryville. You kindly provided us with several documents, including a copy of a Dedication dated 9 July 1947 and recorded at Deed Book 35 at Page 93 in the Office of the Clerk of the Circuit Court of Clarke County.

As promised, we have reviewed the matter and remain confident in our position that the lane in question is not a public street. While there is a dedication of "Wheeler Lane" to the Town of Berryville, we find no evidence of the Town of Berryville accepting the dedication. We are of the opinion that the Town of Berryville would have had to accept the dedication to complete the transfer. Further, to the best of my knowledge the Town of Berryville has neither improved nor maintained the lane. It is important to note that the last survey of the parent tract (was Wheeler / now Slattery), which is recorded Deed Book 413 at Page 170 in the Office of the Clerk of the Circuit Court of Clarke County, shows the 30' wide sliver of land that would have been the right-of-way of "Wheeler Lane" as a pipe stem and as such a part of the property. The pipe stem is also seemingly confirmed in the survey of your parcel (Bowen 567/201). Lastly, the Tax Map maintained by the County of Clarke shows the same sliver of land as a part of the Slattery (formally Wheeler) parcel.

Wilson Kirby
Mayor

Harry Lee Arnold, Jr.
Recorder

Council Members

Douglas A. Shaffer
Ward 1

H. Allen Kitzelman, III
Ward 2

Mary L.C. Daniel
Ward 3

David L. Tollett
Ward 4

Keith R. Dalton
Town Manager

Maples
30 September 2014
Page 2

With regard to the right to access the west side of your property across the Slattery property, I suggest that you try to work that out with Mrs. Slattery. If disputes about encroachments, easements, or the like, can't be resolved by the property owners, then you may seek remedy through civil proceedings.

Thank you for contacting me about this matter. Please feel free to contact me again if you have any other questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to be 'Keith R. Dalton', with a large, sweeping flourish extending to the right.

Keith R. Dalton
Town Manager

Cc: Town Council
Christy Dunkle, Assistant Town Manager
Rick Boor, Director of Public Works

Keith Dalton

From: Keith Dalton
Sent: Tuesday, September 30, 2014 3:55 PM
To: cmaplespaf@aol.com
Cc: Christy Dunkle; Rick Boor
Subject: Wheeler Lane
Attachments: 20140930154948381.pdf

Mr. Maples

We have completed our research. Please find attached the Town's determination in this matter.

Take care and let me know if you need additional information.

Keith

Keith R. Dalton, Town Manager
Town of Berryville, Virginia
101 Chalmers Court, Suite A
Berryville, VA 22611

V 540.955.1099
F 540.955.4524

Keith Dalton

From: Keith Dalton
Sent: Tuesday, June 09, 2015 2:44 PM
To: 'cmaplespaf@aol.com'
Subject: "Wheeler Lane"
Attachments: 20150609143131067.pdf

Mr. Maples:

Please find attached a letter regarding "Wheeler Lane". I hope this clears up any concerns that you have about the Town's position on this matter.

A hard copy of this letter is being mailed to you. Per your request, attached to that letter is the packet you provided me when we met. As agreed, I did not make a copy of the opinion but I did keep a copy of the rest of the information (I hope that is ok... let me know if it is not).

You will also note that a Cc: of the letter has been sent to Ms. Slattery. She contacted me a while back about this matter and I told her I would copy her on my correspondence in the matter.

Take care,

Keith

Keith R. Dalton, Town Manager
Town of Berryville, Virginia
101 Chalmers Court, Suite A
Berryville, VA 22611

V 540.955.1099
F 540.955.4524

From: Keith Dalton
Sent: Tuesday, June 02, 2015 1:30 PM
To: 'cmaplespaf@aol.com'
Subject: I have not forgotten you

Mr. Maples:

I just wanted to let you know that I have not forgotten you. I apologize for not getting you something on the "Wheeler Lane" matter.

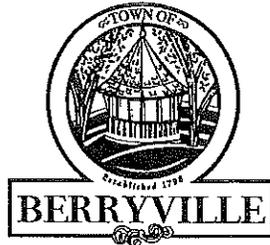
I will be in touch soon.

Thanks

Keith

Keith R. Dalton, Town Manager

Town of Berryville
Berryville-Clarke County
Government Center
101 Chalmers Court Suite A
Berryville, VA 22611



[T] 540/955-1099
[F] 540/955-4524
[E] info@berryvilleva.gov

9 June 2015

www.berryvilleva.gov

Mr. Carl H.E. Maples
207 Swan Drive
Berryville, VA 22611

(by email: cmaplespaf@aol.com)

Dear Mr. Maples:

This letter is written to follow-up on our last conversation about "Wheeler Lane".

In my letter of 30 September 201⁴, I stated that it is the Town's position that "Wheeler Lane" is not a public street. When we last met, you asked that I re-examine this matter as it relates to the right of public access. I agreed to review the matter and respond in writing.

I remain confident in the statement that the Town of Berryville does not consider "Wheeler Lane" a public street. As such, the Town of Berryville will not maintain "Wheeler Lane".

The Town offers no opinion as to whether your property, or any other property in the area, has the benefit of an easement of ingress and egress and right of way across the entirety of "Wheeler Lane" in common with the general public.

If disputes regarding easements and the like arise that can't be resolved by the property owners involved, then you or other property owners may seek remedy through civil proceedings.

I hope that this letter better clarifies the Town's position regarding "Wheeler Lane".

Sincerely,

Keith R. Dalton
Town Manager

Wilson Kirby
Mayor

Harry Lee Arnold, Jr.
Recorder

Cc: Ms. Norma Slattery

Council Members

Douglas A. Shaffer
Ward 1

H. Allen Kitselman, III
Ward 2

Mary L.C. Daniel
Ward 3

David L. Tollett
Ward 4

Keith R. Dalton
Town Manager

Wheeler Lane



McCANDLISH

McCandlish Lillard

John W. Farrell
(703) 934-1182

A century of looking forward.

Writer's E-mail Address:
jfarrell@patriot.net

August 12, 2015

RECEIVED

AUG 17 2015

Ms. Norma Slattery
211 Swan Avenue
Berryville, VA 22611

Re: Wheeler Lane

Dear Ms. Slattery:

This firm has been retained by Carl and Patricia Maples to determine their rights to travel over "Wheeler Lane" that abuts your property and the Maples.

The Maples' property has the benefit of an easement of ingress and egress and right of way across the entirety of Wheeler Lane in common with the general public.

That right is based on the Dedication, dated July 9, 1947, and recorded among the land records of Clarke County in Deed Book 35 at page 393, which created three lots and a 30' right of way labeled "Wheeler Lane." That instrument references the applicable Virginia Code provisions in effect at the time, specifically §5219, which provided that the recordation of such a plat created "a public easement or right of passage over such portion of the premises platted as is on such plat set apart for streets"

This conclusion regarding the Maples' right to use Wheeler Lane is re-enforced by the Agreement, dated October 17, 1957 and recorded in Deed Book 98 page 387 among the same land records, in which a signatory to 1947 Dedication granted an easement over Wheeler Lane that is described in the 1957 Agreement as "a public street." The party receiving the easement in that 1957 Agreement owned land south of Wheeler Lane that was not part of the 1947 subdivision.

We understand that officials of the Town of Berryville may have asserted that the Town never "accepted the dedication" in 1947 or since. Whether the Town ever "accepted the dedication" of Wheeler Lane is irrelevant to the rights of the Maples and the general public to travel over Wheeler Lane. The State Code in effect in 1947 did not require local government to accept or approve the creation of a street in order for the public easement or right of passage to be created by the recordation of a subdivision plat. It was not until the adoption of The Subdivision Act in 1962 that the approval of a subdivision plat by a locality was required in order to create a public road.

Town approval of the plat that created Wheeler Lane was **not** required in 1947.

McCandlish Lillard  Legal Counsel

11350 Random Hills Road, Suite 500 • Fairfax, Virginia 22030-7421 • Main 703.273.2288 • Fax 703.352.4300

Loudoun Office: 201 Loudoun Street, S.E., Suite 201 Leesburg, Virginia 20175-3118 Main 703.737.0200 Fax 703.737.0165

www.mccandlishlawyers.com

Ms. Norma Slattery
August 12, 2015
page 2

We caused a search of the Clarke County land records to be undertaken and found no evidence that Wheeler Lane was ever vacated. If Wheeler Lane had been vacated, or if it were to be vacated in the future, pursuant to *Tidewater Area Charities, Inc. v. Harbor Gate Owners Association*, 240 VA. 221 (1990) and Va. Code §15.2-2274, the whole of Wheeler Lane would be part of the Maples property, subject to the easement granted to Wyatt in 1957, and, possibly, an ingress-egress easement in favor of the Slattery property.

We also understand that the Town does not maintain Wheeler Lane. However, whether the Town maintains Wheeler Lane has no bearing on the rights of the Maples and the general public to travel, unimpeded, over Wheeler Lane.

It is the sincerest wish of the Maples that this explanation of their rights in Wheeler Lane will allow you and the Maples to co-exist peacefully. The Maples also wish me to convey to you their interest in coming to an agreement regarding the costs of maintenance of Wheeler Lane.

If you have, or your counsel has, any questions regarding this matter, please feel free to call.

Very truly yours,



John W. Farrell

cc: Robert T. Mitchell, Esq.
Keith R. Dalton ✓
Carl & Patricia Maples

ml

14 September 2015

John W. Farrell
McCandlish Lillard Legal Counsel
11350 Random Hills Road, Suite 500
Fairfax, VA 22030-7421

RE: Your letter to me dated August 12, 2015

Dear Mr. Farrell,

This is my response to the issues you described in your letter noted above.

I don't dispute, and have never disputed, the Maples' right of ingress/egress over the northern section of my driveway, which you misidentify in your letter as "Wheeler Lane." I have verbally notified Mr. Maple of this in the past. The records are quite clear on the matter. And I respect the Maples' ownership of those rights of ingress/egress.

However, the following is also very clear -- those rights provided to the Maples are limited, by their very nature. They do not own the section of land you refer to as "Wheeler Lane." They do not own any rights over the land bordering the driveway beyond those of ingress and egress. This section of my property is simply that, my property. It is privately-owned -- by me, as shown on the recorded deed and survey. The referenced easement, with the rights and limitations it contains, has been in existence since the 1940's and has created no controversy since that time until these recent months.

Last Tuesday, 8 September 2015, I had a survey taken of the Maples and my common border on the driveway. It was completed with four stakes put into the grass to mark the boundary at 2:30 pm. I went out and came back at 4:45 pm and found Mr. Maples had not only mowed my grass but also removed the survey stakes. Removing these stakes was clearly not necessary for ingress/egress. Surveying my property -- especially given the current circumstances, is entirely within my rights. Please inform Mr. Maples to cease and desist all actions on my property outside the scope of his limited rights. Please inform the Maples that I expect them to reimburse me for the survey done 8 September since they destroyed the results of that survey illegally and before I had chance to make use of these results. I have just received this bill for \$150.00. I will pay it directly to Dunn Survey, Inc. since their agreement is with me. I expect the Maples to reimburse me as soon as I present the paid bill to them.

As I've stated before, I am not relinquishing ownership of my real property or any subsection thereof, nor will I convey any further rights related to said property to the Maples. Since the Maples' rights of use are limited, and will continue to be so, doing anything outside the scope of the easement will continue to be a violation of my ownership rights, something I do not take lightly. Any action not reasonably related to ingress/egress on the relevant land, like mowing the grass on my land bordering the driveway, otherwise changing or using the land in any other capacity is expressly forbidden. Further, the Maples may not interfere with the use, maintenance and quiet enjoyment of my property as I see fit.

RECEIVED

SEP 17 2015

I urge you to clarify these limitations to the Maples, since, even after repeated verbal requests to Mr. Maples to not mow the grass on land bordering the driveway, he has continued to do so. As you well know, using property bordering the driveway is clearly unrelated to ingress/egress over the driveway. As you well know, mowing is clearly unrelated to ingress/egress anywhere. As you well know, acting in such a capacity, outside the scope of the easement is clearly trespass. I take trespass seriously and my understanding is that I'm not alone in that view. The state of Virginia does too. There is no question of fact or law here. My hope is that you will urge Mr. Maples to come to his senses over the matter.

Moving on, you mentioned my right to vacate ownership of this section of my property and Mr. Maples has repeatedly pressed me on this potential line of action. I shall not follow that approach. I have no interest in vacating, transferring or in any way compromising ownership of any of my real property, including all of my rights, interests and responsibilities related to the easement. I hold and maintain ownership rights to all of the property I currently own per the 2004 deed and will continue to do so.

Regarding an agreement with the Maples concerning the costs of maintenance of the northern section of my driveway: I do not agree to such an arrangement. I retain all rights and responsibilities to maintain my property as I see appropriate. Barring only the rarest of natural events and acts of God, I have maintained the driveway in such a way that has never limited ingress/egress. I will continue to do so. I am not conveying any further rights or responsibilities regarding maintenance of the easement or its bordering land to the Maples.

It is also my sincerest wish to live in harmony with the Maples, my neighbors. This can be achieved simply, respect my ownership of my property as I respect their ownership of theirs. The driveway and bordering land should not be viewed or treated as their property. It is not. I have already communicated with them regarding this matter many times. I have been dragged to town meetings over this small section of my property that the Maples already enjoy limited rights over. Nonetheless, if they persist in violating the scope of the easement, operating outside physical confines of the easement, disrupting the quiet enjoyment of my home, disregarding my many communications with them on the matter, I will be forced to take further steps that I would rather not have to take.

I have made my positions clear on this matter many times. The deeds going back more than 70 years are clear. The town has made itself clear. And the criminal laws of Virginia are clear. I consider any further attempts to coerce me regarding the easement or the land bordering that easement, harassment. I hope the above clarifies my position. I look forward to having the matter behind us, so that I may get back to the reasonable and quiet enjoyment of my property and a mutually respectful relationship with my neighbor.

Sincerely,


Norma J. Slattery

Cc: Justin Maguire
Michael Hobart
Keith Dalton
Chief Neil White

18 September 2015

Dear Carl and Patty,

Enclosed is the bill from Dunn Land Surveys, Inc. for the survey I commissioned on 8 September 2015 in order to clarify our common boundary along my northern driveway. You pulled up the stakes placed by Dunn surveyors within an hour or so of them being placed in the ground nullifying their value to me. I expect you to reimburse me for their charge of \$150.00. Enclosed is a copy of the invoice showing that it has been paid in full by me. Please reimburse me as soon as possible.

For your information, the stakes put in by Dunn surveyors were not meant to be permanent, but I do feel a need to clarify this boundary line since you have repeatedly trespassed on my property to mow my lawn in spite of my repeated requests directly to you not to do this. Your easement on my driveway is only for ingress and egress and not for maintenance of any kind. If the grass grows to a height of more than 8 inches, you have a right to contact town offices who will then take me to task, but you have no right to trespass on my property and take matters into your own hands.

Thank you for your immediate attention to this matter.

Sincerely,



Norma Slattery

CC: John Farrell
Justin Maguire
Michael Hobart
Keith Dalton

RECEIVED

SEP 21 2015



A century of looking forward.

John W. Farrell
(703) 934-1182

Writer's E-mail Address:
jfarrell@patriot.net

September 22, 2015

Michael Hobert, Esq.
Hobart & Kerr, PC
24 East Main Street
Berryville, VA 22611

Re: Slattery/Wheeler Lane

Dear Mr. Hobert:

Based on our exchange of e-mails over the last two days, you know that I represent Carl and Patricia Maples regarding their rights in Wheeler Lane. You have a copy of my August 12 letter to Mrs. Slattery describing the Maples' rights in Wheeler Lane.

Ms. Slattery's September 14 and September 18 letters are received. Normal courtesy would expect me to reply directly to Ms. Slattery. I hope that you will explain to her that, once you disclosed your representation of her, the Code of Professional Responsibility compelled me to direct this letter to you and that no disrespect is intended toward her by addressing this letter to you and not her.

Mrs. Slattery's letters demonstrate that she holds substantially and demonstrably inaccurate beliefs concerning her rights, and the rights of the Maples, in Wheeler Lane.

The 1947 Dedication, referenced in my August 18 letter, created that 30 foot right of way, labeled that area "Wheeler Lane" and created "a public easement or right of passage over such portion of the premises platted as is on such plat set apart for streets"

If Wheeler Lane had been vacated, or if it were to be vacated in the future, pursuant to *Tidewater Area Charities, Inc. v. Harbor Gate Owners Association*, 240 VA. 221 (1990) and Va. Code §15.2-2274, the whole of Wheeler Lane would be become part of the Maples property, subject to the easement granted to Wyatt in 1957, and, possibly, an ingress-egress easement in favor of Ms. Slattery's property. Thus, the Maples own the underlying, reversionary, fee simple interest in Wheeler Lane and, her assertions to the contrary notwithstanding, Ms. Slattery does **not** own Wheeler Lane **nor** is it "her driveway."



McCandlish Lillard  Legal Counsel

11350 Random Hills Road, Suite 500 • Fairfax, Virginia 22030-7421 • Main 703.273.2288 • Fax 703.352.4300

Loudoun Office: 201 Loudoun Street, S.E., Suite 201 Leesburg, Virginia 20175-3118 Main 703.737.0200 Fax 703.737.0165

www.mccandlishlawyers.com

Michael Hobert, Esq.
September 22, 2015
page 2

I have not analyzed Ms. Slattery's 2004 deed. However, if Anne Wheeler attempted to convey Wheeler Lane to Ms. Slattery, that grant was ineffective since neither Anne Wheeler nor Paul Wheeler owned Wheeler Lane after 1947 and could not convey it to Ms. Slattery.

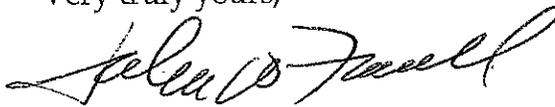
The Maples have the right to do anything within Wheeler Lane that is consistent with its service as a right of way including mowing grass, removing impeding vegetation, snow and ice, grading or paving the area. And they will continue to do so.

Please advise Ms Slattery to do nothing to interfere with my clients' rights in Wheeler Lane, as that would be trespass.

My clients did not remove the stakes referenced in Ms. Slattery's September 18 letter. As of this morning, they are still in place.

If you have any questions regarding this matter, please feel free to call.

Very truly yours,



John W. Farrell

cc: Keith R. Dalton ✓
Chief Neil White

ml

In September 2014, Mr. Carl Maples of 207 Swan Drive contacted the Town regarding the status of "Wheeler Lane". According to Mr. Maples, this closing attorney had informed him that "Wheeler Lane" was a public street but there seemed to be some dispute about the matter.

Please find attached a parcel boundary map from Maps Online that should assist in orienting you as this matter is discussed. On the parcel boundary map you will see a large parcel labeled as 211. That parcel is owned by Norma Slattery (transferred to Slattery in 2004 by Anne Wheeler). You will also see a parcel labeled as 207. That parcel is owned by Carl and Patricia Maples (transferred to Maples in 2013 by William and Heather Bowen). The pipe stem from 211 extending along the west side of 207 is the area of land that is the subject of this discussion.

