

**BERRYVILLE TOWN COUNCIL
MEETING AGENDA
Regular Meeting
Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
Main Meeting Room
Tuesday, October 9, 2018
7:30 p.m.**

<u>Item</u>	<u>Attachment</u>
1. Call to Order – Patricia Dickinson, Mayor	
2. Pledge of Allegiance	
3. Approval of Agenda	
4. Public Hearing	
Amendments to Town Charter	1
The Council of the Town of Berryville proposes to recommend to the Commonwealth of Virginia the amendment of its Charter.	
The Council will also receive public comment on:	
Amendments to Berryville Code Chapters 1, 2, & 3	2
Proposed amendments to Chapters 1, 2, & 3 of the Berryville Code.	
5. Citizens' Forum	
6. Consent Agenda	
Motion	3 ↓
- Minutes of Regular Meeting – 09/11/18	
- Minutes of Work Session – 09/05/18	
- Minutes of Budget and Finance Committee – 08/23/18 & 09/27/18	
- Minutes of Community Development Committee – 09/24/18	
- Minutes of Public Safety Committee 09/26/18	
- Minutes of Streets and Utilities Committee 8/28/18	
7. Report of Patricia Dickinson, Mayor	
Resolution honoring FISH for 50 years of service to the community	4 ↑

<u>Item</u>	<u>Attachment</u>
8. Report of Harry Lee Arnold, Jr., Recorder	
Town Brochures/Mailers	5
9. Report of Christy Dunkle, Asst. Town Manager for Community Development	
Monthly report	6↓
10. Report of Keith Dalton, Town Manager	
Amendment to Town Charter	7↓
Town Code Chapters 1-3	8↓
11. Report of Erecka Gibson – Chair, Budget and Finance Committee	
Report of Desiree Moreland, Treasurer	9
Bank Account Policy	10↓
12. Report of Kara Rodriguez – Chair, Community Development Committee	
13. Report of Donna McDonald – Chair, Public Safety Committee	
Report of Neal White, Chief of Police	11↓
14. Report of Diane Harrison – Chair, Streets and Utilities Committee	
Report of David Tyrrell, Public Utilities Director	12
Report of Rick Boor, Public Works Director	13
15. Report of Harry Lee Arnold, Jr. – Chair, Personnel, Appointments and Policy Committee	
16. Other –	
17. Closed Session – No closed session scheduled.	
18. Adjourn -	

Attachment 1

October 9, 2018 Report

Notice of this public hearing was published along with notice of the public comment period for the proposed amendments to the Town Code.

No comments have been received as of the writing of this report.

If the Town Council approves of these changes the matter will be forward to the General Assembly. If approved by the General Assembly, then the revised charter would become effective on July 1, 2019.

Attachments

- Public Hearing notice
- New draft from legal counsel (mark up)
- Motion for adoption of the resolution requesting adoption of the revised charter
- Resolution requesting adoption of revised charter
- New draft from legal counsel (version with mark ups removed)

Recommended Action

Adopt a motion approving a resolution requesting that the General Assembly amend the Town Charter.

September 11, 2018 Report

At the August 20 work session, the Town Council reviewed the draft Town Charter and Town Code Chapters 1-3 with legal counsel and staff. Legal counsel amended the documents in accordance with the comments he received. In accordance with Council's wishes, legal counsel has provided versions of the Town Charter and Town Code Chapters 1 – 3 showing markups only from the work session.

It is important to note that prior to publication of the public hearing notice, Section 1.2 of the Charter will have been completed. As you will recall, staff and legal counsel are completing this section that establishes the Town's boundaries.

Attachments

- New drafts from legal counsel

Recommended Action

Set public hearing on these matters for October 9.

August 20, 2018 Report

At the August 14 Town Council meeting, the Council discussed comments that had been generated after review of drafts of the Town Charter and Town Code Chapters 1-3.

Staff met with legal counsel regarding Council's discussion and new drafts have been generated. Those drafts are attached to this report.

Legal counsel will be present at the work session to answer any questions the Council has about the drafts.

Attachments

- New drafts from legal counsel
- Packet provided to Town Council on August 14

Recommended Action

Review revised documents and provide staff and legal counsel with guidance regarding changes to be made to the draft that will be discussed at the September 11, 2018 Town Council meeting. Note: It is expected that the Town Council will set a public hearing for the October Town Council meeting.

August 14, 2018 Report

After the April 10 Town Council meeting, staff has worked with legal counsel to develop drafts of the following: Town Charter, Town Code Chapter 1, Town Code Chapter 2, and Town Code Chapter 3. Drafts of these documents were submitted to the Town Council for comment.

A work session has been scheduled for August 20, 2018 at 5:00 pm to review the documents in question with legal counsel and staff.

It is expected that the Town Council will review this matter further at its regular meeting in September. Further, it is expected that the Town Council will set a public hearing on this matter for its regular meeting in October.

Attachments

- Packet provided to Town Council on July 13
- Review comments provided on drafts

Action

Provide staff and legal counsel with any guidance the Town Council deems necessary prior to the August 20 work session.

April 10, 2018 Report

History

The Police and Security Committee, which has been working its way through the Town Code for the past 5 years in order to recommend necessary revisions, has discussed the idea of revising the Town Charter.

Mayor Dickinson introduced the idea of seeking revision of Section 3.12 in order to eliminate the requirement that the Council meet every month. She suggests that since there are times, particularly in the late summer, when agendas are lean and vacations and the like make scheduling a challenge. The Mayor notes that eliminating the meeting requirement does not preclude meeting at any given time but merely gives the Council flexibility.

Staff has reviewed the Charter, which was last revised in 1994, and there are quite a few elements that should be amended. Staff also notes that the idea of changing the title of the Recorder position has also

been floated in years past. Staff discussed this with Recorder Arnold and he remains interested in discussing the idea.

Process

The Town Council, after holding a public hearing, would approve a resolution proposing charter amendments for adoption by the General Assembly. This will need to happen prior on or before the October 2018 Town Council meeting.

The General Assembly would take the matter up during its session (begins in January) and if approved by the House, Senate, and Governor, the amendments would become effective on July 1, 2019.

Staff Recommendation

Staff recommends following the course outlined below:

- 4/11/18 - 5/15/18 Staff review of Charter

- 5/16/18 – 6/15/18 Staff review of Charter with legal counsel

- 7/10/18 Submission of draft to Town Council

- 8/14/18 Town Council review

- 8/15/18 – 9/5/18 Staff review of Charter and TC comments with legal counsel

- 9/11/18 Town Council review / Set Public Hearing

- 10/9/18 Town Council Public Hearing and vote

- 11/13/18 Town Council approves minutes of 10/9/18 meeting

- 11/16/18 Submission to Delegate LaRock (who would carry the matter) and Senator Vogel

**TOWN OF BERRYVILLE
TOWN COUNCIL
PUBLIC HEARING NOTICE**

The Berryville Town Council will hold the following public hearing at 7:30 p.m., or as soon after as this matter may be heard, on **Tuesday, October 9, 2018**, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

Amendments to Town Charter

The Council of the Town of Berryville proposes to recommend to the Commonwealth of Virginia the amendment of its Charter. The proposed amendments include: updating the description of the corporate limits of the Town to reflect annexations since 1972; changing the title of the Recorder to Vice-Mayor, eliminating the criminal and expulsion punishment for Council interference with staff; eliminating the requirement that the Council meet every month; clarifying terms to which employees are appointed by Council; eliminating antiquated language regarding Town Courts and Town sergeant; clarifying language regarding actions against the Town for damages to conform the provisions of the Virginia Code; eliminating miscellaneous language regarding Council action in matters in which the Planning Commission recommends denial and applicability of Town ordinances outside of the Town; updating cross-references to the Code of Virginia; and utilizing gender-neutral language.

The Council will also receive public comment on:

Amendments to Berryville Code Chapters 1, 2, & 3

Proposed amendments to Chapters 1, 2, & 3 of the Berryville Code. The proposed amendments include: clarifying language regarding designation of an acting town manager; expanding the enumerated Town departments and establishing department head and departmental responsibilities to mirror current administrative structure; reducing the ultimate size of the Planning Commission's membership; eliminating the possibility of administrative staff being appointed to the Planning Commission; eliminating the requirement that a permit be issued for distribution of handbills; updating cross-references to the Code of Virginia; and utilizing gender-neutral language.

Copies of materials pertinent to these items may be examined at the Town of Berryville Business Office, Berryville-Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia, during regular business hours, holidays excepted. Additional information may be obtained by calling the Town Business Office at (540) 955-1099.

Any person desiring to be heard regarding the above matters should appear at the appointed time and place. Written copies of statements at public hearings are requested but not required.

The Town of Berryville does not discriminate against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

98/17/1808/22/1809/28/18

AMENDED AND RESTATED CHARTER OF THE
TOWN OF BERRYVILLE, TOWN OF

Established 1798.

Moved from County of Frederick to County of Clarke, 1841.

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Incorporation and Charter, 1870, c. 366; repealed, 1898, c. 819.

Charter, 1898, c. 819; repealed, 1971, c. 112.

Charter, 1971, c. 112.

Amended 1972, c. 29 (§ 3.2)
1994, c. 324 (§§ 2.3, 4.2, 7.1, 7.3).

CHAPTER 1.

INCORPORATION AND BOUNDARIES.

§ 1.1. Incorporation.--The inhabitants of the territory comprised within the present limits of the town of Berryville, as such limits are now or may hereafter be altered and established by law, shall constitute and continue a body politic and corporate to be known and designated as the town of Berryville, and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, review or amend at its pleasure by proper ordinance. ~~(1971, c. 112)~~

§ 1.2. Boundaries.--The corporate boundaries of the town of Berryville shall be as follows:

Beginning at a pipe in the west side of North Buckmarsh Street (U.S. Route No. 340), such point being at the intersection of the west right-of-way line of North Buckmarsh Street and an extension of the north lot line of the Episcopal parsonage; thence along the west right-of-way line of North Buckmarsh Street, N 27° 43' E. a distance of 634.47 feet to a pipe; thence N. 45° 42' W. 2241.36 feet along the rear lot lines on the north side of Walnut Street to a pipe; thence S. 56° 34' 30" W. a distance of 160.38 feet to a pipe; thence S. 45° 45' 30" W. a distance of 4490.77 feet to a pipe in the

orchard of H. F. Byrd, such line crossing West Main Street (Va. Route 7); thence, still through the orchards of H. F. Byrd and other properties, S. 57° 25' E. a distance of feet to a spike in the center line of South Church Street; thence S. 53° 42' E. a distance of 1736.86 feet to a pipe, such line crossing the Norfolk and Western Railway right-of-way; thence along a 13° 13' curve, parallel to the Norfolk and Western Railway, such curve having a tangent bearing of N. 62° 10' E. and a tangent distance of 250.80 feet to a pipe and point of intersection; thence still parallel to the Norfolk and Western Railway N. 49° 03' E. a distance of 2484.97 feet to a point of intersection of a 15° 38' curve, the corporate limits following the curve; thence N. 64° 44' E. a distance of 585.77 feet to a pipe; thence N. 49° 41' W. a distance of 3315.36 feet to a pipe and the place of beginning. (1971, c. 112)

plus the following additions:

Annexation Area A

Adopted 12/29/88

Effective 1/1/89

Acreage 350 acres

Deed Book Reference DB 193 Pg 226

Annexation Area B1

Adopted 11/10/92

Effective 1/1/93

Acreage 7.691 acres

Deed Book Reference DB 227 Pg 779

Annexation Area B2

Adopted 11/9/93

Effective 1/1/94

Acreage 8.965 acres

Deed Book Reference DB 237 Pg 794

Annexation Area B3

Adopted 11/21/95

Effective 1/1/96

Acreage 63.0898 acres

Deed Book Reference DB 258 Pg 156

Annexation Area B4
Adopted 11/11/97
Effective 1/1/98
Acreage 10.5316 acres
Deed Book Reference DB 279 Pg 257

Annexation Area B5
Adopted 11/9/1999
Effective 1/1/2000
Acreage 196.5 acres
Deed Book Reference DB 308 Pg 685

Annexation Area B6
Adopted 11/12/02
Effective 1/1/03
Acreage 114.38 acres
Deed Book Reference DB 364 Pg 501

Annexation Area B7
Adopted 11/9/04
Effective 1/1/05
Acreage 42.2588 acres
Deed Book Reference DB 421 Pg 722

Annexation Area B8
Adopted 11/14/06
Effective 1/1/07
Acreage 41.81 acres
Deed Book Reference DB 472 Pg 284

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§ 1.3. Wards.--The town of Berryville shall be divided into four wards. The boundaries of such wards shall be established by the town council by ordinance. ~~(1971, e. 112)~~

CHAPTER 2.

POWERS.

§ 2.1. General grant of powers.--The town of Berryville shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to

towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this charter shall be held to be exclusive, and the town shall have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all the duties and obligations, now appertaining to and incumbent on the town as a municipal corporation. ~~(1971, c. 112)~~

§ 2.2. Adoption of certain sections of Code of Virginia.--The powers set forth in §§ ~~15.1-837~~1100 through ~~15.1-915~~1133, both inclusive, of Chapter ~~18~~1 of Title ~~15.1~~ of the Code of Virginia, as in force on January 1, ~~1971~~2019, are hereby conferred on and vested in the town of Berryville. ~~(1971, c. 112)~~

§ 2.3. Eminent domain.--The powers of eminent domain set forth in ~~Title 15.1~~Chapter 19 of Title 15.2, Title ~~25.1~~25.1, and Chapter ~~10 of Title 33.2~~10 of Title 33.1 and §§ ~~33.1-121 through 33.1-132~~33.1-121 through 33.1-132, Chapter ~~1~~1, of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, mutatis mutandis, are hereby conferred upon the town of Berryville subject to the provisions of § ~~25.1-233~~25.1-233.

(a) In any case in which a petition for condemnation is filed by or on behalf of the town, a true copy of a resolution or ordinance duly adopted by the town council declaring the necessity for any taking or damaging of any property, within or without the town, for the public purposes of the town, shall be filed with the petition and shall constitute sufficient evidence of the necessity of the exercise of the powers of eminent domain by the town. The town may employ the procedures conferred by the foregoing laws, mutatis mutandis, and may, in addition thereto, proceed as hereinafter provided.

(b) Certificates issued pursuant to §§ ~~33.1-121~~33.1-1019 to ~~33.1-132~~33.1-2029, inclusive, Code of Virginia, as amended, and acts amendatory thereof and supplemental thereto,

may be issued by the town council, signed by the mayor and countersigned by the town treasurer. Such certificate shall have the same effect as certificates issued by the Commonwealth Transportation Commissioner, under the aforesaid laws, and may be issued in any case in which the town proposes to acquire property or interest therein by the exercise of its powers of eminent domain for any lawful public purpose, whether within or without the town; provided, that the condemnation authority shall be subject to the provisions of §

~~25-233~~25.1-200 of the Code of Virginia.

(c) In addition to the powers conferred by the aforesaid laws, such certificates may be amended or canceled by the court having jurisdiction of the proceedings, upon petition of the town, at any time after the filing thereof; provided, that the court shall have jurisdiction to make such order for the payment of costs and damages, if any, or the refund of any excessive sums theretofore paid pursuant to such certificate as shall, upon due notice and hearing, appear just. The court shall have jurisdiction to require refunding bonds, for good cause shown by the town or any other person or party in interest, prior to authorizing any distribution of funds pursuant to any certificate issued or deposit made by the town. (1971, c. 112; 1994, c. 324)

CHAPTER 3.

MAYOR, ~~RECORD~~VICE MAYOR, AND COUNCIL.

§ 3.1. Composition of council; qualifications of mayor, ~~reecord~~vice mayor, and council~~men--~~ members --

-The town of Berryville shall be governed by a town council composed of the mayor, the ~~reecord~~vice mayor, and four council~~men--~~ members. The mayor, ~~reecord~~vice mayor, and council ~~men~~members shall be residents and qualified voters of the town. The mayor and ~~reecord~~vice mayor shall be elected from the town at large. The four council ~~men~~members

shall reside one in each ward of the town, but shall be elected by all of the qualified voters of the town. (1971, c. 112)

§ 3.2 Office of vice mayor/office of recorder – The office of vice mayor shall become effective on July 1, 2022, and the office of recorder shall remain effective until July 1, 2022.

§ 3.23. Election and term of office of mayor, ~~reeorder~~vice mayor, and councilmen-- members -- Elections for mayor, ~~reeorder~~vice mayor, and councilmen members shall be held on the first Tuesday in May of each even-numbered year. On the first Tuesday in May, ~~1972~~2020, a mayor and council ~~men~~members from Wards 1 and 3 shall be elected for a term of four years; ~~and a recorder and councilmen from Wards 2 and 4 shall be elected for a term of two years.~~ On the first Tuesday in May, ~~1974~~2022, a ~~reeorder~~vice mayor and councilmen members from Wards 2 and 4 shall be elected for terms of four years. ~~Thereafter, the mayor, recorder and all councilmen shall be elected for terms of four years.~~ (1971, c. 112; 1972, c. 29)

§ 3.34. When terms of office to begin.--The terms of office for the mayor, ~~reeorder~~vice mayor, and council ~~men~~members shall begin on the first day of July next following their election. (1971, c. 112)

§ 3.45. Oath of office.--The mayor, ~~reeorder~~vice mayor, ~~and councilmen~~ members shall each, before entering upon the duties of their office, make oath or affirmation that they will truly, faithfully, and impartially discharge the duties of their offices to the best of their abilities, so long as they shall continue therein. (1971, c. 112)

§ 3.56. Vacancies in office.--Vacancies in the office of mayor, ~~reeorder~~vice mayor, or councilman member shall be filled within forty-five days for the unexpired terms by a majority vote of the remaining members of the town council. (1971, c. 112)

§ 3.67. When new election for mayor, ~~reeordervice mayor~~, or councilman member required.--If any person who shall have been duly elected mayor, ~~reeordervice mayor~~, or councilman member shall not be eligible, as herein prescribed, or shall refuse to take the oath or affirmation required under this Charter within two weeks from the day of the beginning of ~~his~~the term of office, the town council shall declare ~~his~~the office vacant, and shall order a new election for mayor, ~~reeordervice mayor~~, or councilman member as the case may be. (1971, e. 112)

§ 3.78. Powers and duties of mayor.-- The mayor shall be a member of the town council, shall preside over the meetings of the town council, and shall have the same right to speak and vote therein as other members of the town council. ~~The mayor shall preside over the meetings of the town council and shall have the same right to speak and vote therein as other members of the town council. He~~The mayor shall be recognized as the head of the town government for all ceremonial purposes, for the purposes of military law, and for the service of civil processes. The mayor shall have no power of veto over the ordinances and resolutions of the town council. (1971, e. 112)

§ 3.89. Powers and duties of ~~reeordervice mayor~~; ~~reeordervice mayor~~ to act as mayor during absence, disability, etc., of mayor.--The ~~reeordervice~~ mayor shall be a member of the town council and shall have the same right to speak and vote therein as other members of the town council.~~The recorder shall be a member of the town council and shall have the same right to speak and vote therein as other members of the town council. The recorder shall keep the journal of the proceedings of the town council and have charge of and preserve the records of the town.~~ In the absence from the town, or disqualification, inability, or sickness of the mayor, or during any vacancy in the office of mayor, the ~~reeordervice mayor~~ shall perform the duties of the mayor and be vested with all ~~his~~ powers of the mayor. The recorder shall have the powers and duties of the
4/5/1994 7

vice mayor as set forth above until July 1, 2022.-(1971, c. 112)

§ 3.910. Absence or disability of mayor and ~~reeordervice mayor~~.--If both the mayor and ~~reeordervice mayor~~ are absent or unable to act, the town council shall, by a majority vote of the members present, elect from its members a person to serve as acting mayor until either the mayor or ~~reeordervice mayor~~ is present and able to act. The person so elected shall possess the powers and discharge the duties of the mayor during such period of time. (1971, c. 112)

§ 3.101. Council a continuing body.--The town council shall be a continuing body, and no measures pending before such body, or any contract or obligation incurred by it, shall abate or be discontinued by reason of the expiration of the term of office or removal of any of its members. (1971, c. 112)

§ 3.142. General grant of powers to council.--The town council shall have all powers and authority that are now or may hereafter be granted to councils of towns by the general laws of the Commonwealth and by this charter, and the recital of special powers and authorities herein shall not be taken to exclude the exercise of any power and authority granted by the general laws of the Commonwealth to town councils, but not herein specified. (1971, c. 112)

§ 3.123. Meetings of council.--The town council shall fix the time of their ~~stated regular meetings, meetings, and they shall meet at least once a month~~. Special meetings may be called at any time by the mayor or by three members of the town council; provided, that all members shall be duly notified a reasonable period of time prior to any special meeting. (1971, c. 112)

§ 3.134. Quorum; reconsideration of action.--Three members of the town council shall constitute a quorum for the transaction of business. No vote taken at any meeting

shall be reconsidered or rescinded at any subsequent special meeting unless at such special meeting there are as many members of the town council present as were present when such vote was taken. ~~(1971, c. 112)~~

§ 3.145. Rules of order and procedure.--The town council shall establish its own rules of order and procedure, and may punish its own members and other persons for violations thereof. ~~(1971, c. 112)~~

§ 3.156. Council to fix salaries.--The town council is hereby authorized to fix the salaries of each of the members of the town council, members of boards or commissions, and all appointed officers. The salaries of the mayor, ~~reorder~~ vice mayor, and council ~~men~~ members shall not be changed during the term for which they were elected. ~~(1971, c. 112)~~

CHAPTER 4.

TOWN MANAGER.

§ 4.1. Appointment and qualifications.--There shall be a town manager, who shall be the executive officer of the town and shall be responsible to the town council for the proper administration of the town government. ~~He~~ The town manager shall be appointed by the town council for an indefinite term, ~~and -He shall serve at the pleasure of the town council.~~ The town manager shall be chosen solely on the basis of ~~his~~ executive and administrative qualifications, with special reference to ~~his~~ actual experience in or knowledge of accepted practice in respect to the duties of ~~his~~ the office. At the time of ~~his~~ the appointment, ~~he~~ the town manager need not be a resident of the town or the Commonwealth, but during ~~his~~ the tenure of office, ~~he~~ shall reside within Clarke County. ~~(1971, c. 112)~~

§ 4.2. Duties.--It shall be the duty of the town manager to:

(a) Attend all meetings of the town council, with the right to speak but not to vote.

(b) Keep the town council advised of the financial condition and the future needs of the town and of all matters pertaining to its proper administration, and make such recommendations as may seem ~~to him~~ desirable.

(c) Prepare and submit the annual budget to the town council and be responsible for its administration after its adoption.

(d) Present adequate financial and activity reports as required by the town council.

~~(e)~~ Arrange for an annual audit by a certified public accountant, the selection of whom shall be approved by the town council.

~~(e)~~(f) Be responsible for supervision of all town employees.

~~(f)~~(g) Perform such other duties as may be prescribed by this charter or required of ~~him~~the town manager in accordance therewith by the town council or which may be required of the chief executive officer of a town by the general laws of the Commonwealth, other than the duties conferred on the mayor by this charter.

~~(1971, c. 112; 1994, c. 324)~~

§ 4.3. Powers as to town officers and employees.--All officers and employees of the town, except those appointed by the town council pursuant to this charter or the general laws of the Commonwealth, shall be appointed and may be removed by the town manager, who shall ~~report~~advise the town council of each appointment or removal ~~to the town council at the next meeting thereof~~promptly following any such appointment or removal. ~~(1971, c. 112)~~

§ 4.4. Temporary transfer of personnel between departments.--The town manager shall have power, whenever the interests of the town require, irrespective of any other provisions of this charter, to assign employees of any department, bureau, office, or agency to the temporary performance of duties in another department, bureau, office, or

agency. (1971, c. 112)

§ 4.5. Council not to interfere in appointments or removals; relationship with council.--Neither the town council nor any of its members, including the mayor and vice mayor, shall direct or request; the appointment of any person to or ~~his~~-removal from any office or employment by the town manager or by any ~~of his~~-subordinates or in any way take part in the appointment or for removal of officers and employees of the town, except as specifically provided in this charter. Except for the purpose of inquiry, the town council and its members shall deal with the administrative services solely through the town manager, and neither the town council nor any member thereof shall give orders, either publicly or privately, to any subordinate of the town manager. ~~Any councilman violating the provisions of this section or voting for a motion, resolution or ordinance in violation of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to be a councilman.~~ (1971, c. 112)

§ 4.6. Relations with boards, commissions and agencies.--The town manager shall have the right to attend and participate in the proceedings of, but not vote in, the meetings of all boards, commissions, or agencies created by this charter or by ordinance and any other board or commission the town council may designate. (1971, c. 112)

§ 4.7. Acting town manager.--The town council shall designate by resolution a person to act as town manager in case of the extended absence, incapacity, death, or resignation of the town manager, until ~~his~~the town manager's return to duty or the appointment of ~~his~~a successor. (1971, c. 112)

CHAPTER 5.

APPOINTIVE OFFICERS.

§ 5.1. Appointment.--The town council may appoint ~~such~~the following officers of the town as they may deem necessary. ~~Such officers may include, but shall not be limited to, a town manager, a town attorney, a town treasurer, a town assessor, a judge of the municipal court and justices of the peace, assistant town manager for~~ administration/treasurer, assistant town manager for community development/operations, and town attorney. ~~Such officers shall be appointed for an indefinite term, and shall serve at the pleasure of the town council.~~ The enumeration of officers in this section shall not be construed to require the appointment of any of such officers herein named. Officers appointed by the town council shall perform such duties as may be specified ~~in this charter~~ by the town council. (1971, c. 112)

§ 5.2. Deputies and assistants.--The town council may ~~appoint such deputies and assistants to~~ establish a deputy or assistant position for the appointive offices as the town council may deem necessary. ~~(1971, c. 112)~~ The town manager shall appoint and supervise such deputies and assistants.

§ 5.3. Term of office.--~~Officers and deputy and assistant officers appointed by the town council shall be appointed for a term of two years, unless otherwise provided by this charter or by ordinance of the town council. Such term shall begin on the first day in July in each even-numbered year.~~ (1971, c. 112)

§ 5.4. Vacancies in office.--The town council shall fill any vacancy in any ~~appointive office for the remainder of the unexpired term.~~ (1971, c. 112)

§ 5.5. Appointment of one person to more than one office.--The town council may appoint the same person to more than one appointive office, at the discretion of the

town council. (1971, c. 112)

CHAPTER 6-

COURTS.