Mr. Maples provided the Town with a dedication dated 9 July 1947 and recorded at Deed Book 35 Page 393 in the Office of the Clerk of the Circuit Court of Clarke County. The instrument in question dedicates "Wheeler Lane" to the Town of Berryville as a public street (intended to serve several lots). The Town of Berryville was not a party to the dedication. The dedication is attached.

Mr. Maples asked whether the Town of Berryville considered "Wheeler Lane" a public street. Staff reviewed the matter with legal counsel then wrote to Mr. Maples. In a letter dated 30 September 2014, Keith Dalton, Town Manager, informed Mr. Maples that the Town of Berryville does not consider "Wheeler Lane" a public street. Mr. Dalton stated that while Mr. & Mrs. Wheeler dedicated the street to the Town, there was no evidence of acceptance by the Town and that in the absence of acceptance the transfer was incomplete. Mr. Dalton also referenced:

- A deed and plat dated 13 August 2004 and recorded at Deed Book 413 Page 168 in the Office of the Clerk of the Circuit Court of Clarke County. The instrument in question transfers property from Anne M. Wheeler to Norma Slattery. The survey attached to the deed clearly shows what is considered "Wheeler Lane" as a portion of the Wheeler (now Slattery) parcel.
- A deed and plat dated 25 July 2013 and recorded at Deed Book 567 Page 200 in the Office of the Clerk of the Circuit Court of Clarke County. The instrument in question transfers property from William and Heather Bowen to Carl and Patricia Maples. The survey attached to the deed clearly shows what is considered "Wheeler Lane" as a portion of the Slattery parcel (but does reference the 1947 dedication).

Both the letter and the deeds referenced are attached.

Mr. Maples reviewed Mr. Dalton's letter of 30 September 2014 with his attorney. In the opinion of his attorney, the Town did not have to accept the dedication in 1947 and that by virtue of that dedication 207 Swan Drive (as well as other parcels), has the benefit of an easement of ingress and egress and right of way across the entirety of "Wheeler Lane" in common with the general public. Mr. Maples was concerned about the position taken in the 30 September 2014 letter and asked Mr. Dalton to review the matter in light of his attorney's opinion. Mr. Dalton agreed to review the matter again.

In a letter dated 9 June 2015, Keith Dalton, Town Manager, informed Mr. Maples that he remained of the opinion that "Wheeler Lane" is not a public street and that the Town has no maintenance responsibilities for "Wheeler Lane". Mr. Dalton further stated that the Town offered no opinion as to whether 207 Swan Drive or any other property has the benefit of an easement of ingress and egress and

right of way across the entirety of "Wheeler Lane" in common with the general public. A copy of the letter is attached.

It is important to note that Ms. Slattery also contacted the Town regarding this matter. She was provided a courtesy copy of the 9 June 2015 letter.

Mr. Maples contacted Town after he received the 9 June 2015 letter. Mr. Maples remains concerned by the Town's position concerning acceptance of the 1947 dedication of "Wheeler Lane".

Ms. Slattery contacted the Town after she received the 9 June 2015 letter. Ms. Slattery has concerns about her property rights and any responsibilities/liabilities she may have if "Wheeler Lane" is in fact a public street.

Mr. Maples would like to speak with the Streets and Utilities Committee about his concerns.

John A. H. | Carl Maples
is wheel. pub Street? | ~~_____~~

0035
0393

393

of the third part shall become a lien upon said real estate.

WITNESS the following signature and seal this the day and year first above written.

Walter D. Loper (SEAL)

State of Virginia,
County of Clarke ss:

I, Roy E. Potts, a Notary Public in and for the County of Clarke, State aforesaid, do hereby certify that Walter D. Loper, unmarried, whose name is signed to the foregoing instrument in writing bearing date July 15, 1947, has personally appeared before me in my said County and acknowledged the same as and for his act and deed.
My commission expires June 11, 1951.
Given under my hand this 15 day of July, 1947.

Roy E. Potts, Notary Public.

Virginia,
Clarke County, sct:

On the 15th day of July, 1947, the foregoing deed of trust, dated 15th day of July, 1947, was received in the clerk's office of the Circuit Court of said County, certified for record and with the certificate admitted to record, at 1 o'clock, P. M.

Waste: Looney Maples Clerk.

Paul L. Wheeler and Alma Bruce Wheeler

To (Dedication
Town of Berryville

THIS DEDICATION made this 9th day of July, 1947 by Paul L. Wheeler and Alma Bruce Wheeler, his wife,

WITNESSETH, we the undersigned owners of the land abutting on Wheeler Lane as shown on the attached plats of lots # 1, # 2, and # 3, of Paul L. Wheeler, do hereby grant, convey and dedicate so much of said land as is shown on the said plats as a public street to be known as Wheeler Lane, in compliance with Sections 5217, 5218, and 5219 of the Michie Code of Virginia of 1942 and Acts Amendatory thereto.

This dedication and conveyance is made with the free consent of the undersigned owners, it being their intention, purpose and desire to create a public easement or public right of passage over so much of said land as is designated as Wheeler Lane on the attached plats #1, # 2, and # 3 made by Richard U. Goode, Certified Surveyor.

WITNESS THE following signatures and seals this the day and year first above written.

Paul L. Wheeler (SEAL)
Alma Bruce Wheeler (SEAL)

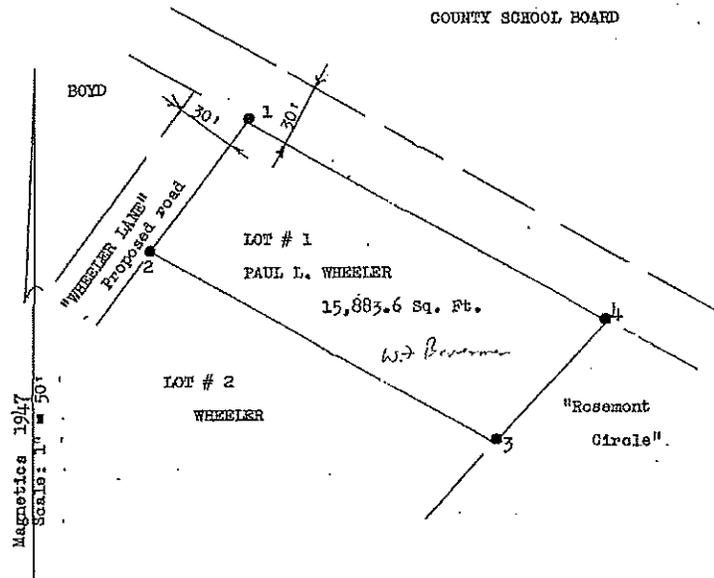
State of Virginia
County of Clarke, to-wit:

I, Roy E. Potts, a Notary Public of and for the County aforesaid, in the State of Virginia, do certify that Paul L. Wheeler and Alma Bruce Wheeler, his wife, whose names are signed to the writing above, bearing date on the 9th day of July, 1947, have this day acknowledged the same before me in my County aforesaid.
My term of office expires June 11, 1951.
Given under my hand this 15th day of July, 1947.

Roy E. Potts, Notary Public.

No Tax
Fee \$ 4.75
Paid

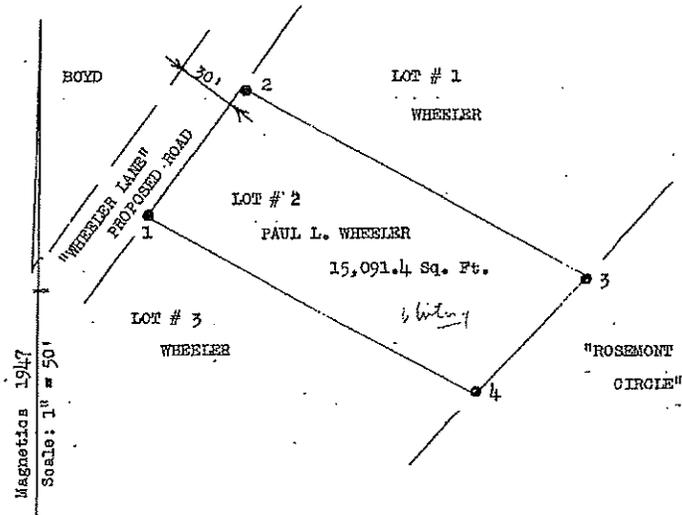
EXAMINED ...
7/18/47 and
mailed to
Town of
Berryville, Va



On June 28, 1947, I surveyed the above lot, located at Berryville, Virginia, and being a portion of a 2.544-acre tract of Paul L. Wheeler, said tract of land lying West of and adjacent to the Moore and Dorsey subdivision known as "Rosemont Circle", bounded on the West by the land of Henry W. Boyd, on the South by the land of Harry F. Byrd, and on the North by a roadway which separates said tract from the land of County School Board of Clarke County. The above lot is bounded as follows:

Beginning at (1) a stake at the intersection of the South side of a road, which runs along the South side of the County School Board property, with the East side of a proposed 30 ft. road leading to Wheeler's other land; thence with said proposed road S 36 deg. 08 Min. W. 80.0 feet to (2) a stake in the East side of said road and Northwest corner of lot # 2; thence leaving road and with the North boundary of Lot # 2 S 62 Deg. E. 195.5 feet to (3) a stake in the West boundary of "Rosemont Circle"; thence with "Rosemont Circle" N 42 deg. 52 min. E. 82.0 feet to (4) a post at Northwest corner of "Rosemont Circle" and on the South side of a road which runs along the South side of the County School Board property; thence with the South side of said road N 62 deg. W 205.5 feet to the point of beginning, containing 15,883.6 square feet more or less.

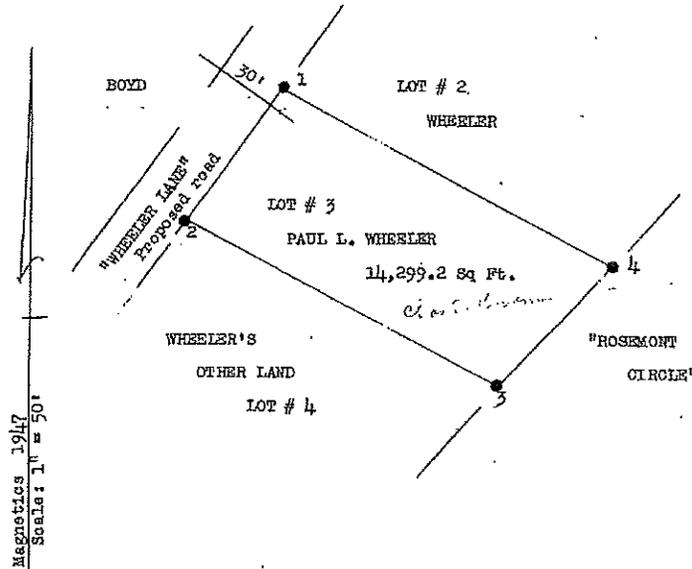
Richard U. Goode,
Certified Surveyor.



On June 28, 1947, I surveyed the above lot, located at Berryville, Virginia, and being a portion of a 2.544-acre tract of Paul L. Wheeler, said tract of land lying West of and adjacent to the Moore and Dorsey sub-division known as "Rosemont Circle", bounded on the West by the land of Henry W. Boyd, on the South by the land of Harry F. Byrd, on the North by a roadway which separates said tract from the land of the County School Board of Clarke County. The above lot is bounded as follows:

Beginning at (1) a stake in the East side of a proposed 30' road leading to Wheeler's other land and Northwest corner of lot # 3, said point being 160 feet Southwest from the South side of a road which runs along the South side of the County School Board property; thence with the proposed 30' road N 36 deg. 08 min. E. 80.0 feet to (2) a stake in the East side of said road and Southwest corner of Lot # 1; thence leaving road and with the South boundary of Lot # 1 S 62 deg. E. 195.5 feet to (3) a stake in the West boundary of "Rosemont Circle"; thence with "Rosemont Circle" S 42 deg. 52 min. W. 82.0 feet to (4) a stake in the line of "Rosemont Circle" and Northeast corner to Lot # 3; thence with the North boundary of Lot # 3 N 62 deg. W. 185.5 feet to the point of beginning, containing 15,091.4 square feet more or less.

Richard U. Goode,
Certified Surveyor.



On June 28, 1947, I surveyed the above lot, located at Berryville, Virginia, and being a portion of a 2.544-acre tract of Paul L. Wheeler, said tract of land lying West of and adjacent to the Moore and Dorsey sub-division known as "Rosemont Circle", bounded on the West by the land of Henry W. Boyd, on the South by the land of Harry F. Byrd, on the North by a roadway which separates this tract from the land of the County School Board of Clarke County. The above lot is bounded as follows:

Beginning at (1) a stake in the East side of a proposed 30' road leading to Wheeler's other land and Southwest corner of Lot # 2, said point being 160' Southwest from the South side of a road which runs along the South side of the County School Board's property; thence with the East side of the proposed 30' road S 36 deg. 08 min. W. 80.0 feet to (2) a stake in the East side of said road and Northwest corner of Wheeler's other land; thence with the North boundary of said other land S 62 deg. E 175.5 feet to (3) a stake in the West boundary of "Rosemont Circle"; thence with "Rosemont Circle" N 42 deg. 52 min. E. 82.0 feet to (4) a stake in the line of "Rosemont Circle" and Southeast corner to Lot # 2; thence with the South boundary of Lot # 2 N 62 deg. W 185.5 feet to the point of beginning, containing 14,299.2 square feet more or less.

Richard U. Goode
Certified Surveyor.

Virginia,
Clarke County, set:

On the 15th day of July, 1947, the foregoing deed of Redication & Plat, dated 9th day of July, 1947, was received in the clerk's office of the Circuit Court of said County, certified for record and with the certificate admitted to record, at 2 o'clock, P. M.

Teste: Spring Wheeler Clerk.

04-3027

Consideration: \$345,000.00
Tax Map #: 14-A-4-A-27 & 14-A-4-A-30
Grantee Address:
2 Wheeler Lane
Berryville, VA 22611
File #V0408001

BOOK 413 PAGE 168

Prepared by:
Hunzeker, Lyon & Leggett, P.C.
6862 Elm Street
Suite 220
McLean, VA 22101

Return to:
MBH Settlement Group, L.C.
Central Title
3050 Chain Bridge Road
Suite 200
Fairfax, VA 22030

D E E D

THIS DEED is made this 13th day of August, 2004, by and between Anne M. WHEELER, devisee under the Last Will and Testament of Paul L. Wheeler, Grantor, and Norma SLATTERY, unmarried, Grantee.

WITNESSETH:

That for and in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor does hereby grant, bargain, sell and convey, in fee simple and with General Warranty and English Covenants of Title, unto the Grantee, the following described property, situate, lying and being in the County of Clarke, Virginia, to wit:

Beginning at an iron pin in the southerly right-of-way line of Swan Avenue, said pin also marking the northeasterly corner of the property of Beverley Bigelow Byrd; thence with the said southerly right-of-way line of Swan Avenue, South 61 degrees 09'43" East 30.05 feet to a point marking the northwesterly corner of the property of William R. and Heather A. Bowen; thence departing Swan Avenue and running with the westerly line of the said property of Bowen, South 36 degrees 30'17" West 239.65 feet to a point; thence with the southerly line of Bowen and continuing with the southerly line of the property of Olivia R. Lee, South 61 degrees 49'43" East 180.00 feet (passing through an iron pin at 100.00 feet) to an iron pin in the northwesterly line of Lot 28A, Moore & Dorsey Subdivision; thence with the northwesterly line of Lot 27A, Moore & Dorsey Subdivision, South 42 degrees 22'17" West 287.96 feet (passing through an iron pin at 97.78 feet) to a point in the northeasterly line of Lot 6, Phase 1, Hermitage; thence with northeasterly line of said Lot 6, Phase 1, Hermitage, North 58 degrees 29'19" West 1.79 feet to an iron pin marking the most easterly corner of Lot 7, Phase 1, Hermitage; thence with the line common to said Lot 7, Phase 1, Hermitage, and the property herein described the following courses and distances; North 58 degrees 53'32" West 61.87 feet to an iron pin, South 31 degrees 06'28" West 8.00 feet to an iron pin and North 58 degrees 53'32" West 51.25 feet to an iron pin in the southeasterly line of Lot 8, Phase 1, Hermitage; thence with the southeasterly line of said Lot 8, Phase 1, Hermitage, North 31 degrees 06'28" East 8.00 feet to a point; thence with the northeasterly line of said Lot 8, Phase 1, Hermitage, North 58 degrees 53'32" West 90.78 feet to an iron pin and North 58 degrees 28'25" West 33.47 feet to an iron pin marking a corner common to Lot 9, Phase 1, Hermitage, and the aforementioned property of Beverley Bigelow Byrd; thence with the line common to the said property of Byrd and the property herein described the following courses and distances; North 36 degrees 28'00" East 269.56 feet to an iron pin, South 61 degrees 49'43" East 60.50 feet to an iron pin and North 36 degrees 30'17" East 239.92 feet to the point of beginning, containing 1.7777 acres, more or less, of land, as described on the attach survey marked Exhibit A.

RETURNED TO APPLE COUNTRY 8/17/04

HUNZEKER, LYON & LEGGETT, P.C.
6862 ELM STREET, SUITE 220
MCLEAN, VIRGINIA 22101
7031 734 0060

AND BEING the same property conveyed to Paul L. Wheeler, (no marital status stated), by virtue of Deeds recorded in Deed Book 35, Page 124, Deed Book 39, Page 387, and Deed Book 53, Page 5, among the Land Records of Clarke County, Virginia. NOTE: Paul L. Wheeler departed this life on July 8, 2001, leaving Anne M. Wheeler as his sole devisee (See Last Will and Testament of Paul L. Wheeler recorded in Will Book 69, Page 429).

This conveyance is made subject to the covenants, easements, conditions, restrictions, and rights of way of record.

WITNESS the following signature and seal:

Anne M. Wheeler (SEAL)
Anne M. WHEELER

State of Virginia

County of Loudoun, to wit:

I, the undersigned, a Notary Public for the State and County aforesaid, do hereby certify that on this 13th day of August, 2004, Anne M. WHEELER, whose name is signed to the foregoing Deed dated August 13, 2004, acknowledged the same before me in my State and County aforesaid.