~~§ 6.1. Municipal court established; jurisdiction of court.--There is hereby established a municipal court, which shall be known as the Municipal Court of Berryville. Jurisdiction of the municipal court shall be as provided in § 16.1-124 of the Code of Virginia. (1971, c. 112)~~

~~§ 6.2. Judge of municipal court; substitute judge.--The judge of the municipal court shall be appointed by the town council. The town council may appoint a substitute judge to serve during the absence or inability to act of the judge of the municipal court. (1971, c. 112)~~

~~§ 6.3. Clerk of the municipal court.--The clerk of the municipal court shall be appointed by the town council. (1971, c. 112)~~

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CHAPTER

7.6

FINANCIAL PROVISIONS.

~~§ 7.6.1. Fiscal year.--The fiscal year of the town shall begin on July 1 of each year and end on June 30 of the year following. (1971, c. 112; 1994, c. 324)~~

~~§ 7.6.2. Actions against town for damages, etc.--~~

~~(a) No action shall be maintained against the town for damages for any injury to any person or property alleged to have been sustained by reason of the negligence of the town, or any officer, agent, or employee thereof, unless a written notice is given to the town in accordance with Va. Code § 15.2-209, statement, verified by oath of the claimant, his agent or attorney, or the personal representative of any decedent whose death is a result of the alleged negligence of the town, its officers, agents or employees, of the~~
4/5/1994

~~nature of the claim and the time and place at which the injury is alleged to have occurred, or to have been received, shall have been filed with the mayor or an attorney appointed by the town council for this purpose, and the town is hereby authorized to appoint such an attorney, within sixty days after such cause of action shall have accrued. Where the claimant is an infant or non compos mentis, or the injured party dies within such sixty days, such statement may be filed within one hundred twenty days; provided, that if the complainant is compos mentis during such sixty day period but is able to establish by clear and convincing evidence that due to the injury sustained for which a claim is asserted that he was physically or mentally unable to give such notice within the sixty day period, then the time for giving notice shall be tolled until the claimant sufficiently recovers from such injury so as to be able to give such notice. No officer, agent or employee of the town shall have authority to waive such conditions precedent or any of them.~~

(b) In any action against the town to recover damages against it for any negligence in the construction or maintenance of its streets, alleys, lanes, parks, public places, sewers, reservoirs, ~~or water mains, water treatment plant, wastewater treatment plant, or stormwater system, or other town facilities,~~ where any person or corporation is liable with the town for such negligence, every such person or corporation shall be joined as defendant with the town in such action brought to recover damages for such negligence, and where there is a judgment or verdict against the town, as well as the other defendant, it shall be ascertained by the court or jury which of the defendants is primarily liable for the damages assessed.

(c) If it is ascertained by the judgment of the court that some person or corporation other than the town is primarily liable, there shall be a stay of execution

against the town until execution against such person or persons or corporation or corporations shall have been returned without realizing the full amount of such judgment.

(d) If the town, when not primarily liable, shall pay such judgment in whole or in part, the plaintiff shall, to the extent that such judgment is paid by the town, assign the judgment to the town, without recourse on the plaintiff, and the town shall be entitled to have execution issued for its benefit against the other defendant or defendants who have been ascertained to be primarily liable, or may institute any suit to enforce such judgment or an action at law, or scire facias to revive such judgment.

(e) No order shall be entered or made, and no injunction shall be awarded by any court or judge, to stay proceedings of the town in the prosecution of their works, unless it be manifest that they, their officers, agents, or servants are transcending the authority given them in this charter, and that the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages.

(f) The town council is authorized and empowered to compromise any claim for damages or any suit or action brought against the town. (1971, e. 112)

§ ~~76.3~~. Creation of debt; issuance of bonds.--The town council by a majority vote is authorized to cause the town ~~by a majority vote~~ to incur debt and to issue bonds, notes and other evidences of indebtedness for the purposes and in the manner set forth for towns in the Constitution of the Commonwealth of Virginia and the Public Finance Act ~~of 1991~~, Chapter ~~5.126~~ of Title ~~15.12~~ of the Code of Virginia, ~~of 1950, as amended~~, or any acts amendatory thereof or supplemental thereto. (1971, e. 112; 1994, e. 324)

CHAPTER ~~87~~.

MISCELLANEOUS.

§ ~~87.1~~. Elections governed by State law.--All town elections shall be held and conducted in the manner prescribed by the laws of the Commonwealth. (1971, e. 112)

~~§ 8.2. Amendment of Zoning Ordinance.--The town council may, by ordinance, required that whenever the planning commission recommends against the adoption of any proposed amendment to the Zoning Ordinance to the town, now or hereafter effect, such amendment shall become effective only upon the affirmative vote of two-thirds of the elected members of the town council. (1971, c. 112)~~

~~§ 8.3. Applicability of ordinances to lands, etc., outside town.--All ordinances of the town, so far as they are applicable, shall apply on, in or to all land, buildings and structures owned by or leased or rented to the town and located outside the town. (1971, e. 112)~~

§ 8.4.2. Bonds of officers and employees.--The town council may require all or any officers and employees of the town to give bond for the faithful and proper discharge of their duties. As used herein, the words "officers and employees" shall include officers and employees paid solely or partly by the town. The town ~~may~~shall pay the premium on such bonds from the town funds and may provide for individual surety bonds or for a bond covering all officers and employees or any group thereof. The bond shall be payable to the town as its interest may appear in event of breach of the conditions thereof. ~~(1971, e. 112)~~

~~§ 8.5. Office of town sergeant not to be created.--Notwithstanding the provisions of § 15.1-796 of the Code of Virginia, there shall not be created in the town of Berryville the office of town sergeant. (1971, c. 112)~~

~~§ 8.6~~§ 7.3. United States government employees.--No person, otherwise eligible, shall be disqualified, by reason of his accepting or holding an office, post, trust, or emolument under the United States government, from serving as an officer or employee of the town, or as a member, officer, or employee of any board or commission. ~~(1971, e.~~

§ ~~87.74~~. Acceptance of federal aid, contributions, etc.--The town shall have the power to receive and accept from any federal agency grants of any kind for or in aid of the construction of any project, the procuring or reserving of park land, open spaces or any recreational facility, and to do all such things or make any covenants or agreements which may be necessary or required in order to obtain and use such federal grants. The town may receive and accept aid or contributions from any source or money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. (~~1971, c. 112~~)

§ ~~87.85~~. Conflicts of interest; disclosures of interest.--The town council is hereby empowered to enact a conflict of interest and disclosure ordinance to govern elected and/or appointed town officials not inconsistent with general law. (~~1971, c. 112~~)

§ ~~87.96~~. Present officers to continue.--The present elected officers of the town shall be and remain in office until expiration of their several terms, and until their successors have been duly elected and qualified. (~~1971, c. 112~~)

§ ~~87.107~~. Ordinances continued in force.--All ordinances now in force in the town of Berryville, not inconsistent with this charter, shall be and remain in force until altered, amended, or repealed by the town council. (~~1971, c. 112~~)

§ ~~87.118~~. Severability of provisions.--If any clause, sentence, paragraph, or part of this charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this charter, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (~~1971, c. 112~~)

BERRYVILLE TOWN COUNCIL

MOTION TO ADOPT A RESOLUTION REQUESTING ADOPTION OF A
REVISED TOWN CHARTER

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville adopt the attached resolution.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Attest: _____
Harry L. Arnold, Jr., Recorder

Town of Berryville
Resolution
Charter Amendments

WHEREAS, the Berryville Town Council determined that it was appropriate to comprehensively review the Town Charter and propose amendments thereto for adoption by the General Assembly pursuant to § 15.2-202 of the Virginia Code; and

WHEREAS, notice of a public hearing at which citizens had the opportunity to be heard on the proposed amendments was given in accordance with said statute and the public hearing was held on October 9, 2018; and

WHEREAS, the Town Council has determined that amendment of the Town Charter as proposed will be in the interest of the Town and its citizens.

NOW, THEREFORE, BE IT RESOLVED that the Berryville Town Council hereby approves a request on behalf of the Town of Berryville that the General Assembly amend its existing Charter in accordance with the proposed amended Charter attached hereto.

BE IT FURTHER RESOLVED that the Town Manager is authorized to sign all correspondence and documents reasonably required to process this request and submit two copies of this resolution, the proposed amended Charter and append certified copies of minutes evidencing the action taken on this matter and the publisher's affidavit evidencing that the public hearing was advertised, to the members of the General Assembly representing the Town.

VOTE:

Ayes:

Nays:

Abstentions:

Absent for Vote

Adopted: October 9, 2018

Patricia Dickinson, Mayor

Harry Lee Arnold, Jr., Recorder

AMENDED AND RESTATED CHARTER OF THE
TOWN OF BERRYVILLE
Established 1798.
Moved from County of Frederick to County of Clarke, 1841.

Incorporation and Charter, 1870, c. 366; repealed, 1898, c. 819.

Charter, 1898, c. 819; repealed, 1971, c. 112.

Charter, 1971, c. 112.

Amended 1972, c. 29 (§ 3.2)

1994, c. 324 (§§ 2.3, 4.2, 7.1, 7.3).

CHAPTER 1.

INCORPORATION AND BOUNDARIES.

§ 1.1. Incorporation.--The inhabitants of the territory comprised within the present limits of the town of Berryville, as such limits are now or may hereafter be altered and established by law, shall constitute and continue a body politic and corporate to be known and designated as the town of Berryville, and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, review or amend at its pleasure by proper ordinance.

§ 1.2. Boundaries.--The corporate boundaries of the town of Berryville shall be as follows:

Beginning at a pipe in the west side of North Buckmarsh Street (U.S. Route No. 340), such point being at the intersection of the west right-of-way line of North Buckmarsh Street and an extension of the north lot line of the Episcopal parsonage; thence along the west right-of-way line of North Buckmarsh Street, N 27° 43' E. a distance of 634.47 feet to a pipe; thence N. 45° 42' W. 2241.36 feet along the rear lot lines on the north side of Walnut Street to a pipe; thence S. 56° 34' 30" W. a distance of 160.38 feet to a pipe; thence S. 45° 45' 30" W. a distance of 4490.77 feet to a pipe in the

orchard of H. F. Byrd, such line crossing West Main Street (Va. Route 7); thence, still through the orchards of H. F. Byrd and other properties, S. 57° 25' E. a distance of feet to a spike in the center line of South Church Street; thence S. 53° 42' E. a distance of 1736.86 feet to a pipe, such line crossing the Norfolk and Western Railway right-of-way; thence along a 13° 13' curve, parallel to the Norfolk and Western Railway, such curve having a tangent bearing of N. 62° 10' E. and a tangent distance of 250.80 feet to a pipe and point of intersection; thence still parallel to the Norfolk and Western Railway N. 49° 03' E. a distance of 2484.97 feet to a point of intersection of a 15° 38' curve, the corporate limits following the curve; thence N. 64° 44' E. a distance of 585.77 feet to a pipe; thence N. 49° 41' W. a distance of 3315.36 feet to a pipe and the place of beginning. (1971, c. 112)

plus the following additions:

Annexation Area A
Adopted 12/29/88
Effective 1/1/89
Acreage 350 acres
Deed Book Reference DB 193 Pg 226

Annexation Area B1
Adopted 11/10/92
Effective 1/1/93
Acreage 7.691 acres
Deed Book Reference DB 227 Pg 779

Annexation Area B2
Adopted 11/9/93
Effective 1/1/94
Acreage 8.965 acres
Deed Book Reference DB 237 Pg 794

Annexation Area B3
Adopted 11/21/95
Effective 1/1/96
Acreage 63.0898 acres
Deed Book Reference DB 258 Pg 156

Annexation Area B4
Adopted 11/11/97
Effective 1/1/98
Acreage 10.5316 acres
Deed Book Reference DB 279 Pg 257

Annexation Area B5
Adopted 11/9/1999
Effective 1/1/2000
Acreage 196.5 acres
Deed Book Reference DB 308 Pg 685

Annexation Area B6
Adopted 11/12/02
Effective 1/1/03
Acreage 114.38 acres
Deed Book Reference DB 364 Pg 501

Annexation Area B7
Adopted 11/9/04
Effective 1/1/05
Acreage 42.2588 acres
Deed Book Reference DB 421 Pg 722

Annexation Area B8
Adopted 11/14/06
Effective 1/1/07
Acreage 41.81 acres
Deed Book Reference DB 472 Pg 284

§ 1.3. Wards.--The town of Berryville shall be divided into four wards. The boundaries of such wards shall be established by the town council by ordinance.

CHAPTER 2.

POWERS.

§ 2.1. General grant of powers.--The town of Berryville shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to

towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this charter shall be held to be exclusive, and the town shall have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all the duties and obligations, now appertaining to and incumbent on the town as a municipal corporation.

§ 2.2. Adoption of certain sections of Code of Virginia.--The powers set forth in §§ 15.2-1100 through 15.2-1133, both inclusive, of Chapter 11 of Title 15.2 of the Code of Virginia, as in force on January 1, 2019, are hereby conferred on and vested in the town of Berryville.

§ 2.3. Eminent domain.--The powers of eminent domain set forth in Chapter 19 of Title 15.2, Title 25.1, and Chapter 10 of Title 33.2 of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, *mutatis mutandis*, are hereby conferred upon the town of Berryville subject to the provisions of § 25.1-200.