Ben A. Everhart
Notary Public
My commission expires 10/31/08

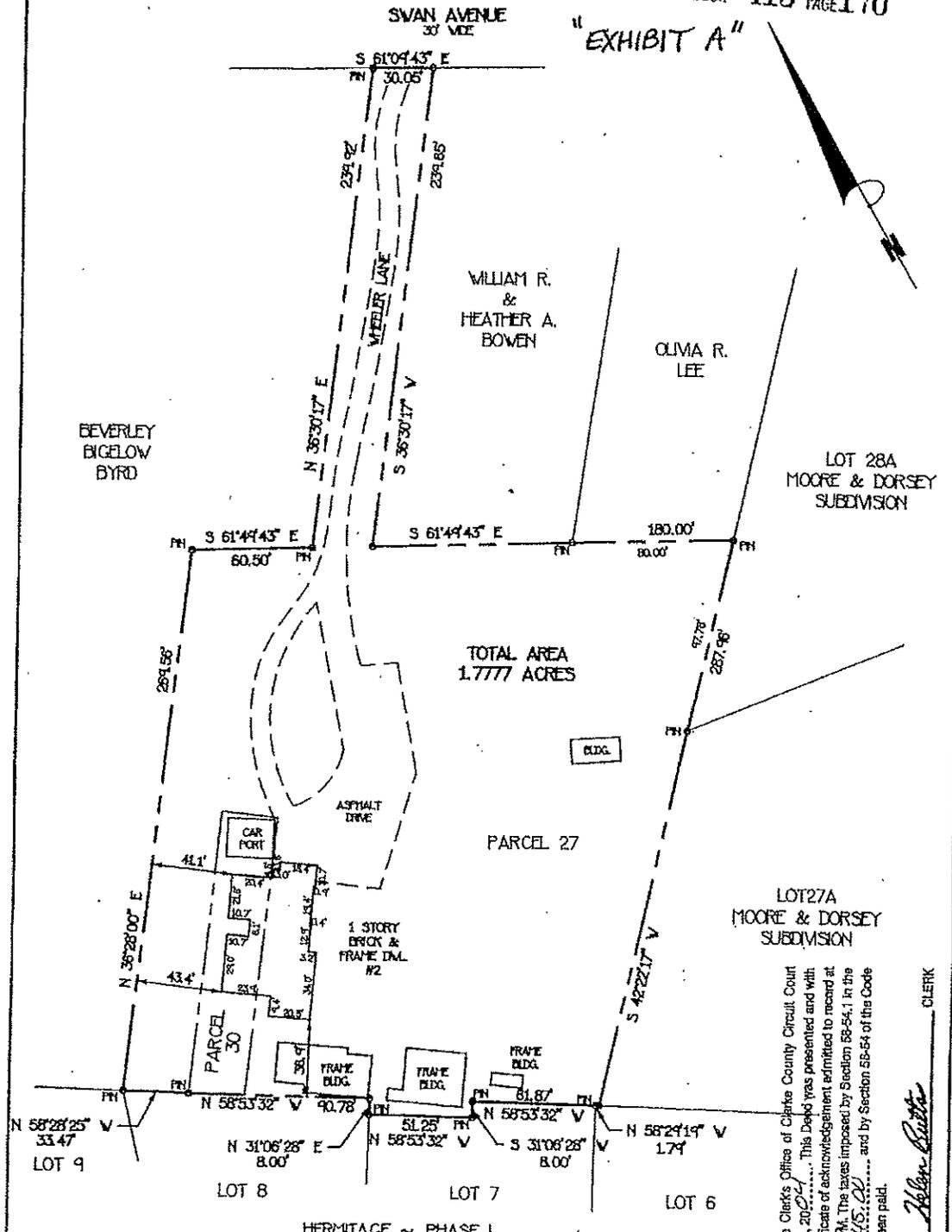
0413
0170

1111

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE MAY NOT NECESSARILY SHOW ALL ENCUMBRANCES ON THE PROPERTY.
ACCORDING TO COMMUNITY-PANEL NO. 250037-B OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP FOR THE TOWN OF BERRYVILLE, VIRGINIA, DATED APRIL 8, 1977, THE PROPERTY SHOWN HEREON APPEARS TO BE WITHIN ZONE "X"

BOOK 413 PAGE 170

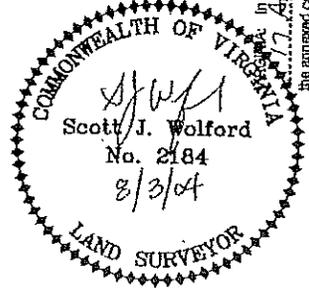
"EXHIBIT A"



In the Clerk's Office of Clarke County Circuit Court
 on this 17th day of August, 2004, this Deed was presented and with
 the annexed certificate of acknowledgment admitted to record at
 4:15 P.M. The taxes imposed by Section 58-54.1 in the
 amount of \$ 265.20 and by Section 58-54 of the Code
 of Virginia have been paid.

TESTE: Helen Smith CLERK

HOUSE LOCATION
 PROPERTIES TO BE CONVEYED TO
NORMA SLATTERY
 (TAX MAP 1444-A, PARCELS 27 & 30)
 TOWN OF BERRYVILLE
 CLARKE COUNTY, VIRGINIA
 SCALE: 1" = 60' DATE: AUGUST 3, 2004
 WOLFORD LAND SURVEYING
 106 MONROE'S CIRCLE, WINCHESTER, VA. 22602
 (540) 542-1677 FAX (540) 542-1678



PREPARED FOR: MGH SETTLEMENT GROUP, L.C.
 RE: SLATTERY

13-1641

THIS DEED, made this 25th day of July, 2013, by and between WILLIAM R. BOWEN and HEATHER A. BOWEN, husband and wife, parties of the first part, Grantors; and CARL H. E. MAPLES and PATRICIA K. MAPLES, husband and wife, parties of the second part, Grantees.

WITNESSETH:

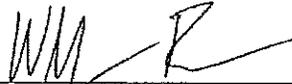
That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties of the first part do hereby grant, bargain, sell and convey unto the parties of the second part as Tenants by the Entirety with the common law right of survivorship, with General Warranty and English Covenants of Title, the following described real estate, to-wit:

All that certain lot or parcel of land, together with the improvements thereon and appurtenances thereunto belonging, located on the southwest side of Swan Avenue and the southeast side of Wheeler Lane in the Town of Berryville, Clarke County, Virginia, containing 24,559 square feet according to plat and survey thereof prepared by Lee A. Ebert, C.L.S., dated June 22, 1956 and recorded in Deed Book 49 at Page 261 in the Office of the Clerk of the Circuit Court of Clarke County, Virginia; and being more particularly described by plat of house location survey thereof prepared by W. Stuart Dunn, Land Surveyor, dated July 19, 2013, wherein the property is shown as containing 24,562 square feet, which plat is attached hereto and incorporated herein by this reference; the said lot being designated for street purposes as 207 Swan Avenue, Berryville, Virginia.

AND BEING the same property conveyed to William R. Bowen and Heather A. Bowen, husband and wife, by Deed from H. K. Benham, III, Executor of the Estate of Patricia K. Nalls, dated February 28, 2003 and recorded February 28, 2003 in Deed Book 370 at Page 215 in the aforesaid Clerk's Office.

This conveyance is made subject to conditions, valid restrictions and rights of way of record.

WITNESS the following signatures and seals:



WILLIAM R. BOWEN (SEAL)

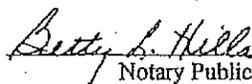


HEATHER A. BOWEN (SEAL)

STATE OF VIRGINIA
COUNTY OF CLARKE, to-wit:

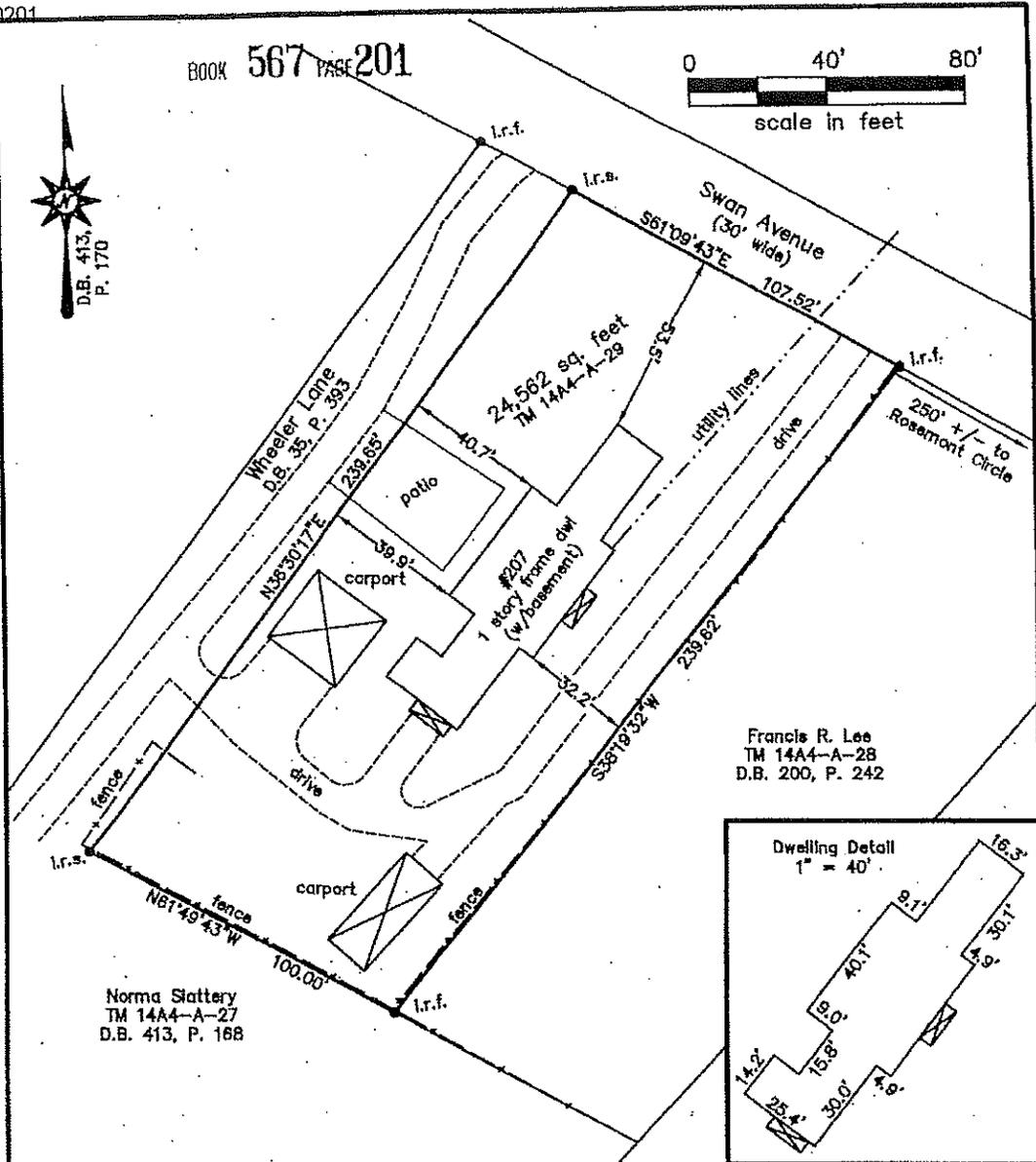
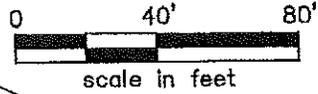
The foregoing DEED was acknowledged before me this 25th day of July, 2013, by WILLIAM R. BOWEN and HEATHER A. BOWEN, husband and wife.

BETTY L. HILLS
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #288208
My Commission Expires Aug. 31, 2015



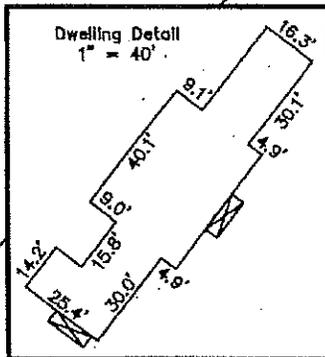
Notary Public

Grantees' Address: 2826 Berryland Drive
Oakton, Virginia 22124
\$455,000.00
Prepared by 7-25-13 John R. Friant, Jr./VSB #18277
Tax Map No. : #14A4-A-29 7-25-13



Francis R. Lee
TM 14A4-A-28
D.B. 200, P. 242

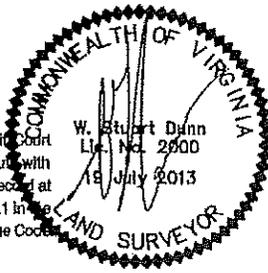
Norma Slattery
TM 14A4-A-27
D.B. 413, P. 168



House Location Survey of the Land of
William R. Bowen and Heather A. Bowen
Deed Book 370, Page 215 Tax Map 14A4-A-29
Town of Berryville, Clarke County, Virginia

Notes:

- (1) Title inspection furnished by the Law Office of John R. Friant, Jr.
- (2) dwt = dwelling; l.r.f. = iron rod found; l.r.s. = iron rod set; TM = tax map identification
- (3) Deed of Dedication for Wheeler Lane recorded in Deed Book 35, Page 393.
- (4) This parcel is in Flood Zone X, established from FIRM Community Panel no. 51043C0083D, effective September 28, 2007.



VIRGINIA: Surveyed and Certified by the Clarke County Circuit Court on July 19, 2013. This Deed was presented and with the proper certificate of acknowledgement admitted to record at 2:50 P.M. The taxes imposed by Section 58-54.1 in the amount of \$455.00 and by Section 58-54 of the Code of Virginia have been paid.

Dunn Land Surveys, Inc.
106 North Church Street
Berryville, Virginia 22611
Tel: 540-955-3388
July 19, 2013

TESTE: Allen Butler CLERK

May 6, 1947.

Present at the regular monthly meeting of the Council : The Mayor, Recorder, Secretary Treasurer, and Councilmen Russell, Potts, Allen, and O'Bryan.

The minutes of the last meeting were read and approved.

The following bills were ordered paid:

G & P Telephone Co.	8.30	W.D. Wisecarver & Son	43.35
J. Edward Thoma	3.75	John L. Logan	32.50
Baltimore Office Supply Co.	5.07	Fabric Fire Hose Co.	750.68
The Blue Ridge Press	23.65	H. B. Whiting Co.	32.09
Loring C. Kackley, Clerk	79.33	Locke Bros. Service Stat.	1.44
Penitentiary Industrial Dept.	73.68	Republic Oil Ref. Co.	5.70
Northern Va. Power Co.	113.75	Harry A. Simons	24.94
Ramsburg's Stores	1.00	Phillips Lumber Co.	3.20
Coiner's Dept. Store	3.02	George B. Thomas	13.00
H. N. Ritter	4.50	B. T. Crump Co.	19.57
Shenks Esso Station	14.67		

On motion a request of Mr. Paul Wheeler for water to his development was taken under consideration.

On motion the action at the last meeting directing the transfer of funds to bring the Water Debt Fund Surplus to \$36,866.66 was rescinded.

On motion the Secretary Treasurer was directed to transfer \$10,000 to the Water Debt Fund Surplus and in the future to transfer into this fund \$3,686.67 per year until the Water Bonds become due in 1957.

Councilmen Allen, O'Bryan, and Secretary Treasurer were appointed a committee to study and recommend to the council possible changes in Sewer Service Charges and Water Rates.

On motion Mayor and Secretary Treasurer were directed to request State Forester to investigate and advise whether damage could result from cutting timber on Reservoir property and if not they are hereby authorized to sell such timber to highest bidder and set aside receipts for purchase and planting of trees in the Town of Berryville.

On motion Treasurer was relieved of the following: Uncollectable Licenses - \$20.75; Erroneous Water Rent - \$17.40; Erroneous Sewer - \$7.05.

Councilman Allen, Secretary Treasurer, and Town Attorney were appointed a committee to Draft Ordinance covering installation of water and sewer lines to new development.

On motion Application of James Lichliter for allotment of space in front of Welcome Inn for taxi stand was disapproved.

As there was no further business the meeting was adjourned.

Leonard H. Potts Mayor. Walter D. Wisecarver Recorder.

May 13, 1947.

Present at a Special meeting of the Council:
The Mayor, Recorder, and Councilmen Russell, Allen, O'Bryan and Potts.

On motion the following resolution was adopted:

Resolution accepting Offer of D. Blanton Allen to the Town of strip of land along the South side of Crow's Alley, Ordering Hard Surfacing of Same.

Be It Resolved by the Town Council of Berryville at Special meeting called for the purpose of considering the matter, that the offer to the Town of D. Blanton Allen to convey to the town a strip ~~xxxxx~~ of land along the south side of Crow's Alley 12 ft. in width along Church Street and gradually narrowing to 10 ft. on Buckmarsh St. is hereby accepted in consideration for which the town agrees to widen and to hardsurface the present street with the exception of a strip of land 6 feet in width along the entire southern boundary, upon which latter mentioned portion of the property sidewalks shall be constructed upon the usual terms as buildings are erected along the said strip; the town further agrees to place the dirt from that portion of the strip from which it must be removed at low places on the adjacent property of D. Blanton Allen and to there grade same.

Leonard H. Berry Mayor

Walter H. Husecarver Recorder.

June 3, 1947.

Present at the regular monthly meeting of the Council:
The Mayor, Recorder, Secretary-Treasurer, and Councilmen Russell, Allen, Potts and O'Bryan.

The minutes of the last meeting were read and approved.

The following bills were ordered paid:

C&P Telephone Co.	\$ 13.50	Harry A. Simons	57.34
W. D. Wisecarver & Son	30.45	Phillips Lumber Co.	19.20
Pittsburg Equitable Meter Div.	130.72	Shackleford's Store	1.83
John A. Chew	78.75	Geo. B. Thomas	133.32
Shenks Essc Station	51.51	Loring C. Kackley, Clk.	60.02
Shirley Lichtliter	135.30	Maria V. Morris, Agt.	25.00
Bowerman Bros.	75.00	Northern Va. Power Co.	113.75
Baltimore Office Supply Co.	86.11		

The following ordinance was introduced by Councilman Potts and read for the first time:

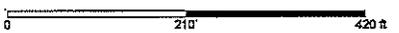
AN ORDINANCE PROVIDING FOR CONSTRUCTION OF WATER MAINS, LATERALS AND SEWER LINES ALONG NEW STREETS IN THE TOWN OF BERRYVILLE.

Be it ordained by the Town Council of Berryville this 3rd, day of June 1947, that upon application of the owner or owners of property situated in the Town along new streets for water mains, laterals and sewer lines to be laid for the purpose of connecting said properties to the Town water and sewer systems, and upon approval by the Town Council of the said application and advance to the Town of the cost in full of said work, the Town shall proceed as soon as practicable to lay the said water lines, laterals and sewer lines, provided, however, that if, at the expiration of 10 years from the date of said construction, the annual rentals from the same shall amount to ten percent (10%) of the cost price thereof, the Town shall refund to the person or persons advancing same, the cost of said construction, without interest. If at the expiration of 10 years after the date of said construction the annual




Public
 Point of Interest
 Parcels With Orths
 Clarke County Boundary
 Major Roads
 Interstate
 US Highway
 State Highway
 Surrounding Counties Contiguous
 Surrounding Counties Non-Contiguous

The data shown on this site are provided for informational and planning purposes only. Clarke County and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 09/23/2014 at 10:47 AM

MINUTES
BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
Called Meeting
June 24, 2015
8:00 a.m.

Present:

Town Council Streets & Utilities Committee: Wilson Kirby, Douglas Shaffer

Staff: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Rick Boor, Director of Public Works; Neal White, Chief of Police; Ann Phillips, Town Clerk

Press: Val Van Meter, Winchester Star

Other: Alton Echols, Carl Maples, Norma Slattery

1. Call to Order

Committee Chairman Kirby called the meeting to order at 8:00 a.m. and reminded those wishing to speak that eight minutes would be the permitted speaking time.