(a) In any case in which a petition for condemnation is filed by or on behalf of the town, a true copy of a resolution or ordinance duly adopted by the town council declaring the necessity for any taking or damaging of any property, within or without the town, for the public purposes of the town, shall be filed with the petition and shall constitute sufficient evidence of the necessity of the exercise of the powers of eminent domain by the town. The town may employ the procedures conferred by the foregoing laws, *mutatis mutandis*, and may, in addition thereto, proceed as hereinafter provided.

(b) Certificates issued pursuant to §§ 33.2-1019 to 33.2-1029, inclusive, Code of Virginia, as amended, and acts amendatory thereof and supplemental thereto, may be issued by the town council, signed by the mayor and countersigned by the town treasurer.

Such certificate shall have the same effect as certificates issued by the Commonwealth Transportation Commissioner, under the aforesaid laws, and may be issued in any case in which the town proposes to acquire property or interest therein by the exercise of its powers of eminent domain for any lawful public purpose, whether within or without the town; provided, that the condemnation authority shall be subject to the provisions of § 25.1-200 of the Code of Virginia.

(c) In addition to the powers conferred by the aforesaid laws, such certificates may be amended or canceled by the court having jurisdiction of the proceedings, upon petition of the town, at any time after the filing thereof; provided, that the court shall have jurisdiction to make such order for the payment of costs and damages, if any, or the refund of any excessive sums theretofore paid pursuant to such certificate as shall, upon due notice and hearing, appear just. The court shall have jurisdiction to require refunding bonds, for good cause shown by the town or any other person or party in interest, prior to authorizing any distribution of funds pursuant to any certificate issued or deposit made by the town.

CHAPTER 3.

MAYOR, VICE MAYOR, AND COUNCIL.

§ 3.1. Composition of council; qualifications of mayor, vice mayor, and council members -- The town of Berryville shall be governed by a town council composed of the mayor, the vice mayor, and four council members. The mayor, vice mayor, and council members shall be residents and qualified voters of the town. The mayor and vice mayor shall be elected from the town at large. The four council members shall reside one in each ward of the town, but shall be elected by all of the qualified voters of the town.

§ 3.2 Office of vice mayor/office of recorder – The office of vice mayor shall

become effective on July 1, 2022, and the office of recorder shall remain effective until July 1, 2022.

§ 3.3. Election and term of office of mayor, vice mayor, and council members -- Elections for mayor, vice mayor, and council members shall be held on the first Tuesday in May of each even-numbered year. On the first Tuesday in May, 2020, a mayor and council members from Wards 1 and 3 shall be elected for a term of four years. On the first Tuesday in May, 2022, a vice mayor and council members from Wards 2 and 4 shall be elected for terms of four years.

§ 3.4. When terms of office to begin.--The terms of office for the mayor, vice mayor, and council members shall begin on the first day of July next following their election.

§ 3.5. Oath of office.--The mayor, vice mayor, and council members shall each, before entering upon the duties of their office, make oath or affirmation that they will truly, faithfully, and impartially discharge the duties of their offices to the best of their abilities, so long as they shall continue therein.

§ 3.6. Vacancies in office.--Vacancies in the office of mayor, vice mayor, or council member shall be filled within forty-five days for the unexpired terms by a majority vote of the remaining members of the town council.

§ 3.7. When new election for mayor, vice mayor, or council member required.--If any person who shall have been duly elected mayor, vice mayor, or council member shall not be eligible, as herein prescribed, or shall refuse to take the oath or affirmation required under this Charter within two weeks from the day of the beginning of the term of office, the town council shall declare the office vacant, and shall order a new election for mayor, vice mayor, or council member as the case may be.

§ 3.8. Powers and duties of mayor.-- The mayor shall be a member of the town

council, shall preside over the meetings of the town council, and shall have the same right to speak and vote therein as other members of the town council. The mayor shall be recognized as the head of the town government for all ceremonial purposes, for the purposes of military law, and for the service of civil processes. The mayor shall have no power of veto over the ordinances and resolutions of the town council.

§ 3.9. Powers and duties of vice mayor; vice mayor to act as mayor during absence, disability, etc., of mayor.—The vice mayor shall be a member of the town council and shall have the same right to speak and vote therein as other members of the town council. In the absence from the town, or disqualification, inability, or sickness of the mayor, or during any vacancy in the office of mayor, the vice mayor shall perform the duties of the mayor and be vested with all powers of the mayor. The recorder shall have the powers and duties of the vice mayor as set forth above until July 1, 2022.

§ 3.10. Absence or disability of mayor and vice mayor.--If both the mayor and vice mayor are absent or unable to act, the town council shall, by a majority vote of the members present, elect from its members a person to serve as acting mayor until either the mayor or vice mayor is present and able to act. The person so elected shall possess the powers and discharge the duties of the mayor during such period of time.

§ 3.11. Council a continuing body.--The town council shall be a continuing body, and no measures pending before such body, or any contract or obligation incurred by it, shall abate or be discontinued by reason of the expiration of the term of office or removal of any of its members.

§ 3.12. General grant of powers to council.--The town council shall have all powers and authority that are now or may hereafter be granted to councils of towns by the general laws of the Commonwealth and by this charter, and the recital of special powers

and authorities herein shall not be taken to exclude the exercise of any power and authority granted by the general laws of the Commonwealth to town councils, but not herein specified.

§ 3.13. Meetings of council.--The town council shall fix the time of their regular meetings.. Special meetings may be called at any time by the mayor or by three members of the town council; provided, that all members shall be duly notified a reasonable period of time prior to any special meeting.

§ 3.14. Quorum; reconsideration of action.--Three members of the town council shall constitute a quorum for the transaction of business. No vote taken at any meeting shall be reconsidered or rescinded at any subsequent special meeting unless at such special meeting there are as many members of the town council present as were present when such vote was taken.

§ 3.15. Rules of order and procedure.--The town council shall establish its own rules of order and procedure, and may punish its own members and other persons for violations thereof.

§ 3.16. Council to fix salaries.--The town council is hereby authorized to fix the salaries of each of the members of the town council, members of boards or commissions, and all appointed officers. The salaries of the mayor, vice mayor, and council members shall not be changed during the term for which they were elected.

CHAPTER 4.

TOWN MANAGER.

§ 4.1. Appointment and qualifications.--There shall be a town manager, who shall be the executive officer of the town and shall be responsible to the town council for the proper administration of the town government. The town manager shall be appointed by the town council for an indefinite term, and shall serve at the pleasure of the town

council. The town manager shall be chosen solely on the basis of executive and administrative qualifications, with special reference to actual experience in or knowledge of accepted practice in respect to the duties of the office. At the time of the appointment the town manager need not be a resident of the town or the Commonwealth, but during the tenure of office shall reside within Clarke County.

§ 4.2. Duties.--It shall be the duty of the town manager to:

(a) Attend all meetings of the town council, with the right to speak but not to vote.

(b) Keep the town council advised of the financial condition and the future needs of the town and of all matters pertaining to its proper administration, and make such recommendations as may seem desirable.

(c) Prepare and submit the annual budget to the town council and be responsible for its administration after its adoption.

(d) Present adequate financial and activity reports as required by the town council.

(e) Arrange for an annual audit by a certified public accountant, the selection of whom shall be approved by the town council.

(f) Be responsible for supervision of all town employees.

(g) Perform such other duties as may be prescribed by this charter or required of the town manager in accordance therewith by the town council or which may be required of the chief executive officer of a town by the general laws of the Commonwealth, other than the duties conferred on the mayor by this charter.

§ 4.3. Powers as to town officers and employees.--All officers and employees of the town, except those appointed by the town council pursuant to this charter or the general laws of the Commonwealth, shall be appointed and may be removed by the town manager, who shall advise the town council of each appointment or removal promptly

following any such appointment or removal.

§ 4.4. Temporary transfer of personnel between departments.--The town manager shall have power, whenever the interests of the town require, irrespective of any other provisions of this charter, to assign employees of any department, bureau, office, or agency to the temporary performance of duties in another department, bureau, office, or agency.

§ 4.5. Council not to interfere in appointments or removals; relationship with council.--Neither the town council nor any of its members, including the mayor and vice mayor, shall direct or request the appointment of any person to or removal from any office or employment by the town manager or by any subordinates or in any way take part in the appointment or for removal of officers and employees of the town, except as specifically provided in this charter. Except for the purpose of inquiry, the town council and its members shall deal with the administrative services solely through the town manager, and neither the town council nor any member thereof shall give orders, either publicly or privately, to any subordinate of the town manager.

§ 4.6. Relations with boards, commissions and agencies.--The town manager shall have the right to attend and participate in the proceedings of, but not vote in, the meetings of all boards, commissions, or agencies created by this charter or by ordinance and any other board or commission the town council may designate.

§ 4.7. Acting town manager.--The town council shall designate by resolution a person to act as town manager in case of the extended absence, incapacity, death, or resignation of the town manager, until the town manager's return to duty or the appointment of a successor.

CHAPTER 5.

APPOINTIVE OFFICERS.

§ 5.1. Appointment.--The town council may appoint the following officers of the town as they may deem necessary: town manager, assistant town manager for administration/treasurer, assistant town manager for community development/operations, and town attorney. Such officers shall be appointed for an indefinite term, and shall serve at the pleasure of the town council. The enumeration of officers in this section shall not be construed to require the appointment of any of such officers herein named. Officers appointed by the town council shall perform such duties as may be specified by the town council.

§ 5.2. Deputies and assistants.--The town council may establish a deputy or assistant position for the appointive offices as the town council may deem necessary. The town manager shall appoint and supervise such deputies and assistants.

§ 5.3. Appointment of one person to more than one office.--The town council may appoint the same person to more than one appointive office, at the discretion of the town council.

CHAPTER 6

FINANCIAL PROVISIONS.

§ 6.1. Fiscal year.--The fiscal year of the town shall begin on July 1 of each year and end on June 30 of the year following.

§ 6.2. Actions against town for damages, etc.

(a) No action shall be maintained against the town for damages for any injury to any person or property alleged to have been sustained by reason of the negligence of the town, or any officer, agent, or employee thereof, unless written notice is given to the town

in accordance with Va. Code § 15.2-209.

(b) In any action against the town to recover damages against it for any negligence in the construction or maintenance of its streets, alleys, lanes, parks, public places, sewers, reservoirs, water mains, water treatment plant, wastewater treatment plant, stormwater system, or other town facilities, where any person or corporation is liable with the town for such negligence, every such person or corporation shall be joined as defendant with the town in such action brought to recover damages for such negligence, and where there is a judgment or verdict against the town, as well as the other defendant, it shall be ascertained by the court or jury which of the defendants is primarily liable for the damages assessed.

(c) If it is ascertained by the judgment of the court that some person or corporation other than the town is primarily liable, there shall be a stay of execution against the town until execution against such person or persons or corporation or corporations shall have been returned without realizing the full amount of such judgment.

(d) If the town, when not primarily liable, shall pay such judgment in whole or in part, the plaintiff shall, to the extent that such judgment is paid by the town, assign the judgment to the town, without recourse on the plaintiff, and the town shall be entitled to have execution issued for its benefit against the other defendant or defendants who have been ascertained to be primarily liable, or may institute any suit to enforce such judgment or an action at law, or scire facias to revive such judgment.

(e) No order shall be entered or made, and no injunction shall be awarded by any court or judge, to stay proceedings of the town in the prosecution of their works, unless it be manifest that they, their officers, agents, or servants are transcending the authority given them in this charter, and that the interposition of the court is necessary to prevent

injury that cannot be adequately compensated in damages.

(f) The town council is authorized and empowered to compromise any claim for damages or any suit or action brought against the town.

§ 6.3. Creation of debt; issuance of bonds.--The town council by a majority vote is authorized to cause the town to incur debt and to issue bonds, notes and other evidences of indebtedness for the purposes and in the manner set forth for towns in the Constitution of the Commonwealth of Virginia and the Public Finance Act Chapter 26 of Title 15.2 of the Code of Virginia, or any acts amendatory thereof or supplemental thereto.

CHAPTER 7.

MISCELLANEOUS.

§ 7.1. Elections governed by State law.--All town elections shall be held and conducted in the manner prescribed by the laws of the Commonwealth.

§ 7.2. Bonds of officers and employees.--The town council may require all or any officers and employees of the town to give bond for the faithful and proper discharge of their duties. As used herein, the words "officers and employees" shall include officers and employees paid solely or partly by the town. The town shall pay the premium on such bonds from the town funds and may provide for individual surety bonds or for a bond covering all officers and employees or any group thereof. The bond shall be payable to the town as its interest may appear in event of breach of the conditions thereof.

§ 7.3. United States government employees.--No person, otherwise eligible, shall be disqualified by reason of his accepting or holding an office, post, trust, or emolument under the United States government, from serving as an officer or employee of the town, or as a member, officer, or employee of any board or commission.

§ 7.4. Acceptance of federal aid, contributions, etc.--The town shall have the

power to receive and accept from any federal agency grants of any kind for or in aid of the construction of any project, the procuring or reserving of park land, open spaces or any recreational facility, and to do all such things or make any covenants or agreements which may be necessary or required in order to obtain and use such federal grants. The town may receive and accept aid or contributions from any source or money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

§ 7.5. Conflicts of interest; disclosures of interest.--The town council is hereby empowered to enact a conflict of interest and disclosure ordinance to govern elected and/or appointed town officials not inconsistent with general law.

§ 7.6. Present officers to continue.--The present elected officers of the town shall be and remain in office until expiration of their several terms, and until their successors have been duly elected and qualified.

§ 7.7. Ordinances continued in force.--All ordinances now in force in the town of Berryville, not inconsistent with this charter, shall be and remain in force until altered, amended, or repealed by the town council.

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

Attachment 2

October 9, 2018 Report

Notice of this comment period was published along with the public hearing notice for the proposed amendments to the Charter.

No comments have been received as of the writing of this report.

There are several issues that must be addressed as a part of the approval of these code changes. Because specific reference to the amount of the bond that is required for the Treasurer is eliminated the Council must establish the bonding requirement. Further, because the specific reference to the amount of the returned check fee has been eliminated, the Council must approve a returned check fee.

Attachments

- Public Hearing notice
- New drafts from legal counsel (mark up)
- Motion for adoption of an ordinance amending the Town Code
- Ordinance amending Chapters 1, 2, & 3 of the Town Code
- New drafts from legal counsel (version with mark ups removed)
- Motion for adoption of an ordinance establishing bonding requirements for certain Town employees
- Ordinance establishing bonding requirements for certain Town employees
- Motion for adoption of an ordinance establishing the amount of the returned check fee
- Ordinance establishing the amount of the returned check fee

Recommended Actions

Adopt motions adopting ordinances to:

- o Repeal and re-adopt Chapters 1, 2, & 3 of the Town Code
- o Establish bonding requirements for certain Town Employees
- o Establish fee for returned checks

September 11, 2018 Report

At the August 20 work session, the Town Council reviewed the draft Town Charter and Town Code Chapters 1-3 with legal counsel and staff. Legal counsel amended the documents in accordance with the comments he received. In accordance with Council's wishes, legal counsel has provided versions of the Town Charter and Town Code Chapters 1 – 3 showing markups only from the work session.

It is important to note that prior to publication of the public hearing notice, Section 1.2 of the Charter will have been completed. As you will recall, staff and legal counsel are completing this section that establishes the Town's boundaries.

Attachments

- New drafts from legal counsel

Recommended Action

Set public hearing on these matters for October 9.

August 20, 2018 Report

At the August 14 Town Council meeting, the Council discussed comments that had been generated after review of drafts of the Town Charter and Town Code Chapters 1-3.

Staff met with legal counsel regarding Council's discussion and new drafts have been generated. Those drafts are attached to this report.

Legal counsel will be present at the work session to answer any questions the Council has about the drafts.

Attachments

- New drafts from legal counsel
- Packet provided to Town Council on August 14

Recommended Action

Review revised documents and provide staff and legal counsel with guidance regarding changes to be made to the draft that will be discussed at the September 11, 2018 Town Council meeting. Note: It is expected that the Town Council will set a public hearing for the October Town Council meeting.

August 14, 2018 Report

After the April 10 Town Council meeting, staff has worked with legal counsel to develop drafts of the following: Town Charter, Town Code Chapter 1, Town Code Chapter 2, and Town Code Chapter 3. Drafts of these documents were submitted to the Town Council for comment.

A work session has been scheduled for August 20, 2018 at 5:00 pm to review the documents in question with legal counsel and staff.

It is expected that the Town Council will review this matter further at its regular meeting in September. Further, it is expected that the Town Council will set a public hearing on this matter for its regular meeting in October.

Attachments

- Packet provided to Town Council on July 13
- Review comments provided on drafts

Action

Provide staff and legal counsel with any guidance the Town Council deems necessary prior to the August 20 work session.

April 10, 2018 Report

History

The Police and Security Committee, which has been working its way through the Town Code for the past 5 years in order to recommend necessary revisions, has discussed the idea of revising the Town Charter.

Mayor Dickinson introduced the idea of seeking revision of Section 3.12 in order to eliminate the requirement that the Council meet every month. She suggests that since there are times, particularly in the late summer, when agendas are lean and vacations and the like make scheduling a challenge. The Mayor notes that eliminating the meeting requirement does not preclude meeting at any given time but merely gives the Council flexibility.

Staff has reviewed the Charter, which was last revised in 1994, and there are quite a few elements that should be amended. Staff also notes that the idea of changing the title of the Recorder position has also been floated in years past. Staff discussed this with Recorder Arnold and he remains interested in discussing the idea.

Process

The Town Council, after holding a public hearing, would approve a resolution proposing charter amendments for adoption by the General Assembly. This will need to happen prior on or before the October 2018 Town Council meeting.

The General Assembly would take the matter up during its session (begins in January) and if approved by the House, Senate, and Governor, the amendments would become effective on July 1, 2019.

Staff Recommendation

Staff recommends following the course outlined below:

- 4/11/18 - 5/15/18 Staff review of Charter

- 5/16/18 – 6/15/18 Staff review of Charter with legal counsel

- 7/10/18 Submission of draft to Town Council

- 8/14/18 Town Council review

- 8/15/18 – 9/5/18 Staff review of Charter and TC comments with legal counsel

- 9/11/18 Town Council review / Set Public Hearing

- 10/9/18 Town Council Public Hearing and vote

- 11/13/18 Town Council approves minutes of 10/9/18 meeting

- 11/16/18 Submission to Delegate LaRock (who would carry the matter) and Senator Vogel

**TOWN OF BERRYVILLE
TOWN COUNCIL
PUBLIC HEARING NOTICE**

The Berryville Town Council will hold the following public hearing at 7:30 p.m., or as soon after as this matter may be heard, on **Tuesday, October 9, 2018**, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

Amendments to Town Charter

The Council of the Town of Berryville proposes to recommend to the Commonwealth of Virginia the amendment of its Charter. The proposed amendments include: updating the description of the corporate limits of the Town to reflect annexations since 1972; changing the title of the Recorder to Vice-Mayor, eliminating the criminal and expulsion punishment for Council interference with staff; eliminating the requirement that the Council meet every month; clarifying terms to which employees are appointed by Council; eliminating antiquated language regarding Town Courts and Town sergeant; clarifying language regarding actions against the Town for damages to conform the provisions of the Virginia Code; eliminating miscellaneous language regarding Council action in matters in which the Planning Commission recommends denial and applicability of Town ordinances outside of the Town; updating cross-references to the Code of Virginia; and utilizing gender-neutral language.

The Council will also receive public comment on:

Amendments to Berryville Code Chapters 1, 2, & 3

Proposed amendments to Chapters 1, 2, & 3 of the Berryville Code. The proposed amendments include: clarifying language regarding designation of an acting town manager; expanding the enumerated Town departments and establishing department head and departmental responsibilities to mirror current administrative structure; reducing the ultimate size of the Planning Commission's membership; eliminating the possibility of administrative staff being appointed to the Planning Commission; eliminating the requirement that a permit be issued for distribution of handbills; updating cross-references to the Code of Virginia; and utilizing gender-neutral language.

Copies of materials pertinent to these items may be examined at the Town of Berryville Business Office, Berryville-Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia, during regular business hours, holidays excepted. Additional information may be obtained by calling the Town Business Office at (540) 955-1099.

Any person desiring to be heard regarding the above matters should appear at the appointed time and place. Written copies of statements at public hearings are requested but not required.

The Town of Berryville does not discriminate against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as the "Code of the Town of Berryville, Virginia" and may be so cited. Such ordinances may also be cited as the "Berryville Town Code."

(Code 1971, § 1-1)

State Law reference— Authority of town to codify and recodify its ordinances, Code of Virginia, § ~~45-1-37.3~~, 15.2-1433.

Sec. 1-2. - Definitions and rules of construction.

In the interpretation and construction of this Code and of all ordinances and resolutions of the town, the following rules of construction and definitions shall be observed, unless they are inconsistent with the manifest intent of the council or the context clearly requires otherwise:

And, or. "And" may be read as "or" and "or" may be read as "and," if the sense requires it.

Bond. When a bond is required, an undertaking in writing, with such surety, if any, as the council may direct, shall be sufficient.

Charter. The word "Charter" shall mean the Charter of the Town of Berryville, as amended.

Code. Whenever the term "Code" or "this Code" is used without further qualification, it shall mean the "Berryville Town Code," as designated in section 1-1.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day be Sunday or a legal holiday, that day shall be excluded.

Council. The term "council" or "town council" shall mean the council of the Town of Berryville, Virginia.

County. The word "county" shall mean the County of Clarke in the State of Virginia.

Following. The word "following," when used by way of reference to any section or subsection of this Code, shall be construed to mean next following that in which such reference is made.

Gender. A word importing the masculine gender only may extend and be applied to females and to firms, partnerships and corporations, as well as to males.

Health officer. The term "health officer" shall mean the ~~director of public health~~ officer of Clarke County or ~~his authorized representative of the state board of health serving this county.~~

In the town. The words "in the town" or "within the town" shall mean any territory, jurisdiction of which, for the exercise of its regulatory power, has been conferred on the town by public or private law.

Month. The word "month" shall mean a calendar month.

Number. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing, and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath.

Occupant or tenant. The word "occupant" or "tenant," applied to a building or land, shall mean any person who holds a written or oral lease of, or actually occupies the whole or a part of, such building or land, either alone or with others.

Officers, boards, etc. Whenever reference is made to a particular officer, department, board, commission or other agency, without further qualification, it shall be construed as if followed by the words "of the Town of Berryville." Any reference to a specific officer shall include that officer's duly authorized deputies, assistants or other representatives, subject, however, to the provisions of section ~~45-1-~~ 49-515.2-1502 of the Code of Virginia.

Official time standard. Whenever particular hours are referred to, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the town.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word "person" shall include a firm, partnership, association of persons, corporation, organization or any other group acting as a unit.

Preceding. The word "preceding," when used by way of reference to any section or subsection of this Code, shall be construed to mean next preceding that in which such reference is made.

Property. The word "property" shall mean real, personal or mixed property.

Public grounds. The words "public grounds" shall mean the parks and all public lands owned by the town, and those parts of public places which do not form traveled parts of streets, as defined in this section.

Shall. The word "shall" shall be mandatory.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Section numbers. Whenever reference is made to a section by number only (e.g. "section 2-1") without further qualification, it shall be construed as referring to that section of this Code.

Signature; subscription. The words "signature" and "subscription" shall include a mark when the person cannot write, his name being written near it and being witnessed by a person who writes his own name as a witness.

State; commonwealth. The terms "the state," "the commonwealth," "this state" and "this commonwealth" shall be construed as if followed by the words "of Virginia."

State Code. References to the "State Code" or the "Code of Virginia" shall mean the Code of Virginia, 1950, as amended.

Street. The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges, and the approaches thereto, and all other public thoroughfares in the town, and shall mean the

entire width thereof between abutting property lines. It shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the council.

Swear; sworn. The word "swear" or "sworn" shall be equivalent to the word "affirm" or "affirmed" in all cases in which, by law, an affirmation may be substituted for an oath.

Tense. Words used in the past or present tense include the future as well as the past and present.

Town. The words "town," "the town" and "this town" shall mean the Town of Berryville, in the County of Clarke and State of Virginia.

Written; in writing. The words "written" and "in writing" shall include typewriting, printing on paper and any other mode of representing words, letters or figures.

Year. The word "year" shall mean a calendar year.

(Code 1971, § 1-5)

State Law reference— Similar definitions and rules of construction applicable to state law,

Code of Virginia, § ~~1-13.1 et seq.~~ 1-200, et seq.

Sec. 1-3. - ~~Catchlines~~Headlines of sections.

The ~~catchlines~~headlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and ~~shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor, unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or re-enacted.~~ do not constitute part of the section adopted by council.

(Code 1971, § 1-4)

State Law reference— Similar provisions as to sections of state code, Code of Virginia, § ~~1-~~
~~13-9.1-217.~~

Sec. 1-4. - Severability of parts of Code.

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1971, § 1-3)

Sec. 1-5. - Provisions of Code considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same in substance as those of the 1971 Berryville Town Code and ordinances adopted subsequent to such Code and included herein, shall be considered as continuations thereof and not as new enactments.

(Code 1971, § 1-2)

Sec. 1-6. - Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect:

- (1) Any ordinance promising or guaranteeing the payment of money by or for the town or authorizing the issuance of any bonds or any evidence of indebtedness;
- (2) Any ordinance authorizing or otherwise relating to any contract;
- (3) Any ordinance granting any franchise or right;

- (4) Any ordinance appropriating funds, levying or imposing taxes or relating to an annual budget or the salaries or compensation of officers and employees;
- (5) Any ordinance authorizing, providing for or otherwise relating to any public improvement;
- (6) Any ordinance making any assessment;
- (7) Any ordinance authorizing or otherwise relating to the sale or conveyance of town property;
- (8) Any zoning ordinance or ordinance regulating the subdivision of land; ¹³
- (9) Any ordinance the purposes of which have been accomplished;
- (10) Any ordinance which is temporary, although general in effect; or
- (11) Any ordinance which is special, although permanent in effect;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Footnotes:

--- (1) ---

Cross reference— Zoning ordinance, App. A; subdivision ordinance, App. B.

Sec. 1-7. - Code and new ordinances do not affect prior offenses, rights, etc.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, or any prosecution, suit or proceeding pending or any judgment rendered, on or before the effective date of this Code.
- (b) No new ordinance shall be construed to repeal a former ordinance as to any offense committed against the former ordinance or as to any act done, any penalty, forfeiture or punishment incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or

any right accrued, or claim arising before the new ordinance takes effect, save only that the proceedings thereafter had shall conform, so far as practicable, to the ordinance in force at the time of such proceedings.