2. Discussion: Chamberlain and McClellan Streets

Mr. Dalton's report included that efforts over the last 17 years to get these two streets into the VDOT system for maintenance have been unsuccessful. On April 14, 2015, the Town Council gave the developer 60 days to complete improvements and repairs necessary to have the streets brought into the public system for maintenance. At the June Town Council Meeting, the Council granted an additional 60 days. The Chairman recognized Alton Echols who distributed a map of the area in question. He referred to a plat at the Food Lion site with a similar dead end. Chairman Kirby said that the streets had been built in the 1990s, and added that they need to be up to VDOT standards. He said VDOT will not accept a barrier, but instead requires a temporary turnaround area. Chairman Kirby asked for staff input regarding past experience working with Mr. Echols to bring streets up to standard.

Mr. Dalton said numerous punch lists have been made over the years and there are two issues outstanding: slurry coating and the temporary cul-de-sac. He added that the cul-de-sac is essentially in place because the stone base is there, and the encroaching trees can be cut back to allow for the proper radius of the street. Mr. Boor agreed with that statement. Mr. Dalton noted that the Council has granted Mr. Echols an additional 60 days, ending on August 7, 2015, to complete the work covered by the bond.

Mr. Shaffer said it should be verified that the cul-de-sac is up to VDOT standards. Chairman Kirby agreed that when the Town accepts the finished street it needs to be up to VDOT standards. Mr. Shaffer asked if it is known for a fact if all other elements of the street are acceptable. He and Mr. Boor discussed the means of testing the acceptability of the street and cul-de-sac. Chair Kirby noted that August 7 is before the August Council meeting on August 11, and that if Mr. Echols has met his obligations by then, the Council could begin the acceptance process at the August meeting.

3. Discussion: "Wheeler Lane"

Mr. Dalton said that Carl Maples and Norma Slattery were present and referred to the maps, letters, and deeds in the agenda packet. The Chairman recognized Carl Maples. Mr. Maples said that in 1947, Wheeler subdivision was created under the Plat Act of 1888 which was a tool used to protect property ownership rights. He referenced sections 52-17, 52-18, and 52-19 of the Michie Code of Virginia of

1942, which he said addressed a requirement for public access if dividing a parcel into three or more lots. Mr. Maples added that the act said the public access must be recorded with a dedication, and that once recorded, it would be difficult to revoke. Mr. Maples then referenced a letter from the Town and noted that under section 52-19, the Town would not have to maintain the public access if it were not using it. He said the grantor of the access would be responsible for maintenance. Mr. Maples said he had hired an attorney to research the matter, and urged the Town to ask the Town attorney to review the legal opinion he has received from his attorney.

Mr. Shaffer said the Committee cannot respond and said an opinion from the Town attorney, Bob Mitchell, should be sought.

Mr. Dalton asked Mr. Maples to encapsulate what he is seeking from the Town of Berryville. Mr. Maples replied that he wants the Town to recognize the street dedication as being valid and that the street is a public street.

Chairman Kirby recognized the adjoining property owner, Norma Slattery, who said there had been no problem with the previous owners, the Bowens. She said she gave Mr. Maples and the previous owners a right of way to use "Wheeler Lane" which is also her driveway. Ms. Slattery said that if Wheeler Lane is a public street, then she expects the Town to maintain it and she wants to be repaid for the taxes she has paid in it for the last 11 years.

Chairman Kirby said he can't imagine recommending to the Council that Wheeler Lane be made a public street and he wants Bob Mitchell to examine the three documents in regard to public right of way, etc. and Virginia law.

Mr. Dalton said he would contact Bob Mitchell, and will also check to see if this topic qualifies to go to closed session. Chairman Kirby said that Committee meetings are not on a set schedule, and suggested that 60 days would give time for attorney review and opinion before the next meeting.

4. Discussion: Parking Restriction at East Main and Virginia Avenue

Mr. Dalton said that the new owner of 227 East Main Street is unhappy with the parking restriction in front of his home. The owner says that 70' is too long, and he can't park in front of his house. The Committee discussed sight distance for turning on to East Main from Virginia Avenue. Mr. Dalton said a stake had been placed marking an approximately 13' shorter restricted area, providing two parking spaces to the east of the driveway entrance just west of 227 East Main Street. The Committee agreed this was a reasonable reduction, and Chief White concurred. Mr. Dalton noted that VDOT would also be reviewing the reduced restricted area later in the day.

5. Discussion: Reported Speeding Concerns on Page Street

Mr. Dalton said that Patrick Falconi had planned to come to the meeting, but was unable to attend. He said that after Mr. Falconi's previous reports of speeding, traffic studies had been completed in January 2014, July 2014, and May 2015. Mr. Dalton said Mr. Falconi had disagreed with the results of the May 2015 study, and in checking the counting equipment, a problem was found. He said after the problem was addressed, a study was completed in June 2015.

The results for study period December 20, 2013, through January 2, 2014, showed the 85th percentile rate to be 22 m.p.h. The results for study period May 13, 2014, through May 28, 2014, showed the 85th

percentile rate to be 20 m.p.h. The results of the last study period, June 10, 2015, through June 22, 2015, showed the 85th percentile rate to be 24 m.p.h.

Mr. Dalton said that Mr. Falconi has reported "random but surely out of control speeding" on Page Street, and has asked that the speed limit on the wider portion of Page Street be lowered from 25 m.p.h. to 15 m.p.h. Mr. Dalton said he was given a ballpark estimate of \$7000 for the necessary traffic engineering study involved in lowering a speed limit on a state street. Mr. Dalton added that Mr. Falconi had also asked for a speed hump or humps to be installed, and the ballpark estimate for that is \$3000 each.

Chair Kirby asked if other neighbors had complained about speed. Mr. Dalton said a petition had been signed by many neighbors last year. Chief White said he has been there often on patrol, and no residents have complained. He added that it is a calm area with low traffic volume.

Mr. Shaffer said no action needed to be taken, and that repeated requests for review are using time and manpower needed elsewhere. The Committee confirmed the determination of Town Council from the summer of 2014. Mr. Dalton said he will contact Mr. Falconi and let him know that his street will continue to get the same attention and patrol as other Town streets.

6. Other

Mr. Shaffer asked about sidewalk requirements noting the differences in Battlefield Estates. Mr. Dalton said that Town streets have been built under different statutes. Battlefield Estates streets were approved when the area was in the County, but some of the newer streets were built under Town standards which require sidewalk, curb and gutter on all streets. He said a compromise had been made in Darbybrook for Fairfax Street with sidewalk on one side.

Mr. Shaffer asked if there is a standard for handicapped access ramps, noting that there are five or six different styles in Town. Mr. Dalton said there were state inspections of the ramps until 2012 and added that he will clarify the standards. Mr. Shaffer said there is a VDOT approved concrete mix for each structure such as sidewalks, ramps, etc. that would ensure uniformity of the colors and materials across Town if used. Mr. Boor stated that he would examine the standards and address the issue.

Chair Kirby said he was at Rose Hill Park Friday night, and noticed a pickup truck at the gazebo. Mr. Dalton and Mr. Boor said that for loading and unloading of equipment for events in the gazebo, vehicle access is permitted via Smithy Lane ensuring no vehicles will need to cross sidewalks. Mr. Dalton offered to contact "Music in the Park" and ask them to review the permission requirements with participants.

Mr. Shaffer asked if there was any information about a gravel connection off Virginia Avenue going to the old Boise Cascade parking lot. Mr. Dalton and Mr. Boor both stated that they had seen the connection but did not know who had made it. Mr. Dalton discussed having a conversation with the landowner to see if a turnaround of some sort could be constructed at the end of Virginia Avenue.

7. Adjourn

There being no other business, upon motion of Mr. Shaffer, seconded by Chairman Kirby, the meeting was adjourned at 9:54 a.m.

MINUTES
BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
Called Meeting
August 11, 2015
6:45 p.m.

Present:

Town Council Streets & Utilities Committee: Wilson Kirby, Douglas Shaffer

Staff: Keith Dalton, Town Manager; Ann Phillips, Town Clerk

Other: Carl Maples, Patricia Maples, Norma Slattery

1. Call to Order

Committee Chairman Kirby called the meeting to order at 6:45 p.m.

2. Discussion: "Wheeler Lane"

Chairman Kirby stated the purpose of the meeting was to cover any new information regarding Wheeler Lane. He asked Mr. Dalton to review the history of the topic provide information learned from the Town's attorney.

Mr. Dalton said that he had sent two letters in response to Mr. Maples' inquiries, with the first letter addressing Mr. Maples' concerns about Wheeler Lane being sent after discussion with attorney Michelle Jones because attorney Robert Mitchell was out of town. He said the second letter was reviewed by Mr. Mitchell. Mr. Dalton said that Mr. Mitchell agrees with the Committee that the issue is a land title issue between land owners which does not involve the Committee and confirms that Wheeler Lane is not a public street requiring Town maintenance.

Chairman Kirby said the Committee has never gone against legal advice. He offered the summation that the issue is between two landowners and there is nothing the Committee can do other than say it is a civil case not involving the Town. Mr. Shaffer agreed, saying the matter should be worked out between the two landowners.

3. Other

A. Mr. Dalton said the parking meters have arrived. They will be installed beginning this week starting on Church and Crow Streets.

B. Mr. Dalton said that bids have been received for paving on Walnut and Liberty Streets and that they are favorable.

C. Mr. Dalton explained that cleaning and inspection of culverts in Town is underway. He said the culvert on Chalmers Court at Town Run is in bad shape with bowing and the bottom is out of the pipe. Mr. Dalton said there are two options for repair: insertion and lining (which may be the better option price-wise) or open cut. He added that staff will be meeting with Pennoni to discuss the options, and asked the Committee to plan on meeting after the proposals are in.

D. Mr. Dalton said the VDOT paving of Buckmarsh St. has been moved back to late September or early October which allows the Town to complete a few more things prior to paving.

E. Regarding crosswalks, Mr. Dalton said that with paving being delayed, the crosswalk repair and replacement will probably be pushed back to spring. He said that he will confirm that the prices quoted will hold until spring.

F. Mr. Dalton said that VDOT now plans to mill the whole street when paving Rt. 340, so the manhole rings ordered previously are now surplus.

G. Mr. Dalton said with the parking meter installation, Public Works will defer the Battletown Drive water line project until September. He said there is also a water project on South Buckmarsh being deferred that can be done over the winter if the weather is mild.

4. Adjourn

There being no other business, upon motion of Mr. Shaffer, seconded by Chairman Kirby, the meeting was adjourned at 7:05 p.m.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 20. Streets and Alleys

§ 15.2-2006. Alteration and vacation of public rights-of-way; appeal from decision.

In addition to (i) the powers contained in the charter of any locality, (ii) any powers now had by such governing bodies under the common law or (iii) powers by other provisions of law, public rights-of-way in localities may be altered or vacated on motion of such governing bodies or on application of any person after notice of intention to do so has been published at least twice, with at least six days elapsing between the first and second publication, in a newspaper having general circulation in the locality. The notice shall specify the time and place of a hearing at which persons affected may appear and be heard. The cost of publishing the notice shall be taxed to the applicant. At the conclusion of the hearing and on application of any person, the governing body may appoint three to five people to view such public right-of-way and report in writing any inconvenience that would result from discontinuing the right-of-way. The governing body may allow the viewers up to fifty dollars each for their services. The sum allowed shall be paid by the person making the application to alter or vacate the public right-of-way. From such report and other evidence, if any, and after the land owners affected thereby, along the public right-of-way proposed to be altered or vacated, have been notified, the governing body may discontinue the public right-of-way. When an applicant requests a vacation to accommodate expansion or development of an existing or proposed business, the governing body may condition the vacation upon commencement of the expansion or development within a specified period of time. Failing to commence within such time may render the vacation, at the option of the governing body, void. A certified copy of the ordinance of vacation shall be recorded as deeds are recorded and indexed in the name of the locality. A conditional vacation shall not be recorded until the condition has been met.

Any appeal shall be filed within sixty days of adoption of the ordinance with the circuit court for the locality in which the public right-of-way is located.

Code 1950, § 15-766; 1950, p. 725; 1952, c. 580; 1956, c. 487; 1958, c. 196; 1962, c. 623, § 15.1-364; 1964, c. 13; 1972, c. 357; 1973, c. 71; 1980, c. 236; 1982, c. 381; 1983, c. 33; 1984, c. 175; 1986, c. 41; 1997, c. 587.

HALL, MONAHAN, ENGLE, MAHAN & MITCHELL

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

ATTORNEYS AT LAW

WILBUR C. HALL (1892-1972)

THOMAS V. MONAHAN (1924-1999) 7 & 307 EAST MARKET STREET

SAMUEL D. ENGLE LEESBURG, VIRGINIA

O. LELAND MAHAN

ROBERT T. MITCHELL, JR.

JAMES A. KLENKAR

9 EAST BOSCAWEN STREET

WINCHESTER, VIRGINIA

TELEPHONE 540-662-3200

FAX 540-662-4304

E-MAIL lawyers@hallmonahan.com

PLEASE REPLY TO:

September 23, 2016

P. O. Box 848
WINCHESTER, VIRGINIA 22604-0848

Mr. Carl Maples
207 Swan Avenue
Berryville, VA 22611

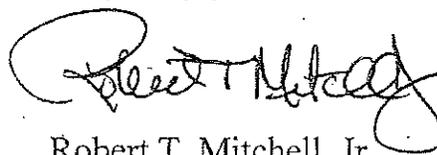
Re: "Wheeler Lane"

Dear Mr. Maples:

I am counsel for Clarke County, and I have been asked to respond to your letter of September 8, 2016 to Gordon Russell, Director of Information Technology, and your related discussion with Commissioner of Revenue Donna Peake.

The Clarke County land records show that the area referred to as "Wheeler Lane" is a portion of Tax Parcel No. 14A4-A-27. While the portion of Tax Parcel 14A4-A-27 which is known as "Wheeler Lane" may be subject to a "public easement or public right of passage" as set forth in the 1947 Dedication recorded in the land records in Deed Book 35 at Page 393, it nevertheless is a portion of Tax Parcel No. 14A4-A-27 and properly assessed and taxed as a portion of that parcel.

Very truly yours,



Robert T. Mitchell, Jr.

RTM/ks

CC: Gordon Russell, Director of Information Technology

Donna Peake, Commissioner of Revenue

David Ash, County Administrator

Attachment 6

FINANCE AND ADMINISTRATION STAFF REPORT

TO: TOWN COUNCIL
FROM: DESIREE MORELAND, TREASURER
SUBJECT: MONTHLY REPORTS
DATE: 11/6/2017
CC: KEITH DALTON, TOWN MANAGER

A/P Check Listing

Checks issued in October 2017.

Bank of America/P-Card Statement

September 2017 P-Card Purchases that were paid on October 24, 2017.

A/P Check Listing

Vendor Range - 1105 MEDIA EVENTS' - 'ZION BAPTIST CHURCH

Date From - 10/1/2017 Date To - 10/31/2017

Town of Berryville
11/06/2017 10:04 AM

Page: 1 of 2

Check Number	Bank	Vendor	Date	Amount
4403	1	Jno. S. Solenberger & Co., Inc	10/12/2017	\$42.67
4404	1	CLARKE COUNTY GENERAL DISTRICT COURT	10/12/2017	\$120.00
4405	1	Douglas A. Shaffer	10/12/2017	\$75.00
4406	1	Lincoln Financial Group	10/12/2017	\$728.51
4407	1	Michelle M. Jones	10/12/2017	\$1,575.00
4408	1	Hall, Monahan, Engle, Mahan & Mitchell	10/12/2017	\$702.50
4409	1	Treasurer of Frederick County	10/12/2017	\$3,841.74
4410	1	The Winchester Star	10/12/2017	\$228.80
4411	1	Herbert L. Beskin, Trustee	10/12/2017	\$115.00
4412	1	Bureau for Child Support Enforcement	10/12/2017	\$875.00
4413	1	Virasec, LLC	10/12/2017	\$794.00
4414	1	Keith Dalton	10/12/2017	\$50.00
4415	1	Nationwide Retirement Solutions	10/12/2017	\$705.00
4416	1	Northern Shenandoah Valley Regional Commission	10/12/2017	\$645.00
4417	1	Berryville Farm Supply	10/12/2017	\$37.50
4418	1	ALLY FINANCIAL (07) 4158	10/12/2017	\$211.88
4419	1	AMANDA RENEE BROOKE	10/12/2017	\$128.80
4420	1	KIRSTEN NICOLE BRONDSTATER	10/12/2017	\$199.60
4421	1	Ann W. Phillips	10/17/2017	\$272.32
4422	1	ZENON ENVIRONMENTAL CORPORATION	10/17/2017	\$3,995.00
4423	1	Rappahannock Electric Cooperative	10/17/2017	\$5,110.06
4424	1	PENNONI ASSOCIATES INC	10/17/2017	\$1,907.38
4425	1	Centric	10/17/2017	\$583.83
4426	1	Philip E. Pate, PhD	10/17/2017	\$300.00
4427	1	Christy Dunkle	10/17/2017	\$12.84
4428	1	Virasec, LLC	10/17/2017	\$1,641.52
4429	1	Hach Chemical Company	10/17/2017	\$2,496.64
4430	1	Dave Tyrrell	10/17/2017	\$179.35
4431	1	Treasuer of Virginia	10/17/2017	\$264.35
4432	1	Top of Virginia Regional Chamber	10/17/2017	\$180.00

A/P Check Listing

Vendor Range - 1105 MEDIA EVENTS' - 'ZION BAPTIST CHURCH

Date From - 10/1/2017 Date To - 10/31/2017

Town of Berryville
11/06/2017 10:04 AM

Page: 2 of 2

Check Number	Bank	Vendor	Date	Amount
4433	1	- DOT ON A MAP LLC	10/17/2017	\$739.60
4434	1	- USPS	10/26/2017	\$1,345.86
4435	1	- THOMAS R STONE	10/26/2017	\$752.37
4436	1	- HD SUPPLY WATERWORKS, LTD	10/31/2017	\$8,286.90
4437	1	- CIVICPLUS	10/31/2017	\$200.00
4438	1	- Rappahannock Electric Cooperative	10/31/2017	\$11,271.83
4439	1	- VUPS	10/31/2017	\$60.90
4440	1	- Waterloo Electric Services	10/31/2017	\$708.00
4441	1	- PENNONI ASSOCIATES INC	10/31/2017	\$688.38
4442	1	- PENNONI ASSOCIATES INC	10/31/2017	\$742.50
4443	1	- Virginia Department of Transportation	10/31/2017	\$100.00
4444	1	- Minnesota Life Insurance Co.	10/31/2017	\$140.52
4445	1	- Boyd's Custom Improvements	10/31/2017	\$9,582.00
4446	1	- Bureau for Child Support Enforcement	10/31/2017	\$875.00
4447	1	- Christy Dunkle	10/31/2017	\$19.26
4448	1	- Anderson's Nursery	10/31/2017	\$1,100.00
4449	1	- Bayliss Electric LLC	10/31/2017	\$2,475.00
4450	1	- Patricia Dickinson	10/31/2017	\$232.29
4451	1	- Metropolitan Title	10/31/2017	\$28.50
4452	1	- Premier Title	10/31/2017	\$195.34
4453	1	- McGrane Fence	10/31/2017	\$850.00
4454	1	- Nationwide Retirement Solutions	10/31/2017	\$705.00
52	Checks Totaling -			\$69,118.54

Totals By Fund

Fund	Checks	Voids	Total
100	\$35,728.76		\$35,728.76
501	\$15,168.50		\$15,168.50
502	\$18,221.28		\$18,221.28
Totals:	\$69,118.54		\$69,118.54



BERRYVILLE TOWN OF
DESIRÉE MORELAND
XXXX-XXXX-XXXX-

Purchasing Card

September 01, 2017 - September 30, 2017

Company Statement

Account Information	Payment Information	Account Summary
Mail Billing Inquiries to: BANKCARD CENTER PO BOX 982238 EL PASO, TX 79998-2238 Customer Service: 1.888.449.2273 24 Hours TTY Hearing Impaired: 1.800.222.7365 24 Hours Outside the U.S.: 1.509.353.6656 24 Hours For Lost or Stolen Card: 1.888.449.2273 24 Hours	Statement Date 09/30/17 Payment Due Date 10/24/17 Days in Billing Cycle 30 Credit Limit \$500,000 Cash Limit \$0 Total Payment Due \$63,425.56	Previous Balance \$61,602.26 Payments -\$61,602.26 Credits -\$68.69 Cash \$0.00 Purchases \$63,494.25 Other Debits \$0.00 Overlimit Fee \$0.00 Late Payment Fee \$0.00 Cash Fees \$0.00 Other Fees \$0.00 Finance Charge \$0.00 Current Balance \$63,425.56

Important Messages

Please do not send payment. Your automatic payment is scheduled to be credited to this account on 10/24/17.