State Law reference— Similar provisions applicable to state statutes, Code of Virginia, § ~~16.1-239~~.
~~16.1-239~~.

Sec. 1-8. - Repeal of ordinance not to revive former ordinance.

When any ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

State Law reference— Similar provisions applicable to state statutes, Code of Virginia, § ~~17.1-240~~.
~~17.1-240~~.

Sec. 1-9. - Supplementation of Code.

- (a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been replaced shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in

ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate ~~catchlines~~headlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code);
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

State Law reference— Authority to supplement Code, Code of Virginia, § ~~15.1-37.3~~15.2-1433.

Sec. 1-10. - Copies of Code and supplements to be available for public inspection.

~~At least three (3) copies~~A copy of this Code and every supplement thereto shall be kept in the office of the town ~~manager~~clerk and shall there be available for public inspection, during normal business hours.

Also, this Code shall be accessible through the town website.

State Law reference— Similar provisions, Code of Virginia, § ~~15.1-37.3~~15.2-1433.

Sec. 1-11. - Classification of and penalties for violations; continuing violations.

- (a) Whenever in this Code or any other ordinance of the town or any rule or regulation promulgated by any officer or agency of the town, under authority duly vested in such officer or agency, it is provided that a violation of any provision thereof shall constitute a Class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as follows:
- (1) *Class 1 misdemeanor*: By a fine of not more than two thousand five hundred dollars (\$2,500.00), or by confinement in jail for not more than twelve (12) months, or by both such fine and confinement.
 - (2) *Class 2 misdemeanor*: By a fine of not more than one thousand dollars (\$1,000.00) or by confinement in jail for not more than six (6) months, or by both such fine and confinement.
 - (3) *Class 3 misdemeanor*: By a fine of not more than five hundred dollars (\$500.00).
 - (4) *Class 4 misdemeanor*: By a fine of not more than two hundred fifty dollars (\$250.00).
- (b) Whenever in any provisions of this Code or in any other ordinance of the town or any rule or regulation promulgated by an officer or agency of the town, under authority duly vested in such officer or agency, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a Class 1 misdemeanor and be punished as prescribed in subsection (a)(1) above.
- (c) Notwithstanding any other provision of this section or any other section of this Code, no penalty for a violation of this Code or other ordinance, rule or regulation of the town shall exceed that prescribed by general law of the state for a like offense.
- (d) Each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

(Code 1971, § Art. 6-1; Ord. of 12-11-90; Ord. of 4-9-91)

State Law reference— Classification of misdemeanors and punishment therefor, Code of Virginia, §§ 18.2-9, 18.2-11; authority of town to provide penalties for violation of ordinances and provisions similar to subsection (c) above, § ~~15.1-901~~15.2-1429; authority of court trying case, upon conviction, to require bond conditioned that the person convicted will not violate the ordinance for the breach of which he was convicted for a period of not more than one year, § ~~15.1-902~~15.2-1430; injunctive relief for continuing violations of ordinances, § ~~15.1-905~~15.2-1432.

Sec. 1-12. - Installment, conditional, etc., payment of fines—Generally.

- (a) Whenever a defendant is convicted of a violation of any provision of this Code or other ordinance of the town, or found not innocent in the case of a juvenile, and is sentenced to pay a fine, and if the defendant does not pay the fine forthwith or by a date certain established by the court, the court, on its own motion or on motion of the defendant, may order the defendant to pay such fine and any costs which the defendant may be required to pay in installments or upon such other terms and conditions or within such period of time as may enable the defendant to pay such fine and costs. In determining whether to make such order, the court may require the defendant to file a petition, under oath, with the court, upon a form provided by the court, setting forth the financial condition of the defendant.
- (b) The form referred to in subsection (a) above shall be a questionnaire, and shall include, but shall not be limited to: The name and residence of the defendant; his occupation, if any; his family status and the number of persons dependent upon him; his monthly income; whether or not his dependents are employed and, if so, their approximate monthly income; his banking accounts, if any; real estate owned by the defendant, or any interest he may have in real estate, and income produced therefrom; any independent income accruing to the defendant; tangible and intangible personal property owned

by the defendant, or in which he may have an interest; and a statement listing the approximate indebtedness of the defendant to other persons. Such form shall also include a payment plan of the defendant, if the court should exercise its discretion in permitting the payment of such fine and costs in installments or other conditions to be fixed by the court. At the end of such form there shall be printed in bold face type, in a distinctive color, the following: THIS STATEMENT IS MADE UNDER OATH. ANY FALSE STATEMENT OF A MATERIAL FACT TO ANY QUESTION CONTAINED HEREIN SHALL CONSTITUTE PERJURY UNDER THE PROVISIONS OF SECTION 18.2-434 OF THE CODE OF VIRGINIA. THE MAXIMUM PENALTY FOR PERJURY IS CONFINEMENT IN THE PENITENTIARY FOR A PERIOD OF TEN YEARS. A copy of the petition shall be retained by the defendant.

- (c) If the defendant is unable to read or write, the court or the clerk may assist the defendant in completing the petition referred to in this section and require him to affix his mark thereto. The consequences of the making of a false statement shall be explained to such defendant.

(Code 1971, §§ 6-2, 6-3)

State Law reference— Similar provisions, Code of Virginia, §§ 19.2-354, 19.2-355.

Sec. 1-13. - Same—Payment as condition of probation or suspension of sentence.

If a defendant is sentenced to pay a fine and payment of the fine or fine and costs is ordered to be made on an installment basis or on other conditions under the provisions of section 1-12, and if the defendant is also placed on probation or imposition of the execution of sentence is suspended, the court may make payment of the fine pursuant to such order a condition of probation or suspension of sentence.

(Code 1971, § 6-4)

State Law reference— Similar provisions, Code of Virginia, § 19.2-356.

Sec. 1-14. - Same—Defendant may be required to be of peace and good behavior pending payment.

If a defendant is permitted to pay a fine or fine and costs on an installment basis or under such other conditions as the court shall fix under the provisions of section 1-12, the court may require, as a condition, that the defendant be of peace and good behavior until the fine and costs are paid.

(Code 1971, § 6-5)

State Law reference— Similar provisions, Code of Virginia, § 19.2-357.

Sec. 1-15. - Same—Procedure on default.

- (a) When a person sentenced to pay a fine defaults in the payment of the fine or an installment, the court, upon the motion of the Commonwealth or upon its own motion, may require him to show cause why he should not be imprisoned or fined for nonpayment.
- (b) Following an order to show cause under this section, unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant imprisoned as for a contempt for a term not to exceed sixty (60) days or impose a fine not to exceed five hundred dollars (\$500.00). The court may provide in its order that payment or satisfaction of the fine in default at any time will entitle the defendant to his release from such imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of such fine.
- (c) If it appears that the default is excusable under the standards set forth in subsection (b) hereof, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the fine or of each installment, or remitting the unpaid portion, in whole or in part.
- (d) Nothing in this section shall be deemed to alter or interfere with employment, for collection of fines, of any means authorized for the enforcement of money judgments rendered in favor of the town.

(Code 1971, § 6-6)

State Law reference— Similar provisions, Code of Virginia, § 19.2-358.

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Chapter 2 - ADMINISTRATION

ARTICLE I. - IN GENERAL

Sec. 2-1. - Town manager to exercise control over town departments and offices.

The town manager shall exercise general control over all departments and offices of the town not inconsistent with the provisions of the Charter and other provisions of this Code.

(Ord. of 11-10-81, § 2-27)

Charter reference— Charter reference—Town manager, Ch. 4.

Sec. 2-1.1 – Town Clerk.

A town clerk shall be appointed by the town manager, and shall keep the minutes of the proceedings of the town council, shall have charge of and preserve the records of the town, and shall perform such other duties as assigned by the town manager.

Sec. 2-1.12. - Criminal background checks by town manager.

(a) The town council determines that, in the interest of public welfare or safety, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of prospective town employment under consideration. their employment by the town. To this end, the town manager shall conduct, ~~under section 19.2-389(A)(7), Code of Virginia (1950), as amended,~~ an investigation of applicants for employment with the town, ~~described in subsection (b) below,~~ to determine ~~their criminal history.~~ obtain their criminal history record information. The town manager shall conduct this investigation prior to the town's making a final offer of employment to an applicant. If the results of the investigation reveal that the applicant's record would not be compatible with the nature of the public

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employment, ~~under written standards developed by the town manager on file in his office,~~ the town manager may decide not to hire the applicant or may revoke any conditional offer made.

~~(b) The town manager shall cause the conduct of a criminal history investigation on applicants for the positions that involve law enforcement; handling public funds or property in a fiduciary capacity; operation of a motor vehicle; interaction with children or the elderly; providing professional or managerial services to the town; or interaction with the public. The town manager by administrative regulation may designate other or specific positions for which a criminal background investigation shall be so conducted.~~

(Ord. of 12-14-99)

State Law reference— ~~Authority for above section,~~ Code of Virginia § 19.2-389(A)(7).

Sec. 2-2. - Conduct of town officers and employees generally.

Town officers and employees shall be courteous in their official transactions with the public, and they shall conduct themselves in the performance of their official duties so as to not knowingly deprive any person, at the time and under the circumstances then and there existing, of any lawful right or benefit to which such person may be entitled. Any person who feels aggrieved by the conduct of any town officer or employee in violation of this section ~~is hereby invited to~~ may bring such matter to the attention of such officer's or employee's department head or the town manager, without prejudice to any other recourse to which such aggrieved person may be entitled.

~~Sec. 2-3. —Debasing or insulting town officer or employee.~~

~~Members of the public should be courteous in their transactions with town officers and employees and it shall be unlawful and a Class 1 misdemeanor for any person to knowingly taunt, deride, jeer or otherwise debase or insult, whether by act, word or gesture, any town officer or employee at any time or place while such officer or employee is lawfully engaged in the performance of official duty.~~

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

Sec. 2-4. - Resisting, etc., town officers and employees.

It shall be unlawful and a Class 1 misdemeanor for any person to resist, intimidate or interfere with, or to attempt to resist, intimidate or interfere with, any ~~policeman, fireman~~police officer, firefighter, EMS personnel, or other officer or employee of the town in the performance of ~~his~~their duties.

(Code 1971, § 13-24)

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

Sec. 2-5. - Impersonation of town officer or employee.

(a) No person shall falsely represent himself to be an officer or employee of the town or, without proper authority, wear or display any uniform, insignia or credential which identifies any town officer or employee; nor shall any person, without proper authority, assume to act as an officer or employee of the town, whether to gain access to premises, obtain information, perpetrate a fraud or for any other purpose; provided, that nothing in this section shall be construed to prevent a private citizen from making a lawful citizen's arrest for felony or breach of the peace committed in his presence.

(b) A violation of this section shall constitute a Class 1 misdemeanor.

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

State Law reference— Impersonating officer, Code of Virginia, § 18.2-174; unlawful wearing of officer's uniform or insignia, § 18.2-175.

Sec. 2-6. - ~~Signing of checks on town funds.~~Disbursement of town funds.

~~Checks for duly authorized d~~Disbursements of town funds shall be approved or signed by either the town treasurer or town manager and, except for payroll ~~checks~~disbursements, ~~e~~signed shall be approved

or cosigned by either the mayor or recorder; (i) the recorder until July 1, 2022 or (ii) the vice mayor on or after July 1, 2022.

(Code 1971, § 2-4; Ord. of 7-11-06(1))

Sec. 2-7. - Fee for passing bad check to town.

There is hereby imposed, and there shall be collected, a fee ~~of twenty dollars (\$20.00)~~ approved by council for the uttering, publishing or passing of any check or draft, for payment of taxes or any other sums due the town, which is subsequently returned for insufficient funds or because there is no account or the account has been closed.

State Law reference— Authority for above section, Code of Virginia, § ~~15.1-29.4~~ 15.2-106

Sec. 2-8. - Parts of official safety program designated.

The John H. Enders Fire Company, Inc., its Rescue Squad and their membership and the Berryville Police Department and its membership are hereby declared to be an integral part of the official safety program of the town.

(Ord. of 3-12-73)

Editor's note— The above section was adopted pursuant to the Line of Duty Act, § ~~15.1-136.1~~ et seq. 9-400, et seq. of the Code of Virginia.

~~Sec. 2-9. - Loan or rental of town equipment.~~

~~(a) - No town equipment shall be loaned for any purpose. Such equipment may be rented if such rental does not interfere with the town work and if approved by the town manager. Such rental shall be at such rate and upon such conditions as the town manager may establish and charges for the equipment operator shall be included in such rental. Minimum rental time shall be one hour.~~

(b) ~~A violation of this section shall constitute a Class 3 misdemeanor.~~

[Note: move (a) to Employee Handbook]

(Code 1971, § 2-3)

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

Secs. 2-109—2-18. - Reserved.

ARTICLE II. - THE COUNCIL¹⁴

Footnotes:

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~~Charter reference— Council generally, §§ 3-1—3-15.~~ Chapter 3.

~~Cross reference— Disrupting meeting of council, § 13-11.~~

Sec. 2-19. - Standing committees.

- a) There shall be such standing committees of the council as are provided by the council. Members of such committees shall be appointed by the mayor.
- b) The council may amend committee appointments.
- c) Such committees shall have such powers and duties as are prescribed by council, not inconsistent with the Charter.