Cardholder Activity Summary

Account Number Credit Limit	Credits	Cash	Purchases and Other Debits	Total Activity
BOGGS, DEBBIE XXXX-XXXX-XXXX-6011 1,000	0.00	0.00	45.97	45.97
BOOR, RICK XXXX-XXXX-XXXX-1273 15,000	17.76	0.00	10,214.65	10,196.89

6160226 6342556 6342556 4715291201837237



BANK OF AMERICA
PO BOX 15731
WILMINGTON, DE 19886-5731



BERRYVILLE TOWN OF
DESIRÉE MORELAND
STE A
101 CHALMERS CT
BERRYVILLE, VA 22611-1387

**N0018383

Account Number: XXXX-XXXX-XXXX
September 01, 2017 - September 30, 2017

Total Payment Due \$63,425.56
Payment Due Date 10/24/17

Enter payment amount

\$

Check here for a change of mailing address or phone numbers.
Please provide all corrections on the reverse side.

Mail this coupon along with your check payable to:
BANK OF AMERICA

⑆549990011⑆00051201837237⑈

Cardholder Activity Summary

Account Number Credit Limit	Credits	Cash	Purchases and Other Debits	Total Activity
BOOTH, KEVIN XXXX-XXXX-XXXX- 1,000	36.25	0.00	426.45	390.20
BUSSERT, ERNIE XXXX-XXXX-XXXX- 500	0.00	0.00	12.57	12.57
DORSEY, DANIEL XXXX-XXXX-XXXX- 500	0.00	0.00	98.00	98.00
DUNKLE, CHRISTY XXXX-XXXX-XXXX- 500	0.00	0.00	50.37	50.37
ELLIOTT, RALPH XXXX-XXXX-XXXX- 5,000	0.00	0.00	62.70	62.70
FERREBEE, DARRELL XXXX-XXXX-XXXX- 500	0.00	0.00	5.96	5.96
FIDDLER, HEATHER XXXX-XXXX-XXXX- 15,000	0.00	0.00	245.62	245.62
LICKEY, PATRICK XXXX-XXXX-XXXX- 500	0.00	0.00	107.79	107.79
LILLY, STEPHEN XXXX-XXXX-XXXX- 15,000	0.00	0.00	2,836.57	2,836.57
LINK, BRIAN XXXX-XXXX-XXXX- 1,000	0.00	0.00	56.91	56.91
MCCORMICK, HARRY XXXX-XXXX-XXXX- 500	0.00	0.00	464.90	464.90
MORELAND, DESIREE XXXX-XXXX-XXXX- 50,000	0.00	0.00	28,485.82	28,485.82
PHILLIPS, ANN W XXXX-XXXX-XXXX- 15,000	14.68	0.00	656.95	642.27
REYNOLDS, CHARLES XXXX-XXXX-XXXX- 500	0.00	0.00	2.62	2.62
STOVER, KEITH XXXX-XXXX-XXXX- 1,000	0.00	0.00	229.69	229.69
TYRRELL, DAVE XXXX-XXXX-XXXX- 20,000	0.00	0.00	16,550.06	16,550.06
WHITE, NEAL XXXX-XXXX-XXXX- 15,000	0.00	0.00	2,940.65	2,940.65

Transactions

Posting Transaction Date Date	Description	Reference Number	MCC	Charge	Credit
					Total Activity
BERRYVILLE TOWN OF Account Number: XXXX-XXXX-XXXX-					-\$61,602.26
09/25	09/25	AUTO PAYMENT DEDUCTION		0071	61,602.26
					Total Activity
BOGGS, DEBBIE Account Number: XXXX-XXXX-XXXX-					45.97
09/18	09/16	NEOPOST USA	510-304-2467 CT	24431057259026836062218	7399
					Total Activity
BOOR, RICK Account Number: XXXX-XXXX-XXXX-					10,196.89
09/04	09/01	IN *SELECT SPECIALTY PROD434-2963937 VA		24692167244100975935481	5169
					658.38



16392730 - 016393 - 0002 - 0003 - 2

Transactions

Posting Transaction

Date	Date	Description	Reference Number	MCC	Charge	Credit
09/04	09/03	WM SUPERCENTER #1406 WINCHESTER VA	24445007247400138883486	5411	48.12	
09/06	09/05	BROY & SON PUMP SERVICE 540-9553928 VA	24073147248900011300013	1799	360.00	
09/07	09/04	WAL-MART #1406 WINCHESTER VA	74226387249360243114322	5411		17.76
09/13	09/12	MCCARTHY TIRE #28 WINCHESTER VA	24323007255286632500114	5532	318.50	
09/13	09/11	johnny blue, inc. 540-665-0968 VA	24828247255030030283788	7394	82.00	
09/13	09/12	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977256091405000274	5251	10.76	
09/21	09/20	TOTAL PEST SERVICES INC 540-9740768 VA	24755427263272639954766	7342	225.00	
09/26	09/25	HD SUPPLY WATERWORKS 514 3042636986 WV	24792627268206122400031	5039	1,700.00	
09/26	09/25	HD SUPPLY WATERWORKS 514 3042636986 WV	24792627268206122400049	5039	4,200.00	
09/26	09/25	HD SUPPLY WATERWORKS 514 3042636986 WV	24792627268206122400056	5039	1,470.00	
09/27	09/25	GRIFFITH ENERGY SERVIC 410-956-3000 MD	24258027269017031516489	5983	1,141.89	

BOOTH, KEVIN **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **390.20**

09/04	09/02	TOTAL IMAGE WORKINGMANS SWINCHESTER VA	24755427245292451742829	5699	139.49	
09/04	09/02	WM SUPERCENTER #3344 WINCHESTER VA	24445007246400160577502	5411	96.81	
09/07	09/06	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977250091403000330	5251	90.56	
09/18	09/15	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977259091401000309	5251	91.10	
09/18	09/15	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977259091401000317	5251	5.87	
09/18	09/15	BERRYVILLE TRUE VALUE BERRYVILLE VA	74801977259091401000429	5251		36.25
09/29	09/27	EXXONMOBIL 47851688 BERRYVILLE VA	24164057271837006769037	5541	2.62	

BUSSERT, ERNIE **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **12.57**

09/18	09/15	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977259091401000499	5251	12.57	
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DORSEY, DANIEL **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **98.00**

09/26	09/25	ABC-NV 913-8954600 KS	24270747268900018479839	8999	98.00	
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DUNKLE, CHRISTY **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **50.37**

09/08	09/06	STAPLES 00103515 WINCHESTER VA	24184077250105004420257	5943	37.89	
09/29	09/27	DOLLAR-GENERAL #0394 BERRYVILLE VA	24445007271100206047720	5331	12.48	

ELLIOTT, RALPH **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **62.70**

09/15	09/14	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977258091409000401	5251	46.05	
09/19	09/18	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977262091407000217	5251	16.65	

FERREBEE, DARRELL **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **5.96**

09/14	09/12	BERRYVILLE AUTO PARTS INCBERRYVILLE VA	24767897256656000361339	5533	5.96	
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FIDDLER, HEATHER **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **245.62**

09/04	09/03	Amazon web services aws.amazon.coWA	24692167246100040667141	7399	0.62	
09/15	09/14	USPS PO 5107560300 BERRYVILLE VA	24445007258000905685936	9402	245.00	

LICKEY, PATRICK **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **107.79**

09/08	09/07	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977251091405000154	5251	14.69	
09/14	09/13	BIG DADDY AUTOMOTIVE LLC BERRYVILLE VA	24247607256200118460197	7538	83.00	
09/25	09/22	FISHER AUTO PARTS 009 BERRYVILLE VA	24431067266200824700051	5533	4.14	
09/25	09/22	BERRYVILLE AUTO PARTS INCBERRYVILLE VA	24767897267719300452849	5533	5.96	

LILLY, STEPHEN **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **2,836.57**

09/13	09/12	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977256091405000217	5251	29.14	
09/15	09/14	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977258091409000237	5251	8.32	
09/15	09/14	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977258091409000435	5251	58.79	
09/19	09/18	84 - WINCHESTER - CAPTRI WINCHESTER VA	24445007261300421597531	5065	272.11	
09/20	09/18	EMMART OIL CO 540-743-3835 VA	24427337262710005511397	5983	91.45	
09/22	09/21	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977265091403000358	5251	69.79	
09/25	09/22	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977266091405000074	5251	9.58	
09/25	09/22	SEARS ROEBUCK 2784 WINCHESTER VA	24138297266708000014401	5311	51.31	
09/28	09/27	COYNE CHEMICAL 215-785-3000 PA	24224437271101027958448	5169	2,246.08	

LINK, BRIAN **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **56.91**

09/07	09/06	FISHER AUTO PARTS 009 BERRYVILLE VA	24431067250200824200019	5533	56.91	
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MCCORMICK, HARRY **Total Activity**
 Account Number: XXXX-XXXX-XXXX- **464.90**

09/13	09/12	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801977256091405000415	5251	42.50	
09/13	09/12	SNS EAST -2871 BERRYVILLE VA	24427337255720035856380	5411	14.73	
09/18	09/15	HACH COMPANY 9706631377 CO	24801997260018010739618	5085	407.67	

Transactions

Posting Transaction				Reference Number	MCC	Charge	Credit
Date	Date	Description					
MORELAND, DESIREE							Total Activity
Account Number: XXXX-XXXX-XXXX-							28,485.82
09/06	08/24	COYNE CHEMICAL	215-785-3000 PA	24224437249101030280011	5169	331.00	
09/06	08/24	COYNE CHEMICAL	215-785-3000 PA	24224437249101030280003	5169	3,349.56	
09/06	08/24	COYNE CHEMICAL	215-785-3000 PA	24224437249101030280029	5169	374.79	
09/14	09/12	TelRite Corporation	COVINGTON GA	24393497256003691206856	4814	11.41	
09/18	09/15	REPUBLIC SERVICES TRASH	866-576-5548 AZ	24431057258083715935098	4900	19,567.54	
09/18	09/15	REPUBLIC SERVICES TRASH	866-576-5548 AZ	24431057258083758094266	4900	100.00	
09/18	09/15	REPUBLIC SERVICES TRASH	866-576-5548 AZ	24431057258083700044278	4900	2,931.85	
09/18	09/16	COMCAST	800-COMCAST MD	24692167259100199189651	4899	75.69	
09/18	09/15	VA DMV ONLINE BILLING	PAY804-3670595 VA	24755427259122596508517	9399	360.00	
09/18	09/16	VZWRLS*MY VZ VB P	800-922-0204 FL	24692167259100273372058	4814	709.70	
09/19	09/18	VERIZON*ONETIMEPAYMENT	800-VERIZON FL	24692167261100677041644	4899	174.88	
09/19	09/18	VERIZON*ONETIMEPAYMENT	800-VERIZON FL	24692167261100677041651	4899	153.33	
09/19	09/18	VERIZON*ONETIMEPAYMENT	800-VERIZON FL	24692167261100677041669	4899	346.07	
PHILLIPS, ANN W							Total Activity
Account Number: XXXX-XXXX-XXXX-							642.27
09/04	09/01	STAPLS7181905352000002	877-8267755 NJ	24164077244105970556653	5111	23.39	
09/07	09/06	STAPLS7182709983000001	877-8267755 NJ	24164077249105053182075	5111	19.99	
09/08	09/07	STAPLS7182709983002001	877-8267755 NJ	24164077250105064850963	5111	19.73	
09/08	09/07	STAPLS7182709983001001	SOUTH HACKENS NJ	74164077250105053182076	5111		5.00
09/15	09/14	STAPLS7183257401000001	877-8267755 NJ	24164077257105130639690	5111	109.13	
09/18	09/15	STAPLS7183318618000001	877-8267755 NJ	24164077258105141423984	5111	37.55	
09/18	09/16	STAPLS7183428710000001	877-8267755 NJ	24164077260105152783264	5111	238.89	
09/18	09/15	STAPLS7183257401001001	SOUTH HACKENS NJ	74164077258105130639694	5111		9.68
09/25	09/22	STAPLS7183723179000001	877-8267755 NJ	24164077265105216959624	5111	42.44	
09/25	09/23	STAPLS7183836134000001	877-8267755 NJ	24164077267105228374927	5111	61.27	
09/25	09/23	STAPLS7183836134000002	877-8267755 NJ	24164077267105978374929	5111	55.56	
09/26	09/25	IN*TRUESHRED	888-7508783 VA	24692167268100024363405	7399	49.00	
REYNOLDS, CHARLES							Total Activity
Account Number: XXXX-XXXX-XXXX-							2.62
09/22	09/20	EXXONMOBIL	47851688 BERRYVILLE VA	24164057264837006918336	5541	2.62	
STOVER, KEITH							Total Activity
Account Number: XXXX-XXXX-XXXX-							229.69
09/04	08/31	ANDERSON'S NURSERY	BERRYVILLE VA	24061067244016040934363	5261	71.99	
09/04	09/01	FISHER AUTO PARTS 009	BERRYVILLE VA	24431067245200824900087	5533	13.92	
09/04	09/01	BERRYVILLE TRUE VALUE	BERRYVILLE VA	24801977245091404000097	5251	20.54	
09/04	09/01	AUTOZONE #3199	WINCHESTER VA	24445007245200157562637	5533	47.98	
09/11	09/07	BERRYVILLE AUTO PARTS INC	BERRYVILLE VA	24767897251624800548146	5533	19.39	
09/28	09/27	FISHER AUTO PARTS 009	BERRYVILLE VA	24431067271200824100016	5533	33.36	
09/29	09/28	BERRYVILLE TRUE VALUE	BERRYVILLE VA	24801977272091407000371	5251	22.51	
TYRRELL, DAVE							Total Activity
Account Number: XXXX-XXXX-XXXX-							16,550.06
09/07	09/06	IN*CONSOLIDATED ELECTRIC	540-6625994 VA	24692167249100246919624	1731	240.00	
09/07	09/06	IN*DENNIS SALES & SERVIC	410-5298782 MD	24692167249100246922347	5074	524.35	
09/08	09/06	MERRITT SANITATION	540-8695309 VA	24073147250900019100014	2842	125.00	
09/08	09/07	AmazonPrime Membership	amzn.com/prmeWA	24692167250100827124368	5968	99.00	
09/08	09/07	SHERWOOD-LOGAN & ASSOCIA	410-841-6810 MD	24435657250206649700012	5251	2,218.82	
09/11	09/07	RIDDLEBERGER BROTHERS	540-434-1731 VA	24638187251017033514949	1711	1,134.00	
09/12	09/11	SHERWIN WILLIAMS	705251 WINCHESTER VA	24431067254981000000093	5231	304.42	
09/13	09/12	AUTOMATECH INC	508-830-0088 MA	24224437256102025464818	8999	495.00	
09/14	09/12	RIDDLEBERGER BROTHERS	540-434-1731 VA	24638187256017031292725	1711	1,755.27	
09/19	09/13	COYNE CHEMICAL	215-785-3000 PA	24224437262101027789232	5169	394.79	
09/19	09/18	COYNE CHEMICAL	215-785-3000 PA	24224437262101027789257	5169	1,331.08	
09/19	09/18	COYNE CHEMICAL	215-785-3000 PA	24224437262101027789281	5169	1,303.15	
09/21	09/19	BERRYVILLE AUTO PARTS INC	BERRYVILLE VA	24767897263700000469956	5533	34.99	
09/21	09/20	NEWARK US 00000075	773-907-6000 IL	24431067264026471234058	5065	107.80	
09/25	09/22	SUNBELT RENTALS INC	PCG 803-5785072 SC	24301337265118000184418	7394	716.07	
09/25	09/22	THE BLOSSMAN COMPANIES	INCOEAN SPRINGSMS	24247607265300544536237	5983	251.37	
09/25	09/22	USPS PO 5107560300	BERRYVILLE VA	2444500726600983002889	9402	2.66	
09/25	09/23	WESTERN BRANCH DIESEL	#6 757-673-7143 VA	24431067266026857146460	5533	1,686.12	
09/25	09/22	ROBERTS OXYGEN CO	BR 00 800-6263433 MD	24755427266642660782962	5085	28.15	
09/25	09/22	EAHEART INDUSTRIAL SERVI	804-3557943 VA	24760627266419201282705	1799	189.21	
09/25	09/22	NATIONAL SAFETY SUPPLY	877-8144509 MD	24687207267018018542978	5047	3,229.59	
09/25	09/24	BURGER KING #12337	RAPHINE VA	24186167267286799801606	5814	8.39	
09/27	09/26	IN*VIRGINIA RURAL WATER	540-2617178 VA	24692167269100600388023	8299	350.00	
09/28	09/27	THE HOTEL ROANOKE & CONF	E540-9855900 VA	24239007270900013788437	5812	20.83	



18392730 - 018383 - 0003 - 0003 - 2

Transactions

Posting Transaction						
Date	Date	Description	Reference Number	MCC	Charge	Credit
WHITE, NEAL						Total Activity
Account Number: XXXX-XXXX-XXXX-						2,940.65
09/07	09/06	AMAZON MKTPLACE PMTS AMZN.COM/BILLWA	24692167249100236903968	5942	36.88	
09/11	09/08	IN *NORTON EMBROIDERY INC540-9551435 VA	24692167251100557395625	5949	126.00	
09/11	09/08	FESTIVAL DRY CLEANERS BERRYVILLE VA	24603167253030089545908	7216	33.00	
09/18	09/14	WENDYS #311 GLEN ALLEN VA	24445007258500449174388	5814	10.80	
09/20	09/19	800-781-2677*ATLANTCTC 800-781-2677 PA	24801637263286902079034	5137	554.20	
09/20	09/19	USPS PO 5107560300 BERRYVILLE VA	24445007263000889237764	9402	9.18	
09/20	09/20	GALLS 859-266-7227 KY	24435657263801031795029	5964	1,694.18	
09/21	09/19	TIRE WORLD WHOLESALE 301-6989200 MD	24639237263900013600168	5532	213.84	
09/21	09/19	KUSTOM SIGNALS 913-492-1400 KS	24247607263500561097912	5065	31.90	
09/21	09/19	BERRYVILLE AUTO PARTS INC800-4498012 VA	24767897263700000469972	5533	223.47	
09/21	09/20	USPS PO 5107560300 BERRYVILLE VA	24445007264000906470900	9402	7.20	

Finance Charge Calculation

Your Annual Percentage Rate (APR) is the annual interest rate on your account.