(Ord. of 04-11-17(2))

Sec. 2-20. - ~~When regular meetings held.~~ Meetings.

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The regular meetings of the town council ~~shall be held on~~are set for the second Tuesday of each month at 7:30 p.m. When any regular meeting falls on a legal holiday, such regular meeting shall then be held upon the next Tuesday following. Regular meetings of council may be cancelled by, and special meetings may be called by, the mayor or three members of the town council.

(Code 1971, § 2-6)

Charter reference— ~~Council to meet at least once a month,~~ § ~~3-12.3.13.~~

Sec. 2-21. - Rules of procedure.

The council shall establish its own rules of procedure. Except as otherwise provided in such rules, the proceedings of the council shall be governed by the current edition of Robert's Rules of Order.

(Code 1971, § 2-11)

Charter reference— Council to establish rules of procedure, § ~~3-14.3.15.~~

State Law reference— ~~Authority of council to adopt procedural rules, Code of Virginia, 15.1-826.~~

Sec. 2-22. - Procedure for adoption and effective date of ordinances and resolutions.

An ordinance or resolution of the council may be introduced and adopted or rejected at any particular meeting of the council. A full reading of the ordinance or resolution shall not be required prior to adoption. If the ordinance or resolution before the council is adopted, such ordinance or resolution shall become effective at such time as may be specified therein, but if no time is so specified, such ordinance or resolution shall become effective immediately.

(Code 1971, § 2-10)

Secs. 2-23—~~2-32,28~~, - Reserved.

ARTICLE III. - ~~TOWN TREASURER~~(2)ADMINISTRATION DEPARTMENT

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Sec. 2-29. - Established.

There is hereby established, in and for the town, an administration department.

Sec. 2-30. – Responsibilities.

The department shall be responsible for the billing and collection of taxes, fees, etc.; finance and accounting functions; purchasing and procurement functions; and human resource functions. The department shall be responsible for the efficient operation of the functions listed above. The department shall perform other duties as may be assigned by the town manager.

Section 2-31. – Assistant Town Manager for Administration/Treasurer.

The department shall be under the supervision and control of assistant town manager for administration/treasurer.

Sec. 2-33. – Town Treasurer.

The assistant town manager for administration/treasurer shall be the town treasurer.

Footnotes:

--- (2) ---

Charter reference— Appointment of town treasurer, § 5.1.

Sec. 2-33. – Town manager to be treasurer.

Until otherwise provided by the council, the town manager shall be the town treasurer.

(Code 1971, § 2-15)

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Sec. 2-33. – Town manager to serve as town treasurer. Absence of Assistant Town Manager for Administration/Treasurer.

In the absence of the town treasurer or in the event of a vacancy in the position of town treasurer, the town manager shall perform the duties of the town treasurer and shall serve as the town treasurer.

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Sec. 2-34 – Absence of Town Manager and Assistant Town Manager for Community Development/Operations.

In the absence of the town manager and the assistant town manager for community development/operations, the assistant town manager for administration/treasurer shall perform the duties of the town manager.

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Sec. 2-34.5. - Bond.

Before entering upon the duties of his~~the~~ office, the treasurer shall execute a bond, the premium for which shall be paid by the town, with surety approved by the council; in ~~the~~ penal sum of ~~two hundred thousand dollars (\$200,000.00)~~ established by council, conditioned upon the faithful performance of the duties of his~~the~~ office, for the proper collection of and accounting for all money which shall come into his~~the~~ treasurer's hands or which it shall be his or her duty to collect and for the payment of all money by him~~the~~ treasurer, or proper order of the council, to those entitled to receive the same.

(Code 1971, § 2-16)

Charter reference— Authority of council to require bond, § 8.4.7.2.

Sec. 2-356. - Duty to receive and deposit funds.

The treasurer shall receive all taxes, license taxes, assessments and other money, revenues and funds belonging to the town and deposit the same in such bank as ~~he~~the treasurer may deem proper ~~or as may be directed by town manager and with the approval of council~~. (Code 1971, § 2-17)

Cross reference— Licenses, Ch. 9; taxation, Ch. 16.

Sec. 2-367. - Remedies available for collecting funds.

For the purpose of collecting taxes, license taxes, assessments and other money, revenues and funds due the town, the treasurer shall have the right of distress, levy, attachment, and all other remedies provided by general law.

(Code 1971, § 2-18)

Sec. 2-378. - General method of keeping books and records.

The treasurer shall keep ~~his~~the books and records so that all receipts and disbursements and the source and character of the same shall appear and a true and accurate understanding of the financial affairs and conditions of the town may be readily ascertained therefrom.

(Code 1971, § 2-20)

Sec. 2-389. - Bank and check books; checks and vouchers.

The treasurer shall keep the bank books and check books so that such books will accurately reflect the state of ~~his~~the accounts. Each check shall be drawn payable to the order of the person for whose benefit it is drawn and shall contain a notation on its face which will indicate the purpose for which it is drawn. All checks and vouchers shall be carefully preserved.

(Code 1971, § 2-19)

Sec. 2-~~394~~0. - Inspection of books and records.

All of the treasurer's books and records shall be open at any time to ~~the inspection of any member of the council or by any member of the council~~ or such persons as the council may direct.

(Code 1971, § 2-21)

Sec. 2-401. - Annual audit and report.

An audit of the books of the treasurer shall be made annually by ~~such person as a certified public accountant approved by the council may designate for the purpose, and~~ assisted by the treasurer, and a report of such audit shall be made to the council as soon as possible. Such report shall also indicate the amount of uncollected assets of the town in the hands of the treasurer for collection.

(Code 1971, § 2-22)

Charter reference— Town manager to arrange for annual audit, § ~~4.2(f), 4.2(e)~~.

~~Sec. 2-41. — Authority to convey certain property.~~

~~When any property, real or personal, has been acquired by the town at a sale thereof on account of delinquent taxes or in satisfaction of any obligation due the town, any person may file with the treasurer an application to purchase such property and, upon payment to the town by the applicant of a sum equal to the amount of the obligation in settlement of which the property was acquired, together with all penalties, interest and costs, the treasurer may convey such property to the person thus applying to purchase the same.~~

(Code 1971, § 2-23)

Secs. 2-412—2-51. - Reserved.

ARTICLE IV. - ~~DEPARTMENT OF PUBLIC WORKS~~ DEPARTMENT

Sec. 2-52. - Established.

There is hereby established, in and for the town, a ~~department of public works~~ department.

Sec. 2-53. - ~~Composition;~~ Responsibilities.

~~The department of public works shall be composed of the divisions of water filtration, wastewater treatment, street and sidewalk maintenance, refuse collection, property maintenance and engineering services. Such department shall be responsible for the efficient operation of all of the above mentioned services and such other duties as may, from time to time, be assigned by the town manager or the council.~~

The department shall be responsible for the maintenance of the water distribution system (excluding pumping facilities), sewer collection system, town-maintained streets and sidewalks, town-owned property (excluding properties under the control of the public utilities department) as well as snow removal and collection of yard and other waste as provided in the code. The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

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(Ord. of 11-10-81, § 2-26)

Cross reference— Refuse collection, § ~~8-15 et seq.~~ Chapter 8, Article II; streets and sidewalks, Ch. 15; water and sewers, Ch. 17.

Sec. 2-54. - ~~Superintendent,~~ Public Works Director.

The ~~department of~~ public works department shall be under the immediate supervision of a ~~superintendent~~ the Public Works Director, who shall be appointed by, and may be removed by, and

shall be responsible to the town manager; provided, however, that such appointment or removal shall be made by the town manager only after consultation with the council.

(Ord. of 11-10-81, § 2-27)

Secs. 2-55—2-641. - Reserved.

ARTICLE V. – PUBLIC UTILITIES DEPARTMENT

Sec. 2-62. – Established.

There is hereby established, in and for the town, a public utilities department.

Sec. 2-63. – Responsibilities.

The department shall be responsible for the operation and maintenance of the following facilities: water treatment, water distribution system, pumping facilities, water storage structures, and wastewater treatment and discharge. The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

Sec. 2-64. – Public Utilities Director.

The department shall be under the supervision and control of the public utilities director, who shall be appointed by, and may be removed by, and shall be responsible to, the town manager; provided, however, that such appointment or removal shall be made by the town manager only after consultation with the council.

ARTICLE VI. - POLICE DEPARTMENT³¹

Footnotes:

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State Law reference— Authority of council to preserve peace and good order, Code of Virginia, § 45-1-43715.2-1700; general powers and duties of local police force, § 45-1-438;15.2-1704.

Sec. 2-65. - Established; composition.

There is hereby established, in and for the town, a police department, ~~to be composed of a chief of police and such other officers and employees as may be provided for by the council.~~

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Sec. 2-65.1. – Responsibilities.

The police department is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and enforcement of state and local laws, regulations, and ordinances.

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The police department shall be under the control of the town manager for the purpose of preserving and enforcing peace and order, for the execution of the laws of the state and this Code and other ordinances of the town, and the performance of such other duties as the town manager may prescribe.

Sec. 2-66. - ~~Appointment and removal of chief.~~Chief of Police.

The department shall be under the supervision of the chief of police, who shall be appointed by, and may be removed by, and shall be responsible to, the town manager; provided, however, that such appointment or removal shall be made by the town manager only after consultation with the council.

~~The chief of police shall be appointed and may be removed by the town manager; provided, however, that such appointment or removal shall be made by the manager only after consultation with the council.~~

(Code 1971, § 2-24)

Sec. 2-67. - Powers and duties of chief.

The chief of police shall be the administrative head of the police department. It shall be ~~his~~the duty of ~~the chief of police~~ to enforce the provisions of this Code and other ordinances of the town. In addition, ~~he~~the ~~chief of police~~ shall have such powers and duties as are prescribed for ~~him~~the chief by state law and town ordinances.

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The chief of police shall be the chief executive of the police department, but shall always be subject to the orders and regulations of the town manager. The chief of police shall be under the control of the town manager for the purpose of preserving and enforcing peace and order and executing the laws of the state and ordinances of the town, and it shall be the duty of the police force to respect and obey orders of the chief not in conflict with law or department regulations.

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The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

(Code 1971, § 2-25)

Sec. 2-68. - Disposal of unclaimed property in possession of police.

Any personal property which has been in the possession of the police department and unclaimed for a period of more than sixty (60) days may be (i) sold at public sale in accordance with the provisions of § 15.2-1719, Code of Virginia, 1950, as amended, or (ii) retained for use by the police department. As used herein, "unclaimed personal property" shall be any personal property belonging to another which has been acquired by a police officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Sec. 55-210.1, Code of Virginia, et seq.).

Unclaimed bicycles and mopeds may also be disposed of in accordance with § 15.2-1720, Code of Virginia.

Unclaimed firearms may also be disposed of in accordance with § 15.2-1721, Code of Virginia.

Prior to the sale or retention for use by the law-enforcement agency of any unclaimed item, the chief of police, or his duly authorized agents, shall make reasonable attempts to notify the rightful owner of the property, obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in the locality once a week for two (2) successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the police department, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The chief of police, or his duly authorized agents, shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by chief of police or his agent for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the police department shall become the property of the town and shall be retained only if, in the opinion of the chief of police, there is a legitimate use for the property by the police department and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

If no claim has been made by the owner for the property or proceeds of such sale within sixty (60) days of the sale, the remaining funds shall be deposited in the general fund of the town and the retained property may be placed into use by the police department. Any such owner shall be entitled to apply to the locality within three (3) years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the town shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three (3) years from the date of the sale.

(Ord. of 5-12-98)

State Law reference— Code of Virginia § 15.2-1719

Sec. 2-69. - Auxiliary police officers.

- (a) The chief of police, with the approval of the town manager, is hereby authorized to appoint auxiliary police officers as he deems necessary, ~~not to exceed the number of four (4).~~
- (b) The chief of police, with the approval of the town manager, shall establish rules and regulations concerning the operation of the auxiliary police officers, including their uniforms, equipment, and training.
- (c) People appointed as auxiliary police officers shall be of good character. Their appointment shall be revocable at any time by the chief of police or the town manager.
- (d) The auxiliary police officers may be called into service as deemed necessary by the chief of police, or by the town manager. Said auxiliary may also be called into service at such times as there are insufficient numbers of regular police officers to preserve the peace, safety and good order of the town and at any time for the purpose of training.
- (e) Only those who have met the training requirements established by the Department of Criminal Justice Services, ~~under § 9-179~~ pursuant to § 9.1-102(11) of the Code of Virginia, as amended, or its successor statute, shall have all the powers and authorities and immunities of constables at common law and shall have all the power and authority and immunities of full-time law enforcement officers.
- (f) Auxiliary police officers shall wear the prescribed uniform established by department general orders when called into service.
- (g) People appointed as auxiliary police officer shall serve without compensation.
- (h) People appointed as auxiliary police officers may not engage in employment; which may occasionally require the use of their police powers in the performance of such employment unless such employment is specifically approved by the town manager.

(Ord. of 5-10-11)

State Law reference-Code of Virginia § 15.2-1731 et seq.

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Secs. 2-70—2-774. - Reserved.

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ARTICLE VII. – PLANNING DEPARTMENT

Sec. 2-75. - Established.

There is hereby established, in and for the town, a planning department.