	Annual Percentage Rate	Balance Subject to Interest Rate	Finance Charges by Transaction Type
PURCHASES	0.00%	\$0.00	\$0.00
CASH	0.00%	\$0.00	\$0.00

V = Variable Rate (rate may vary), Promotional Balance = APR for limited time on specified transactions.

Attachment 7



Berryville Police Department

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

policeadmin@berryvilleva.gov

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

W. Neal White – Chief of Police

MEMO

DATE: 11/07/2017

TO: Town Council

FROM: Chief W. Neal White

CC:

RE: Police Department Monthly Report – 11/14/2017

Monthly Activity Report

The activity report for the month of October 2017 is attached to this memo.

Police and Security Committee

The Police and Security Committee met on November 6, 2017. The minutes from this meeting can be found in the consent agenda. The committee would normally meet again November 23, 2017 on at 09:00 am in the A/B meeting room of the government center. This date is a holiday, and therefore the date for the meeting should be discussed tonight.

Halloween Activities

The police department takes great effort in making Halloween a safe and enjoyable event for the community. Prior to the event, the department distributed reflective treat bags with safety reminders as well as glow necklaces to children at the two daycare centers in town. In addition, Chief White and School Resource Officer Lichliter of the Clarke County Sheriff's Office gave a safety presentation to all of the children at Cooley Upper and Lower campuses. Treat bags and glow necklaces were also left for all of these children.

On Halloween night extra officers were on duty and handing out additional glow necklaces to make sure everyone was visible and safe. The end result was a safe evening that was fun for all.

Awards and Recognition

On November 2, 2017 the department had two officers recognized at the 5th annual Valor Awards sponsored by the Top of Virginia Regional Chamber. Officer Brandon Piper and Officer Donald Mason both received a Meritorious Action Award for their actions concerning an individual in crisis armed with an edged weapon. As a result of their professionalism, patience,



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empathy and restraint the individual was able to be transported safely to the hospital where they received the services needed.

On November 4, 2017 Officer Joseph Shoremount was recognized as the Law Enforcement Officer of the Year for the Berryville Police Department by the Horseshoe Curve Benevolent Association at their 13th annual recognition dinner. Officer Shoremount was nominated for his efforts concerning community engagement events and his overall dedication to community policing.

A letter of thanks is also attached to this report that was sent to Officer Shoremount for his actions concerning a matter he diligently worked and the victim wanted to make sure that his efforts were noted as they were greatly appreciative of his assistance.

All of these accolades are perfect reminders of the dedicated and professional police department that serves this community.

Automatic External Defibrillator (AED)

On November 6, 2017 the department received an AED from the Old Fredericktown Lodge of the Fraternal Order of Police. The department was one of four agencies selected to receive an AED at no cost to the department. This device will be deployed with on duty officers in the cruiser they are operating so they will be equipped to respond to cardiac emergencies and initiate rapid lifesaving intervention measures. All members of the department receive biennial CPR and AED training through the American Red Cross, so they are already trained and certified to use this device.

Holiday Toy Drive

The department is again collecting new toys and gift cards to be distributed to needy children in Berryville and Clarke County. Officer Joe Shoremount has spearheaded this effort and is coordinating with Social Services to identify needy families in the area. Donations can be dropped off at the police department and other donation sites will be identified in the near future.



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W. Neal White – Chief of Police

Police and Security Report

	Year To Date	October	September
Month: October	2017	2017	2017
Year: 2017			
<u>Complaints Answered</u>			
911 Hang Up:	39	7	3
Alarms:	111	15	9
Animal Complaint:	100	9	13
Assault and Battery:	6	1	0
Assist County:	34	5	6
Auto Larceny:	2	0	1
Burglary:	7	1	0
Civil Complaints:	54	3	4
Disturbance (Non Violent):	24	5	0
Domestic Disturbance:	24	1	3
Drunk In Public:	6	0	0
Forgery & Uttering:	0	0	0
Fraud:	32	5	0
Grand Larceny:	11	0	2
Harassment/Intimidation:	25	2	5
Homicide:	0	0	0
Juvenile Related:	37	2	7
Noise:	41	5	4
Petty Larceny:	19	1	2
Public Service:	27	1	2
Rape:	0	0	0
Robbery:	0	0	0
Runaway:	1	0	0
Shoplifting:	1	0	0
Suspicious Activity:	173	17	19
Trespassing:	6	0	2
Vandalism:	27	0	6
Welfare Check:	119	9	15
Miscellaneous Complaints:	330	29	30
Total Complaints Answered:	1256	118	133

Please show your
supervisor this note!



Dear Officer Shoremount,

My husband and I would like to personally
thank you for all you've done for us
regarding our situation with [REDACTED]
[REDACTED] Without your involvement and
perseverance, we would never have gotten our
money back. You were also very nice to
work with. We can now move forward with
our endeavor in having a deck built on
our home.

We are so thankful for our police departments
and all the risky, courageous work their
uniformed folks do!! With much appreciation,
Darlene and Ray Nestor

Attachment 8

Repeal and Re-Adoption of Chapter 4 – Animals and Fowl

The Police and Security Committee began review of Chapter 4 in January 2014. The impetus for the review was investigating the impact of allowing backyard laying hens in town. What was also discovered in discussions was that many of the sections within the chapter concerning animals mirrored Virginia State Code laws, and therefore would create confusion and potentially undue expense to the town concerning the prosecution of violations.

Revisions were made to the Chapter in 2014 and reviewed in committee. The matter of laying hens was discussed by full Council and a determination by vote not to amend the chapter to allow laying hens. Since the chapter was not revised on the issue of the laying hens, the other proposed revisions to the remainder of the chapter were not codified.

The matter of laying hens again was directed to be discussed by the Police and Security Committee at the request of the Council. The Committee has completed the review and presents a recommendation to the Council with the latest draft version presented tonight. The draft version presented has been reviewed by legal counsel. Also included is the current version of the chapter for comparison.

A summary of key revisions are as follows:

- Section 4-1 has been reworked to allow the keeping of laying hens. It prescribes the number of hens and other permitted livestock based upon the lot size of a parcel. It also addresses maintenance, containment, and enforcement of violations.
- Section 4-6 has been revised to change language from destructive cats to “animals”.
- Sections 4-7, 4-8, 4-9, 4-41, 4-50, and 4-51 have all been recommended for repeal as they are part of Virginia Code and routinely prosecuted under Virginia Code.

The Police and Security Committee Chairman would like to have these proposed revisions posted on the Town of Berryville Website for public input followed by further discussion at the December 12, 2017 Council meeting.

Chapter 4

Current Version

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

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

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

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

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

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

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

(Ord. of 9-8-92)

Note— See the editor's note at § 4-1.

Secs. 4-3—4-5. - Reserved.

Note— See the editor's note at § 4-1.

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

- (a) For the purposes of this section, a "destructive cat" is a cat which injures, damages or destroys property of any person other than the owner or custodian of the cat or which disturbs or scatters garbage or trash canned or bagged for disposal.
- (b) It shall be unlawful for any person to permit a destructive cat owned by him or in his possession or under his control to run at large within the town.
- (c) Upon complaint being made to the chief of police that the provisions of this section are being violated, such officer may, after investigation, give notice of such complaint to the owner or person in possession of such cat and order such owner or person to confine or dispose of such cat. It shall be unlawful for any person to fail to comply with such order.
- (d) A violation of this section shall constitute a Class 4 misdemeanor.

(Ord. of 4-9-74)

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

Sec. 4-7. - Cruelty to animals.

- (a) Any person who:
 - (1) Overrides, overdrives, overloads, tortures, ill-treats, abandons (except as provided in section 4-8), willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation to, or cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to him or another, or deprives any animal of necessary sustenance, food, drink or shelter, or causes any of the above things or, being the owner of such animal, permits such acts to be done by another; or
 - (2) Willfully sets on foot, instigates, engages in or in any way furthers any act of cruelty to any animal; or
 - (3) Shall carry or caused to be carried, in or upon any vehicle or vessel or otherwise, any animal in a cruel, brutal or inhumane manner, so as to produce torture or unnecessary suffering.

shall be guilty of a Class 1 misdemeanor.

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

(Code 1971, § 4-6)

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

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

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

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

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

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

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

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

(Code 1971, § 4-6)

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

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

- (a) The owner of any animal or grown fowl which has died, when he knows of such death, shall be forthwith have its body cremated or buried. If he fails to do so, then, pursuant to section 18.2-510 of the Code of Virginia, any judge of a general district court, after notice to the owner, if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer, or other person designated for the purpose, and the officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried, the actual cost of the cremation or burial, not to exceed seventy-five dollars (\$75.00), and of the owner of every such fowl so cremated or buried, the actual cost of the cremation or burial, not to exceed five dollars (\$5.00), to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.
- (b) Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.
- (c) Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

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

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):

--- (2) ---

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 of 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):

--- (3) ---

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 4

Draft Version

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 animals.

- (a) No owner of an animal shall cause or allow an animal to go upon the land of another person and damage or destroy any garden, shrub, grass, or other property thereon or scatters garbage canned for disposal.
- (b) Any person owning property which is damaged or destroyed by any violation described in this section may initiate their own criminal or civil action by entering a complaint by a warrant issued against the owner of the animal involved.

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

(Ord. of 4-9-74)

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

Sec. 4-7. - Repeal

Sec. 4-8. - Repeal.

Sec. 4-9. - Repeal

(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):

--- (2) ---

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.

Reviewed by P&S Committee 09/29/2017

(Ord. of 6-18-92)

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, § 3.1-796.92.

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

(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 by entering a complaint by a warrant issued against the owner of the dog involved.

(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.

Unless otherwise provided, 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. - Repeal

FOOTNOTE(S):

--- (3) ---

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. - Repeal

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. - Repeal

(Ord. of 6-18-92)

Sec. 4-51. - Repeal

(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.

DRAFT

Attachment 9

Repeal and Re-Adoption of Chapter 10 – Motor Vehicles

The Police and Security Committee has reviewed Chapter 10 as part of an ongoing review of the Town Code. What is presented tonight is a draft version of Chapter 10 which has been reviewed in committee and also undergone a review by legal counsel. A current version of the chapter is also supplied for comparison.

Chapter 10 includes language concerning motor vehicle decal tax fees in Article II. Currently the town issues a decal as proof that the tax has been paid. In addition, the town utilizes a process known as a DMV stop which prohibits an individual from renewing their motor vehicle registration when the tax has not been paid. The DMV stop has proven to be a more effective collection tool than law enforcement officers citing individuals for not displaying a decal. The recommendation of the committee was to repeal sections of Article II of this chapter which require the issuance and display of a decal, but the tax would still be administered and collected using the DMV stop as a collection mechanism for unpaid taxes.

A large number of localities in the area have already done away with the decal as proof of tax payment in lieu of utilizing DMV stops. The other matter that was discussed within committee was the utilization of the decal as proof of residency to utilize regional landfills. This use was not deemed a significant reason to keep the decal as proof of residency can be determined with a driver's license or current vehicle registration.

Other recommended revisions to the chapter of note include:

- Addition of language in sec. 10-7 (g) to prohibit the installation of signs that mimic and confuse official State and Town signs on private property.
- Corrections and updates of State law references throughout the chapter.
- Addressed parking concerns in the Rixey-Moore Parking lot during special events in sec. 10-65.

The Police and Security Committee Chairman would like to have these proposed revisions posted on the Town of Berryville Website for public input followed by further discussion at the December 12, 2017 Council meeting.

As a revision to this chapter, specifically Article II, would impact tax billing it is recommended that any revisions not take effect until January 1, 2018.

Chapter 10

Current Version

Chapter 10 - MOTOR VEHICLES AND TRAFFIC

FOOTNOTE(S):

--- (1) ---

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

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

ARTICLE I. - IN GENERAL

FOOTNOTE(S):

--- (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) Any person refusing to give such written promise to appear under the provisions of this section shall be taken immediately by the arresting officer before a magistrate or other issuing officer having jurisdiction, who shall proceed according to the provisions of section 10-3.
- (c) Any person who willfully violates a written promise to appear, given in accordance with this section, shall be guilty of a Class 1 misdemeanor and shall be treated in accord with the provisions of section 46.2-938 of the Code of Virginia. ^[2]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 10-6.1. - Reserved.

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

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

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

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

(Code 1971, §§ 11-3, 11-38, 11-58)

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

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

(Code 1971, § 11-4)

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

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

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

(Code 1971, § 11-5)

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

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

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

(Code 1971, § 11-19)

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

Sec. 10-11. - Reserved.

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

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

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

(Code 1971, § 11-9)

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

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

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

(Code 1971, § 11-11)

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

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

(Code 1971, § 11-12)

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

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

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

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

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

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

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

(Ord. of 8-12-97)

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

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

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

(Ord. of 8-12-97)

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

Sec. 10-15. - Blocking intersection.

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

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

(Code 1971, § 11-21)

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

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

(Code 1971, § 11-33; Ord. of 3-3-93)

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

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

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

(Ord. of 10-8-02)

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

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

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

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

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

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

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

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

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

Secs. 10-20—10-26. - Reserved.

ARTICLE II. - VEHICLE LICENSE

FOOTNOTE(S):

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

Cross reference— Licenses generally, Ch. 9.

Sec. 10-27. - License tax imposed:

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

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

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

Sec. 10-28. - Tax levied.

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

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

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

Cross reference— Taxation generally, Ch. 16.

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

Sec. 10-29. - Proration of taxes.

Should a vehicle be acquired or newly garaged in town after July 1, the fee shall be one-half ($\frac{1}{2}$) the rate set forth in this article.

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

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

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

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

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

Sec. 10-31. - Issuance of decal.

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

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

Sec. 10-32. - Contents of decal.

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

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

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

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

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

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

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

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

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

Sec. 10-35. - Replacement decals.

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

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

Sec. 10-36. - Transfer of decal.

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

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

Sec. 10-37. - Reserved.

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

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

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

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

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

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

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

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

Secs. 10-40—10-47. - Reserved.

ARTICLE III. - STOPPING, STANDING AND PARKING

FOOTNOTE(S):

--- (4) ---

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

DIVISION 1. - GENERALLY

FOOTNOTE(S):

--- (5) ---

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

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

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

- (4) Within fifteen (15) feet of a fire hydrant.
 - (5) On a crosswalk.
 - (6) Within twenty (20) feet of a crosswalk at an intersection; provided, that where there is no crosswalk at an intersection, no person shall park a vehicle within twenty (20) feet from the intersection of curb lines or, if none, within fifteen (15) feet of the intersection of property lines.
 - (7) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.
 - (8) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.
 - (9) Within fifty (50) feet of the nearest rail of a railroad grade crossing. ⁶¹
 - (10) Within fifteen (15) feet of the driveway entrance to any fire station and, on the side of a street opposite the entrance to any fire station, within seventy-five (75) feet of the entrance when properly signposted.
 - (11) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.
 - (12) On the roadway side of any vehicle parked at the edge or curb of a street.
 - (13) Upon any bridge or other elevated structure on a street or highway or within a tunnel.
 - (14) At any place where official signs prohibit parking.
 - (15) In any duly-identified parking space reserved for the handicapped by a vehicle which does not display a license plate, decal or special parking permit issued under sections 46.2-731, 46.2-739 or 46.2-1238 of the Code of Virginia, 1950, as amended.
 - (16) No person shall leave any vehicle, attended or unattended, or a portion or part thereof, upon the paved, improved or main-travelled portion of any highway when it is practicable to leave such vehicle standing off the paved, improved or main-travelled portion of such highway. If it is not practicable to leave such vehicle standing off the paved, improved or main-travelled portion of such highway, then such vehicle shall not be stopped or parked except close to and parallel to the right-hand edge of the curb or roadway, except that a vehicle may be stopped close to and parallel to the left-hand curb or edge of the road on one-way streets or may be parked at an angle where permitted by the State Highway and Transportation Board or the Town of Berryville with respect to streets and highways under their jurisdiction.
 - (17) It shall be unlawful for any person to park any vehicle across any line or marking designating a parking meter space, or to park any vehicle in any way that such vehicle shall not be wholly within a parking meter space as designated by such lines or markings.
- (b) No person, other than a police officer, shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful.

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

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

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

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

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

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

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

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

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

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

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

Sec. 10-51. - Angle parking.

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

(Ord. of 6-10-97)

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

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

(Code 1971, § 11-47; Ord. of 6-10-97)

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

Sec. 10-53. - Backing to curb.

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

(Code 1971, § 11-38; Ord. of 6-10-97)

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

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

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

(Code 1971, § 11-40, Ord. of 6-10-97)

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

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

(Code 1971, § 11-41; Ord. of 6-10-97)

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

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

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

(Code 1971, § 11-45; Ord. of 6-10-97)

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

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

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

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

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

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

(Code 1971, § 11-43; Ord. of 6-10-97)

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

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

(Code 1971, § 11-44; Ord. of 6-10-97)

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

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

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

(Code 1971, § 11-46; Ord. of 6-10-97)

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

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

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

(Code 1971, § 11-46; Ord. of 6-10-97)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. of 2-14-06)

Sec. 10-66. - Reserved.

DIVISION 2. - PARKING METERS

FOOTNOTE(S):

--- (6) ---

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

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

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

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

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

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

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

(Code 1971, § 11-50)

Sec. 10-69. - Reserved.

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

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

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

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

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

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

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

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

ARTICLE IV. - ABANDONED VEHICLES

FOOTNOTE(S):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 10

Draft Version

Chapter 10 - MOTOR VEHICLES AND TRAFFIC

FOOTNOTE(S):

--- (1) ---

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 indicating 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.

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:

- (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.

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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.

- (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 ($\frac{1}{2}$) 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. ^[5]

- (10) Within fifteen (15) feet of the driveway entrance to any fire station and, on the side of a street opposite the entrance to any fire station, within seventy-five (75) feet of the entrance when properly signposted.
- (11) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.
- (12) On the roadway side of any vehicle parked at the edge or curb of a street.
(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.

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,

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.

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.

DRAFT

Attachment 10

Memo

To: Town Council
From: David Tyrrell
Date: November 7, 2017
Re: October 2017 Operations Report

The water treatment plant is in compliance for October 2017 with its monthly parameters. We sent a total of 10.255 MG water to the system with a daily average production of 0.379 MGD and a daily max of 0.488 MG.

All testing sites for Lead and Copper have been informed of the results of their test. However, I just received new instructions and additional information is now required to be included so each testing site will be informed again of the results and have additional information included with the results of the test. This must be completed within the next week.

We had a positive result for total coliform at one of our testing locations in October. Required retesting to confirm the result has been completed and I have verbal confirmation from VDH this morning that they retest are most likely fine. The site in question has added whole house filtration and other water treatment equipment which will affect the suitability of the home for future testing. We are going to be updating the water monitoring plan to remove a couple homes and add some new ones because of sampling issues at various sites.

Utility Service is on site and working to paint the southeast tank. To date most of the interior has been sandblasted and a prime coat applied to the blasted areas. The water system pressures are being maintained well through use of all three of the system PRV's.

Operations staff has been busy repairing and painting the piping at the WTP. Most piping and some of the handrails have been prepped and painted. The new storage tank for hypo has arrived at the WTP. Additional piping and flow control has been ordered to complete the installation. We have decided to include a chlorine gas hook up on the new piping just in case we should ever have need of using it again.

Cleaning of the river vault is scheduled for December.

Drought Conditions: DEQ continues to have our region in a drought watch. River levels had temporarily climbed after the heavy rains mid-month but are rapidly dropping back below historic averages and are approaching the low level they were prior to the heavy rain. Additional rains are needed before the watch will be lifted.

The wastewater plant is in compliance with its discharge permit for October per data received to date. We have treated a total of 8.35 MG with a daily average of 0.27 MGD and a daily max of 0.42 MG.

All issues with membrane train #1 have been resolved and the unit is back into full service. Recovery cleans for the trains are overdue and will be completed in November.

The drum screen repair scheduled for October 16th was rescheduled to November 2. Both screens are now in service.

While washing the UV disinfection system, a busted sleeve was discovered on unit #1 which has allowed water into the light tube fixture and has completely burnt out the connector. We are investigating what parts are able to be replaced or if we must replace the entire light bank. Each bank holds four light tubes.

The second of our hypo pumps has failed and I am getting prices on replacements. This pump will most likely be a sole source purchase from the area representative.

Attached for review is the DMR data report for the wastewater plant with data received to date, a copy of the report for the membrane performance from GE, and the water plant page 1 operations report for VDH.

FLOWS AND CHEMICAL DOSAGES

October 2017

No. Connections Served: 1660
Population Served: 4185

DATE	Raw Water Treated MGD	Finished Water Produced MGD	Finished Water Delivered MGD	Hours in Service	Raw Water Chemicals										Finished Water Chemicals							
					Alum		Carbon		Chlorine		Fluoride		Polymer		KMnO4		Soda Ash		Chlorine		Corr Inhibitor	
					Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L
1																						
2	0.446		0.401	13.0	35	9.5	4	1.0				3.6	0.97	0.070	0.019	4.0	1.1			15.0	4.0	
3	0.525		0.474	15.3	41	9.3	4	0.9				6.7	1.53	0.080	0.018	4.7	1.1			17.8	4.1	
4	0.519		0.477	15.3	41	9.4	4	0.8				6.8	1.56	0.070	0.016	4.8	1.1			17.9	4.1	
5	0.508		0.459	14.8	46	10.8	4	1.0				6.7	1.58	0.080	0.019	4.6	1.1			17.0	4.0	
6	0.514		0.464	15.0	41	9.5	3	0.7				3.5	0.82	0.070	0.016	4.7	1.1			17.5	4.1	
7	0.205		0.189	6.1	35	20.8	2	1.4				3.3	1.93	0.040	0.023	1.9	1.1			7.1	4.2	
8	0.197		0.177	6.6	20	12.3	1	0.7				0.2	0.15	0.030	0.018	2.1	1.2			7.7	4.7	
9	0.207		0.185	6.0	20	11.7	2	0.9				3.3	1.91	0.030	0.017	1.9	1.1			7.0	4.1	
10	0.504		0.454	14.8	41	9.6	5	1.2				6.7	1.59	0.080	0.019	4.6	1.1			17.2	4.1	
11	0.525		0.481	15.5	15	3.5	4	0.9				6.7	1.53	0.090	0.021	4.8	1.1			18.1	4.1	
12	0.526		0.479	15.5	46	10.4	4	0.9				7.0	1.60	0.080	0.018	4.8	1.1			17.4	4.0	
13	0.41		0.370	12.0	35	10.4	3	0.9				3.2	0.94	0.060	0.018	3.7	1.1			13.5	3.9	
14																						
15	0.194		0.179	5.8	15	9.4	1	0.7				3.6	2.23	0.015	0.010	1.8	1.1			6.5	4.0	
16	0.495		0.450	14.7	46	11.1	4	0.9				3.3	0.80	0.035	0.009	4.6	1.1			16.5	4.0	
17	0.529		0.488	15.7	46	10.3	4	0.9				6.7	1.52	0.036	0.008	4.9	1.1			17.7	4.0	
18	0.514		0.464	15.0	30	7.1	4	1.0				6.7	1.56	0.039	0.009	4.7	1.1			16.9	3.9	
19	0.32		0.291	9.3	35	13.3	4	1.3				3.4	1.27	0.017	0.006	2.9	1.1			10.5	3.9	
20	0.476		0.408	14.5	30	7.7	4	1.0				3.6	0.91	0.040	0.010	4.5	1.1			16.3	4.1	
21																						
22																						
23	0.448		0.409	13.3	30	8.1	4	1.1				6.6	1.77	0.066	0.018	4.1	1.1			14.9	4.0	
24	0.381		0.337	10.5	30	9.6	3	1.1				3.5	1.10	0.057	0.018	3.3	1.0			11.8	3.7	
25	0.503		0.458	15.5	46	10.9	4	0.9				6.7	1.60	0.077	0.018	4.8	1.1			17.4	4.2	
26	0.441		0.396	13.0	36	9.7	15	4.2				3.6	0.97	0.066	0.018	4.0	1.1			14.6	4.0	
27	0.506		0.455	15.0	35	8.4	4	1.0				6.8	1.62	0.075	0.018	4.7	1.1			17.5	4.1	
28	0.263		0.238	8.0	20	9.2	2	1.1				3.4	1.55	0.037	0.017	2.5	1.1			9.3	4.3	
29	0.257		0.229	8.0	25	11.8	2	0.9				3.4	1.59	0.040	0.019	2.5	1.2			9.3	4.3	
30	0.411		0.364	15.0	30	8.9	3	0.9				6.6	1.93	0.053	0.015	0.0	0.0			17.5	5.1	
31	0.501		0.449	15.0	35	8.5	4	0.9				6.8	1.63	0.071	0.017	4.7	1.1			17.5	4.2	
Total	11.325	0.000	10.225	338.0	908	271.1	104	29.6	0.0	0.00	132.4	38.1	1.50	0.432	100	28.8	0.0	0.00	387.3	#####	0.0	0.00
Maximum	0.529	0.000	0.488	15.7	46	20.8	15	4.2	0.0	0.00	7.0	2.2	0.09	0.023	5	1.2	0.0	0.00	18.1	5.11	0.0	0.00
Minimum	0.194	0.000	0.177	5.8	15	3.5	1	0.7	0.0	0.00	0.2	0.1	0.02	0.006	0	0.0	0.0	0.00	6.5	3.72	0.0	0.00
Average	0.419	0.000	0.379	12.5	34	10.0	4	1.1	#####	#####	4.9	1.4	0.06	0.016	4	1.1	#####	#DIV/0!	14.3	4.12	####	#####

SIGNED: (OPERATOR IN RESPONSIBLE CHARGE) _____

PRINTED NAME David A Tyrrell

TITLE: OPERATOR CLASSIFICATION Class 1
DPOR CERTIFICATION NO. 1955002813

RAW WATER SOURCE(S) USED DURING MONTH: (SOURCE/DATES)

Shenandoah River - Entire Month

Berryville STP Monthly DMR Data

October 2017

Date	Effluent Flow MGD	Eff pH SU	Eff Temp Deg C	Eff CBOD mg/l	Eff CBOD KG/D	Eff TSS mg/l	Eff TSS KG/D	Effluent DO River mg/l	Effluent DO WWTP mg/l	Eff NO2/ NO3 mg/l	Eff TKN mg/l	Eff TKN KG/D	Eff Total N mg/l
10/1/2017	0.23	7.3	22.9					8.0	7.6				
10/2/2017	0.25	7.4	22.3					8.7	8.9				
10/3/2017	0.25	7.4	22.6	1.00	0.93	0.00	0.00	8.5	8.0	1.70	1.19	1.11	2.89
10/4/2017	0.26	7.1	22.5	0.00	0.00			8.2	7.6				
10/5/2017	0.24	7.2	22.4	3.00	2.71			8.3	8.0	1.95	1.87	1.69	3.82
10/6/2017	0.24	7.2	22.6					8.4	7.9				
10/7/2017	0.27	7.2	22.6					8.4	7.9				
10/8/2017	0.26	7.3	24.0					8.4	7.4				
10/9/2017	0.36	7.1	24.3					7.3	7.6				
10/10/2017	0.29	7.1	22.6	1.00	1.10			8.1	7.6	1.64	1.34	1.47	2.98
10/11/2017	0.36	7.3	24.1	3.00	4.05			7.8	8.0				
10/12/2017	0.30	7.4	23.0	2.00	2.26			8.0	7.8	1.28	1.01	1.14	2.29
10/13/2017	0.27	7.4	23.1					8.0	7.7				
10/14/2017	0.25	7.3	23.2					8.0	7.5				
10/15/2017	0.25	7.2	23.5					8.0	6.7				
10/16/2017	0.29	7.2	23.3					8.0	7.7				
10/17/2017	0.29	7.4	22.1	1.00	1.09			9.5	8.9	2.14	1.48	1.61	3.62
10/18/2017	0.25	7.4	21.7	1.00	0.96			9.6	8.8				
10/19/2017	0.26	7.3	21.5	2.00	1.94			7.1	8.2				
10/20/2017	0.24	7.4	21.7					7.0	7.9				
10/21/2017	0.24	7.3	21.8					8.2	8.2				
10/22/2017	0.24	7.3	23.1					7.9	7.8				
10/23/2017	0.30	7.5	21.9					8.5	8.0				
10/24/2017	0.28	7.3	22.0	0.00	0.00			7.8	7.3	1.60	1.37	1.47	2.97
10/25/2017	0.27	7.4	23.3	1.00	1.03			9.0	7.8				
10/26/2017	0.25	7.5	20.9	2.00	1.85			8.9	7.7				
10/27/2017	0.17	7.2	20.4					7.6	7.4				
10/28/2017	0.15	7.3	22.0					8.0	7.3				
10/29/2017	0.42	7.3	21.0					8.4	8.0				
10/30/2017	0.32	7.3	19.0					7.5	8.4				
10/31/2017	0.29	7.3	18.9					8.6	8.9				
Minimum	0.15	7.1	18.9	0.00	0.00	0.00	0.00	7.0	6.7	1.28	1.01	1.11	2.29
Maximum	0.42	7.5	24.3	3.00	4.05	0.00	0.00	9.6	8.9	2.14	1.87	1.69	3.82
Total	8.35	226.3	690.3	17.00	17.93	0.00	0.00	253.7	244.5	10.31	8.26	8.50	18.57
Average	0.27	7.3	22.3	1.42	1.49	0.00	0.00	8.2	7.9	1.72	1.38	1.42	3.10
Geo Mean	0.26	7.3	22.2	1.43	1.47	1.00	1.00	8.2	7.9	1.70	1.4	1.40	3.05

Berryville STP Monthly DMR Data

October 2017

Date	Eff Total N KG/D	Eff Total P mg/l	Eff Total P KG/D	E-Coli No/100ml
10/1/2017				
10/2/2017				
10/3/2017	2.71	0.02	0.02	1
10/4/2017				
10/5/2017	3.46	0.02	0.02	
10/6/2017				
10/7/2017				
10/8/2017				
10/9/2017				
10/10/2017	3.28	0.02	0.02	1
10/11/2017				
10/12/2017	2.59	0.02	0.02	
10/13/2017				
10/14/2017				
10/15/2017				
10/16/2017				
10/17/2017	3.95	0.02	0.02	1
10/18/2017				
10/19/2017				
10/20/2017				
10/21/2017				
10/22/2017				
10/23/2017				
10/24/2017	3.19	0.02	0.02	1
10/25/2017				
10/26/2017				
10/27/2017				
10/28/2017				
10/29/2017				
10/30/2017				
10/31/2017				
Minimum	2.59	0.02	0.02	1
Maximum	3.95	0.02	0.02	1
Total	19.17	0.12	0.12	4
Average	3.19	0.02	0.02	1
Geo Mean	3.16	0.02	0.02	1

Berryville WWTP Monthly Membrane Operation Report

October 2017

UF 1 KPI Summary

Parameter	Health	%In	Std. Dev	Points	Avg
FluxBeforeBP	●	99 %	2.38	669	7.075
PermeateTurbidityAfterBP	●	100 %	0.25	675	0.135
TCPermeabilityBeforeBP	●	100 %	7.23	660	31.956
TMPBeforeBP	●	100 %	0.13	675	0.231
TotalPermeateFlowDaily		100 %	30377.67	31	63899.968

UF 2 KPI Summary

Parameter	Health	%In	Std. Dev	Points	Avg
FluxBeforeBP	●	99 %	2.0	742	7.512
PermeateTurbidityAfterBP	●	99 %	0.17	742	0.3
TCPermeabilityBeforeBP	●	99 %	8.17	734	28.01
TMPBeforeBP	●	100 %	0.13	742	0.272
TotalPermeateFlowDaily		100 %	15039.81	32	71148.625

UF 3 KPI Summary

Parameter	Health	%In	Std. Dev	Points	Avg
FluxBeforeBP	●	99 %	1.91	778	7.524
PermeateTurbidityAfterBP	●	100 %	0.3	778	0.148
TCPermeabilityBeforeBP	●	100 %	4.57	777	32.838
TMPBeforeBP	●	100 %	0.07	778	0.241
TotalPermeateFlowDaily		100 %	17234.53	32	75418.594

UF 4 KPI Summary

Parameter	Health	%In	Std. Dev	Points	Avg
FluxBeforeBP	●	100 %	1.87	789	7.385
PermeateTurbidityAfterBP	●	100 %	0.2	789	0.197
TCPermeabilityBeforeBP	●	99 %	7.84	784	28.809
TMPBeforeBP	●	100 %	0.11	789	0.258
TotalPermeateFlowDaily		100 %	17578.63	32	74982.438

UF Plant KPI Summary

Parameter	Health	%In	Std. Dev	Points	Avg
PermeateTemperature	●	100 %	3.25	2976	65.213
TotalPermeateFlowDaily	●	100 %	51861.61	32	283448.906

UF 1 KPI Summary

Parameter	LL	LCL	UCL	HH	Oct
FluxBeforeBP	--	--	12.23	16.3	7.075
PermeateTurbidityAfterBP	0	--	0.9	1	0.135
TCPermeabilityBeforeBP	4	6	--	--	31.956
TMPBeforeBP	--	--	7	8	0.231
TotalPermeateFlowDaily	--	--	--	--	65862.8

UF 2 KPI Summary

Parameter	LL	LCL	UCL	HH	Oct
FluxBeforeBP	--	--	12.23	16.3	7.512
PermeateTurbidityAfterBP	0	--	0.9	1	0.3
TCPermeabilityBeforeBP	4	6	--	--	28.01
TMPBeforeBP	--	--	7	8	0.272
TotalPermeateFlowDaily	--	--	--	--	71146.226

UF 3 KPI Summary

Parameter	LL	LCL	UCL	HH	Oct
FluxBeforeBP	--	--	12.23	16.3	7.524
PermeateTurbidityAfterBP	0	--	0.9	1	0.148
TCPermeabilityBeforeBP	4	6	--	--	32.838
TMPBeforeBP	--	--	7	8	0.241
TotalPermeateFlowDaily	--	--	--	--	75413.258

UF 4 KPI Summary

Parameter	LL	LCL	UCL	HH	Oct
FluxBeforeBP	--	--	12.23	16.3	7.385
PermeateTurbidityAfterBP	0	--	0.9	1	0.197
TCPermeabilityBeforeBP	4	6	--	--	28.809
TMPBeforeBP	--	--	7	8	0.258
TotalPermeateFlowDaily	--	--	--	--	74390.258

UF Plant KPI Summary

Parameter	LL	LCL	UCL	HH	Oct
PermeateTemperature	32	--	100	110	65.213
TotalPermeateFlowDaily	--	--	1100000	2100000	284683.968

Attachment 11

Report of the Department of Public Works

November 6, 2017

We experienced several water related issues last month. On Tuesday October 24th H&W Construction was in the process of abandoning one of the water service laterals for the old Berryville Primary School property. During their effort to turn off the corporation stop the cutoff broke and the Town had to shut down the water main in order to abate the problem.

While shutting down this section of water main we encountered an increase in water pressure. As a result of the pressure increase Johnson Williams Middle School and Trelleborg Factory's fire alarm systems alerted dispatch of a pressure problem. All alarm systems were reset and pressure was restored to normal conditions within 10 minutes.

One of the valves needed to shut down this section of main broke. We determined this valve was no longer needed and removed it from the system. We also experienced one water break. We found water running at the intersection of Academy Street and Academy Court. We used our leak detection and correlator equipment to pin-point the leak. During excavation we found three ¾" corporations stops supplying water to a 2" water manifold. I believe this was the service that supplied water to the old school that was on Academy Court. We removed a 6' section of four inch main and replaced it with PVC pipe to abate the issue.

The water improvement project for South Buckmarsh Street is nearly completed. All the new water main and services have been installed. The only item left to complete is the replacement of the one section of sidewalk and to repair a private concrete entrance. Reyes Concrete is on schedule to complete this work the week of November 13th.

Phase Two of the water up-grade project for Treadwell Street is going well. The new main is installed and passed pressure test. We are in the process of flushing the new main and will send water samples off to an approved lab for bacteria testing. Once the lab results are clear we will then connect the three remaining services to the new main and put the new fire hydrant installed at the corner of Crown and Treadwell Street in service. I anticipate this project to be completed by November 17th.

Attachment 12

14 November 2017
Discussion

Water and Sewer Availability/User Fee Rate Study

Staff submitted a scope of services for a utility rate study to the Town's consulting engineer, Pennoni Associates, Inc.

On 6 November 2017 Pennoni Associates provided a task order for completing the rate study. If the optional hydraulic model update is removed, then the estimated cost of the study would be \$31,328.

The Town's FY2018 budget included \$20,000 for this project.

Please find attached:

Scope of Services

Pennoni Scope of Work

Scope of Services for Water and Sewer Rate Study

Scope of Services

The Town wants to ensure that the costs of providing water and sewer services are covered appropriately through user fees, availability fees, and other related fees and charges, referred to collectively as Rate Schedule. The following objectives are to be met by the proposed study and the resulting Rate Schedule:

1. Identify current and future needs for water and sewer fund revenues in order to meet projected operational and capital costs over 5, 10, and 20 year planning periods.
2. Develop a recommended Rate Schedule that will generate adequate revenues and reflect the true cost of providing water and sewer services. Rate Schedule should be easy to administer and easily understood by the Town and its customers.

Recommended rate structure shall consider and make provisions for the following factors:

- Current and future cost of providing water and sewer services in accordance with established and anticipated standards and regulations
 - Projected demands of growth within the service area
 - Age, condition, and projected replacement time/cost of the water and sewer infrastructure, including treatment plants, water storage and pumping facilities, water distribution improvements, and wastewater collection improvements
 - Results of a complete asset inventory of water and wastewater system components
 - Results of assessment of the condition of water and wastewater system components
 - Results of a risk of failure assessment of water and wastewater system components
 - Funding requirements for all current or planned debt obligations (including bond covenants) and all long-term commitments or liabilities
 - Funding necessary reserves
 - Effects of current and anticipated water and sewer regulations
 - Consistency with the laws of the Commonwealth of Virginia and with industry practice for water and sewer rate development within the Commonwealth of Virginia, including evaluation of rate structures such as flat and tiered rates as well as the establishment of administrative fees for each account
 - Other factors identified
3. Provide an easy to use rate model in Excel (2011 Version or newer) that can be readily adjusted by the Town to take into account alternative scenarios or changes in conditions that arise after the study.
 4. Evaluate the benefits of changes to billing frequency.
 5. Present recommended Rate Schedule and supporting documentation to Streets and Utilities Committee
 6. Present recommended Rate Schedule and supporting documentation to Town Council and provide guidance and support to the Town Council during a public hearing.

Deliverables

- Complete asset inventory of water and wastewater system components
- Assessment of the condition of water and wastewater system components
- Risk of failure assessment of water and wastewater system components
- Anticipated project needs within 5, 10, and 20 year planning periods
- Preventive Maintenance and Replacement Schedule
- Rate Model Spreadsheet



117 East Piccadilly Street
Winchester, VA 22601
T: 540-667-2139
F: 540-665-0493

www.pennoni.com

6 November 2017

Mr. Keith Dalton
Town Manager
Town of Berryville
101 Chalmers Court
Suite A
Berryville, VA 22611

Re: Town of Berryville Water and Sewerage Systems – Proposed Utility Rate Study

Dear Mr. Dalton;

This letter contract proposal is in response to your request for a proposal to provide professional engineering services to perform a utility rate study for the Town of Berryville water and sewerage systems. Such a study necessarily requires the accumulation of a substantial quantity of data, both concerning the age and condition of the existing utility systems assets and infrastructure and existing patterns of water and sewer demand, and current utility revenue and expenditures. In addition to these essentially factual study components, assumptions must be made with respect to future patterns of growth and developments and water and sewer demand, both inside and possibly outside the existing service area.

The gathering of these data is by far the utility rate study component that requires the greatest time, effort, and money. At a previous meeting with your staff in mid-October Pennoni briefly examined the information that the Town has already accumulated and concluded that the burden of assembling the underlying data requirements for this study will be less severe than is usually the case.

All work under this contract will be performed in accordance with the requirements and standards of the Town of Berryville and the American Water Works Association Manual of Practice # M54, *Developing Rates for Small Systems, 2nd Ed.* In general, all analysis, planning, and report preparation for the project will be performed at the Pennoni City of Winchester office.

Effort and Compensation

Work under this contract will be performed on a time and materials expended basis and a provision not to exceed \$36,000.

The following specific project tasks are envisioned under this contract:

Preliminary Meeting With Town Representatives – Pennoni will meet with designated representatives of the Town governing officials and staff to explore and establish the basic studies and goals of the proposed study. Hopefully a consensus will be reached with respect to the general form of the future utility rates as well as the type and nature of reserves funding. The output of this task will be a memorandum detailing the discussions during the meeting and a summary of conclusions and understandings reached.

Data Gap Analysis – As noted, Pennoni believes that the Town has accumulated much of the data that will be needed to perform the study and, possibly, the updating of the water system hydraulic model. All the existing information will be assembled and organized and Pennoni will perform an analysis to determine what additional data, if any, is needed to complete the study. If any significant missing information is discovered, Pennoni will rely heavily on the Town's assistance in obtaining it. The output of this task will be a memorandum detailing and data gaps and assigning a responsible party to obtain the information.

Water and Sewer Demand Projections – Pennoni will prepare a long-term projection of probable water system demand and wastewater flow rates at 5-, 10-, 15-, and 20-year intervals. The projections will be based on information provided by the Town Planning and Public Utilities Departments. The output of this task will be a memorandum showing the underlying data and assumptions and the methodology used to generate the projections.

Evaluation of Assets – Pennoni will evaluate the age and condition of the water and wastewater system components and prepare an analysis of the remaining useful life of each component and any needed major maintenance that may be required over the next twenty-year period. Other work done under this task will also include a risk of failure assessment of the various water and wastewater system components. The analysis will also attempt to predict any mayor future regulatory requirement that could cause significant additional expenditures of capital or increases in operation and maintenance costs. The output of this task will be a report and an interactive spreadsheet that can be used by the town to adjust future capital and operational cost changes.

Analysis of Existing Financial Condition – Pennoni will examine existing utility budgets for the past few years, the existing rates structure, and bond repayment and other cash flow requirements. The output of this task will be a memorandum providing a long-term cash flow projection based on the previously amassed utility system data.

Creation of Utility Rate Computation Tool – Pennoni will develop an interactive spreadsheet with manual input options that will permit Town personnel to perform "what if" evaluations of varying rate structures, cost scenarios and financing strategies.

Comparative Rate Analysis – Pennoni will develop a memorandum comparing the Town's existing and proposed rates to those of other nearby, comparably sized, demographically similar communities or utilities.

Reserve Analysis – Pennoni will evaluate the need for and the size of a long term reserve account and make recommendations accordingly.

Report Preparation and Editing. – Pennoni will prepare a final report that incorporates the finding of the individual tasks into the overall study. The report will include an executive summary and a series of detailed findings, conclusions, and recommendations. Ten spiral bound copies of the report will be provided to the Town as well as two compact discs containing the full report and the data accumulated during the study.

Formal Presentation of Findings – Pennoni will prepare and make a formal presentation of the study findings in a forum of the Town's choice, including graphic and other informative presentation boards to improve the public understanding of the study conclusions and recommendations.

Water System Model Update – Pennoni prepared the current hydraulic model of the Berryville water system. The system needs to be updated and recalibrated to provide a useful tool for planning and review of additions and improvements to the Town water system. Using the updated physical information concerning the water system infrastructure Pennoni will update the geospatial and hydraulic components of the model. Pennoni will rely on Town personnel to do any required hydrant flow testing required to calibrate model. This task is presented as an optional item for the purposes of this contract. If the Town elects not to proceed with the water model update, the overall maximum cost will be adjusted accordingly.

Pennoni Associates proposes to perform the aforementioned tasks for the estimated time and material amounts as follows:

Consultation with Town Personnel	\$1,360
Data Gap Analysis	\$2,720
Water and Sewer Demand Projections	\$3,040
Evaluation of Assets	\$4,840
Analysis of Existing Financial Condition	\$2,800
Creation of Rate Computational Tool	\$1,520
Comparative Rate Analysis	\$1,520
Reserve Analysis	\$3,040
Report Preparation and Editing	\$4,740
Formal Presentation of Findings	\$2,900
Water System Hydraulic Model Update*	\$5,048
	TOTAL \$33,528
	10% Contingency \$3,353
	Total Estimated Effort \$36,881

* Optional Task

The estimated time of completion through the end of the site planning process is thirteen weeks, exclusive of any non-routine review and comment time by Town review personnel.

It is possible that other tasks under this contract may arise in the course of the evaluation and design process. At the specific authorization of the Town we propose to perform these additional tasks in accordance with the schedule of time and materials costs attached to this contract, or in accordance with a mutually negotiated lump sum amount.

The work above will be performed pursuant to the conditions defined by Pennoni's General Terms and Conditions, attached hereto as "Attachment A" and is made a part of this proposal. The scope of services for this project, and the corresponding fees, are shown above. Hourly efforts and reimbursable expenses shall be compensated in accordance with Pennoni's current Hourly Rate Schedule (Attachment B).

If this proposal is acceptable, please so indicate in the space provided below, the corporation, partnership, or other entity, authorized to transact business in the Commonwealth of Virginia, which will be a party to this agreement, provide the signatures of its authorized representative and return one executed copy. The executed proposal will serve as our agreement for professional services to be rendered and shall be interpreted in accordance with the laws of the Commonwealth of Virginia.

PENNONI ASSOCIATES Inc.



Earl Sutherland, PE
Associate Vice President

Enclosures - Attachment A
Attachment B

Acknowledged and accepted this _____ day of _____, 2017.

By:

Signature Title

For: _____
Town of Berryville



PENNONI ASSOCIATES INC. GENERAL TERMS & CONDITIONS

1. Unless withdrawn sooner, proposals are valid for thirty (30) days.
2. The technical and pricing information in proposals is the confidential and proprietary property of Pennoni Associates Inc. ("Pennoni") or any Pennoni subsidiary or affiliate. Client agrees not to use or to disclose to third parties any technical or pricing information without Pennoni's written consent.
3. The agreement created by the Client's acceptance of a proposal and these Terms & Conditions is hereinafter referred to as the "Agreement." If a proposal is submitted to Client and Client fails to return a signed copy of the proposal but knowingly allows Pennoni to proceed with the services, then Client shall be deemed to have accepted the terms of the proposal and these General Terms & Conditions. If there is a conflict or inconsistency between any express term or condition in the proposal and these General Terms & Conditions, then the proposal shall take precedence. The proposal and these General Terms & Conditions constitute the entire Agreement, and supersede any previous agreement or understanding.
4. Payment is due upon receipt of invoices as submitted. If Client chooses to make any payment via major credit card, Client agrees to pay a 3% surcharge or 1.03 times the total amount invoiced. Client agrees to pay interest at the rate of 1½ percent per month on invoices that are more than 30 days past due. If an invoice is 30 or more days past due, then Pennoni may suspend services and refuse to release work on this Agreement or any other agreement between Client and Pennoni until Client has paid all amounts due. Unless Pennoni receives written notice of Client's dispute of an invoice within 30 days of the invoice date, the invoice will be presumed correct. If payment is not made in accordance with the Agreement, then Client agrees to pay reasonable costs and attorney's fees incurred by Pennoni to collect payment.
5. All drawings, sketches, specifications and other documents ("Documents") in any form, including electronic, prepared by Pennoni are instruments of Pennoni's services, and as such are and shall remain Pennoni's property. Upon payment in accordance with the Agreement, Client shall have the right to use and reproduce the Documents solely for the purposes of constructing, remediating, using or maintaining the project contemplated by the Agreement ("Project"). The Documents are prepared for use on this Project only, and are not appropriate for use on other projects, any additions or alterations of the Project, or completion of the Project by others. Client shall not use the Documents in violation of this paragraph without Pennoni's express written consent; and such use is at the Client's sole risk. Client agrees to indemnify, defend and hold harmless Pennoni from any claims, damages, losses, liabilities and expenses arising from such prohibited use.
6. The proposed fees and schedule constitute Pennoni's best estimate of the charges and time required to complete the Project. As the Project progresses, facts uncovered may dictate revisions in scope, schedule or fee. The hourly rate schedule for services provided on a time and material basis will be subject to increases annually.
7. Fee and schedule commitments will be subject to change for delays caused by Client's failure to provide specified facilities or information, or for delays caused by third parties, unpredictable occurrences or force majeure.
8. Where the method of payment is based on time and materials, Client agrees that the following will apply: The minimum time segment for charging work is one-quarter hour, except the minimum time segment for charging of field survey work is four (4) hours. Client reimbursable expenses include travel and living expenses of personnel when away from the home office on business connected with the Project; subcontractor and subconsultant costs; identifiable communications, mailing and reproduction costs; identifiable drafting and stenographic supplies; and expendable materials and supplies purchased specifically for the Project. A ten (10) percent administrative and handling charge will be added to client reimbursable expenses.
9. Client's termination of this Agreement will not be effective unless Client gives Pennoni seven (7) days prior written notice with accompanying reasons and details, and affords Pennoni an opportunity to respond. Where the method of payment is "Lump Sum," Client agrees that the final invoice will be based on services performed to the effective date of cancellation, plus an equitable adjustment to provide for costs Pennoni incurred for commitments made prior to cancellation. Where the method of payment is time and materials, Client agrees that the final invoice will include all services and direct expenses up to the effective date of cancellation plus an equitable adjustment to provide for costs Pennoni incurred for commitments made prior to cancellation.
10. Pennoni will maintain at its own expense Workman's Compensation insurance, Commercial General Liability insurance, and Professional Liability insurance.

11. Neither the Client nor Pennoni shall assign this Agreement without the written consent of the other.
12. Pennoni does not represent or warrant that any permit or approval will be issued by any governmental or regulatory body. Pennoni will endeavor to prepare applications for such permit or approval in conformance with applicable requirements; but, in view of the complexity of and the frequent changes in applicable rules and regulations and interpretations by the authorities, Pennoni cannot guarantee that any such application will be considered complete or will conform to all applicable requirements.
13. Pennoni will perform its work in accordance with generally accepted professional standards. THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED. This Agreement is solely for the benefit of the Client and its successors. There is no third-party beneficiary of this Agreement.
14. CLIENT AND PENNONI HAVE CONSIDERED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, AS WELL AS PENNONI'S TOTAL FEE FOR SERVICES. CLIENT AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, PENNONI'S TOTAL AGGREGATE LIABILITY (INCLUDING THE LIABILITY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS AND CONSULTANTS) TO THE CLIENT (AND ANYONE CLAIMING BY, THROUGH OR UNDER THE CLIENT) FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES OR DAMAGES ARISING OUT OF THIS AGREEMENT FROM ANY CAUSE OR CAUSES IS LIMITED TO THE TOTAL FEE RECEIVED BY PENNONI UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS GREATER. SUCH CAUSES INCLUDE, BUT ARE NOT LIMITED TO, PENNONI'S NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, OR BREACH OF CONTRACT OR WARRANTY.

IN THE EVENT THE CLIENT IS UNABLE TO ACCEPT THE ABOVE LIMITATION OF LIABILITY, PENNONI AGREES TO INCREASE THE LIMITATION TO \$1,000,000 UPON ITS RECEIPT, PRIOR TO PERFORMING ANY SERVICES, OF CLIENT'S WRITTEN AGREEMENT TO PAY AN ADDITIONAL SUM OF NOT LESS THAN 10% OF THE TOTAL FEE UNDER THIS AGREEMENT OR \$1,000, WHICHEVER IS GREATER.

15. Client shall make no claim against Pennoni unless the Client first provides a written certification, executed by an independent design professional, specifying those acts or omissions which the independent design professional contends is a violation of generally accepted professional standards and upon which the claim will be premised. The independent design professional must be licensed to practice in the state where the Project is located and in the discipline related to the claim. Client agrees that the independent design professional's certification is a condition precedent to the Client's right to institute any judicial proceeding.
16. If required under the scope of services, Pennoni shall visit the Project site to become generally familiar with the progress and quality of the work for which Pennoni prepared contract documents, and Pennoni shall not make exhaustive or continuous onsite inspections. Pennoni's services do not include supervision or direction of the contractor's work. Observation by Pennoni field representatives shall not excuse the contractor for defects or omissions in its work. Pennoni shall not control construction means, methods, techniques, sequences, or procedures, and the contractor is solely responsible for all work on the Project, including safety of all persons and property.
17. If Client does not retain Pennoni to render construction phase services, then Client waives any claim it may have against Pennoni and agrees to indemnify, defend, and hold harmless Pennoni from any loss or liability, including attorneys fees and other defense costs, arising out of or related to the interpretation of Pennoni's plans and specifications, the review of shop drawings, the evaluation of contractor's request for change orders, or the failure to detect and correct obvious errors or omissions in Pennoni's plans and specifications.
18. Unless and until a court determines that Pennoni's preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, specifications and/or Pennoni's giving or failure to give instructions is the primary cause of any damage, claim, loss or expenses, Client shall indemnify, defend and hold harmless Pennoni and its officers, employees and consultants from and against all damages, claims, losses or expenses, including reasonable attorneys fees and other costs of defense, arising out of this Agreement. In the event the Client is required to defend Pennoni under this paragraph, Pennoni shall have the right to select its attorneys.
19. Client agrees to pay reasonable expert witness fees if Pennoni or any of its employees is subpoenaed to testify as a fact or opinion witness in any court proceeding, arbitration, or mediation to which the Client is a party.
20. Unless otherwise provided in this proposal, Pennoni shall have no responsibility for the discovery, presence, handling, removal, or disposal of hazardous materials or underground structures at the Project site.
21. Client and Pennoni waive consequential damages arising out of this Agreement.
22. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.
23. Both Pennoni and Client agree to waive the right to subrogation for covered losses and each shall obtain similar waivers from Owner, subcontractors, property and casualty insurers, and any other party involved in this Project.

Billing Rates

Pennoni – Virginia 2017 SCHEDULE OF FEES

Pennoni provides engineering consulting services to its clients in accordance with the terms and conditions of our contract. Pennoni's compensation will be based on the following schedule of fees and charges unless our contract specifies otherwise.

LABOR CATEGORY	RATES: \$/HOUR
Principal Professional.....	\$190
Senior Professional	\$160
Project Professional	\$150
Staff Professional	\$142
Associate Professional	\$134
Graduate Professional	\$105
Technician III	\$ 95
Technician II	\$ 88
Technician I	\$ 80
Survey Crew	\$145
Senior Field Technician	\$ 85
Field Technician	\$ 60
Laboratory Technician	\$ 75
Building Code Official.....	\$ 90
Project Assistant	\$ 80

- Add 15% to above Survey Crew rates when OSHA 40-hour training required
- Technical Support/Expert Testimony Fee provided upon request
- 3 Person Survey Crew rates provided upon request

“Professional” includes all disciplines (Engineer, Landscape Architect, Surveyor, Geologist, etc.)

EXPENSES:

Pennoni does not bill for routine office management or accounting services; however, direct expense charges described below are subject to an additional administrative and handling fee as indicated:

- Subconsultant/Subcontractor services: cost plus 20%
- Project Related Travel and Living Expenses: cost plus 10%
- Field Equipment, Expendable Materials/Supplies and Outside Reproduction): cost plus 10%
- Passenger Vehicles: per IRS standard rate
- Communication Fee: 2% of billable labor. Includes cost for non-deliverable in-house photocopies, non-express postage and telephone/fax/computer.