Sec. 2-76. – Responsibilities.

The department shall be responsible for community and economic development functions of the town. Such functions include, without limitation, the administration and enforcement of land use planning, zoning, subdivision, stormwater control and management, flood plain management, and erosion and sedimentation control ordinances and regulations; as well as business retention and attraction. The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

Sec. 2-77. – Assistant Town Manager for Community Development/Operations.

The department shall be under the supervision and control of the assistant town manager for community development/operations.

Sec. 2-77.1. – Zoning Administrator and Subdivision Agent.

_____ The assistant town manager for community development/operations shall be the zoning administrator and subdivision agent.

Sec. 2-77.2 – Absence of Town Manager for Community Development/Operations.

_____ In the absence of the assistant town manager for community development/operations or in the event of a vacancy in the position of assistant town manager for community development/operations, the town manager shall perform the duties of the assistant town manager for community development/operations and shall serve as zoning administrator and subdivision agent.

Sec. 2-77.3 – Absence of Town Manager.

_____ In the absence of the town manager, the assistant town manager for community development/operations shall perform the duties of the town manager.

ARTICLE VIII. - PLANNING COMMISSION⁴¹

Footnotes:

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Cross reference— Zoning ordinance, App. A; subdivision ordinance, App. B.

State Law reference— Local planning commissions, Code of Virginia, § ~~45.1-427.4~~15.2-2210, et seq.

Sec. 2-78. - Created.

A planning commission is hereby created for the town.

(Code 1971, § 14-1)

State Law reference— Duty to create planning commission, Code of Virginia, § ~~15.1-427.1~~15.2-2210.

Sec. 2-79. - Composition; qualifications of members.

The planning commission shall consist of not less than five (5) nor more than ~~fifteen (15)~~nine (9) members, as may be determined from time to time by the council, all of whom shall be residents of the town, qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half (½) of the members shall be freeholders. One member may be a member of the town council, ~~and one member may be a member of the administrative branch of the town government.~~

(Code 1971, §. 14-2; Ord. of 12-11-79)

State Law reference— ~~Similar provisions,~~ Code of Virginia, § ~~15.1-437~~15.2-2212.

Sec. 2-80. - Appointment of members.

All members of the planning commission shall be appointed by the council.

(Code 1971, § 14-3)

State Law reference— ~~Similar provisions,~~ Code of Virginia, § ~~15.1-437, 15.2-2212.~~

Sec. 2-81. - Terms of members; filling of vacancies.

- (a) The terms of the councilmanic member ~~and of the town administrative member~~ of the planning commission shall be coextensive with the term of office to which ~~he~~ the member has been elected or appointed, unless the council, at the first regular meeting of any year, appoints ~~others~~ another to serve as ~~their~~ its representatives. ~~The remaining members of the commission first appointed shall serve respectively for terms of one year, two (2) years, three (3) years and four (4) years, divided equally, or as nearly equal as possible, between the membership. Subsequent appointments shall be for terms of four (4) years each.~~
- (b) Any vacancy in the membership of the planning commission shall be filled by appointment by the council and such appointment shall be for the unexpired term.

(Code 1971, §§ 14-4, 14-5; Ord. of 12-11-79)

State Law reference— ~~Similar provisions,~~ Code of Virginia, § ~~15.1-437, 15.2-2212.~~

Sec. 2-82. - Reserved.

Editor's note— An ordinance adopted June 12, 1990, repealed former § 2-82, relative to members of the planning commission serving without compensation, which derived from Code 1971, § 14-7.

Sec. 2-83. - Removal of members.

Members of the planning commission may be removed, for malfeasance in office, by the council.

(Code 1971, § 14-6; Ord. of 12-11-79)

State Law reference— ~~Similar provisions,~~ Code of Virginia, § ~~15.1-437, 15.2-2212.~~

Sec. 2-84. - Powers, duties and functions.

The planning commission shall have the functions, powers, and duties which are prescribed for it by state law or by ordinance of the town.

(Code 1971, § 14-8)

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Chapter 3 - ADVERTISING⁽¹⁾

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Footnotes:

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Cross reference— Sound trucks, § 11-27 et seq.

Sec. 3-1. - Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 3 misdemeanor.

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

Sec. 3-2. - Posting advertising matter on buildings, poles, etc.

It shall be unlawful for any person to post, stick, fasten or otherwise attach any card, poster or advertisement upon or to any building, premise, wall, fence, post or pole, without having first secured the permission of the owner of such building, premise, wall, fence, post or pole.

(Code 1971, § 3-1)

Sec. 3-3. - Unauthorized removal, alteration, etc., of advertising matter.

It shall be unlawful for any person to tear down or otherwise remove or alter, mutilate or deface any advertisement or poster put up with the consent of the owner of the property whereupon the same is posted, without the consent of the person responsible for such advertisement or poster or the owner of such property.

(Code 1971, § 3-2)

~~Sec. 3-4. — Permit for distribution of handbills.~~

~~It shall be unlawful for any person to distribute or hand out any handbills, circulars or other advertising matter without first having secured a permit therefor from the town manager.~~

(Code 1971, § 3-3)

BERRYVILLE TOWN COUNCIL

MOTION TO ADOPT AN ORDINANCE REPEALING AND RE-ADOPTING
CHAPTERS 1, 2, AND 3 OF THE TOWN CODE

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville adopt the attached ordinance.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Attest: _____
Harry L. Arnold, Jr., Recorder

AN ORDINANCE REPEALING AND RE-ADOPTING CHAPTERS 1, 2, AND 3 – GENERAL PROVISIONS, ADMINISTRATION, AND ADVERTISING OF THE CODE OF THE TOWN OF BERRYVILLE

BE IT ORDAINED, by the Council of the Town Of Berryville, that Chapters 1, 2, and 3 – General Provisions, Administration, and Advertising, of the Code of the Town of Berryville be repealed and re-adopted as attached.

I HEREBY CERTIFY THAT THE FOREGOING Ordinance was duly adopted by the Council of the Town of Berryville in meeting assembled October 9, 2018 and will become effective immediately.

Signed: _____
Patricia Dickinson, Mayor

Date: October 9, 2018

Attest: _____
Harry L. Arnold, Jr., Recorder

Date: October 9, 2018

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as the "Code of the Town of Berryville, Virginia" and may be so cited. Such ordinances may also be cited as the "Berryville Town Code."

(Code 1971, § 1-1)

State Law reference— Authority of town to codify and recodify its ordinances, Code of Virginia, § 15.2-1433.

Sec. 1-2. - Definitions and rules of construction.

In the interpretation and construction of this Code and of all ordinances and resolutions of the town, the following rules of construction and definitions shall be observed, unless they are inconsistent with the manifest intent of the council or the context clearly requires otherwise:

And, or. "And" may be read as "or" and "or" may be read as "and," if the sense requires it.

Bond. When a bond is required, an undertaking in writing, with such surety, if any, as the council may direct, shall be sufficient.

Charter. The word "Charter" shall mean the Charter of the Town of Berryville, as amended.

Code. Whenever the term "Code" or "this Code" is used without further qualification, it shall mean the "Berryville Town Code," as designated in section 1-1.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day be Sunday or a legal holiday, that day shall be excluded.

Council. The term "council" or "town council" shall mean the council of the Town of Berryville, Virginia.

County. The word "county" shall mean the County of Clarke in the State of Virginia.

Following. The word "following," when used by way of reference to any section or subsection of this Code, shall be construed to mean next following that in which such reference is made.

Gender. A word importing the masculine gender only may extend and be applied to females and to firms, partnerships and corporations, as well as to males.

Health officer. The term "health officer" shall mean the public health officer of Clarke County or representative of the state board of health serving this county.

In the town. The words "in the town" or "within the town" shall mean any territory, jurisdiction of which, for the exercise of its regulatory power, has been conferred on the town by public or private law.

Month. The word "month" shall mean a calendar month.

Number. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing, and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath.

Occupant or tenant. The word "occupant" or "tenant," applied to a building or land, shall mean any person who holds a written or oral lease of, or actually occupies the whole or a part of, such building or land, either alone or with others.

Officers, boards, etc. Whenever reference is made to a particular officer, department, board, commission or other agency, without further qualification, it shall be construed as if followed by the words "of the Town of Berryville." Any reference to a specific officer shall include that officer's duly authorized deputies, assistants or other representatives, subject, however, to the provisions of section 15.2-1502 of the Code of Virginia.

Official time standard. Whenever particular hours are referred to, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the town.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word "person" shall include a firm, partnership, association of persons, corporation, organization or any other group acting as a unit.

Preceding. The word "preceding," when used by way of reference to any section or subsection of this Code, shall be construed to mean next preceding that in which such reference is made.

Property. The word "property" shall mean real, personal or mixed property.

Public grounds. The words "public grounds" shall mean the parks and all public lands owned by the town, and those parts of public places which do not form traveled parts of streets, as defined in this section.

Shall. The word "shall" shall be mandatory.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Section numbers. Whenever reference is made to a section by number only (e.g. "section 2-1") without further qualification, it shall be construed as referring to that section of this Code.

Signature; subscription. The words "signature" and "subscription" shall include a mark when the person cannot write, his name being written near it and being witnessed by a person who writes his own name as a witness.

State; commonwealth. The terms "the state," "the commonwealth," "this state" and "this commonwealth" shall be construed as if followed by the words "of Virginia."

State Code. References to the "State Code" or the "Code of Virginia" shall mean the Code of Virginia, 1950, as amended.

Street. The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges, and the approaches thereto, and all other public thoroughfares in the town, and shall mean the

entire width thereof between abutting property lines. It shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the council.

Swear; sworn. The word "swear" or "sworn" shall be equivalent to the word "affirm" or "affirmed" in all cases in which, by law, an affirmation may be substituted for an oath.

Tense. Words used in the past or present tense include the future as well as the past and present.

Town. The words "town," "the town" and "this town" shall mean the Town of Berryville, in the County of Clarke and State of Virginia.

Written; in writing. The words "written" and "in writing" shall include typewriting, printing on paper and any other mode of representing words, letters or figures.

Year. The word "year" shall mean a calendar year.

(Code 1971, § 1-5)

State Law reference— Similar definitions and rules of construction applicable to state law, Code of Virginia, § 1-200, et seq.

Sec. 1-3. - Headlines of sections.

The headlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and do not constitute part of the section adopted by council.

(Code 1971, § 1-4)

State Law reference— Similar provisions as to sections of state code, Code of Virginia, § 1-217.

Sec. 1-4. - Severability of parts of Code.

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1971, § 1-3)

Sec. 1-5. - Provisions of Code considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same in substance as those of the 1971 Berryville Town Code and ordinances adopted subsequent to such Code and included herein, shall be considered as continuations thereof and not as new enactments.

(Code 1971, § 1-2)

Sec. 1-6. - Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect:

- (1) Any ordinance promising or guaranteeing the payment of money by or for the town or authorizing the issuance of any bonds or any evidence of indebtedness;
- (2) Any ordinance authorizing or otherwise relating to any contract;
- (3) Any ordinance granting any franchise or right;
- (4) Any ordinance appropriating funds, levying or imposing taxes or relating to an annual budget or the salaries or compensation of officers and employees;
- (5) Any ordinance authorizing, providing for or otherwise relating to any public improvement;
- (6) Any ordinance making any assessment;

- (7) Any ordinance authorizing or otherwise relating to the sale or conveyance of town property;
- (8) Any zoning ordinance or ordinance regulating the subdivision of land; ¹¹
- (9) Any ordinance the purposes of which have been accomplished;
- (10) Any ordinance which is temporary, although general in effect; or
- (11) Any ordinance which is special, although permanent in effect;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Footnotes:

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Cross reference— Zoning ordinance, App. A; subdivision ordinance, App. B.

Sec. 1-7. - Code and new ordinances do not affect prior offenses, rights, etc.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, or any prosecution, suit or proceeding pending or any judgment rendered, on or before the effective date of this Code.
- (b) No new ordinance shall be construed to repeal a former ordinance as to any offense committed against the former ordinance or as to any act done, any penalty, forfeiture or punishment incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or any right accrued, or claim arising before the new ordinance takes effect, save only that the proceedings thereafter had shall conform, so far as practicable, to the ordinance in force at the time of such proceedings.

State Law reference— Similar provisions applicable to state statutes, Code of Virginia, § 1-239.

Sec. 1-8. - Repeal of ordinance not to revive former ordinance.

When any ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

State Law reference— Similar provisions applicable to state statutes, Code of Virginia, § 1-240.

Sec. 1-9. - Supplementation of Code.

- (a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been replaced shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate headlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code);
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

State Law reference— Authority to supplement Code, Code of Virginia, § 15.2-1433.

Sec. 1-10. - Copies of Code and supplements to be available for public inspection.

A copy of this Code and every supplement thereto shall be kept in the office of the town clerk and shall there be available for public inspection, during normal business hours. Also, this Code shall be accessible through the town website.

State Law reference— Similar provisions, Code of Virginia, § 15.2-1433.

Sec. 1-11. - Classification of and penalties for violations; continuing violations.

- (a) Whenever in this Code or any other ordinance of the town or any rule or regulation promulgated by any officer or agency of the town, under authority duly vested in such officer or agency, it is provided that a violation of any provision thereof shall constitute a Class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as follows:

- (1) *Class 1 misdemeanor*: By a fine of not more than two thousand five hundred dollars (\$2,500.00), or by confinement in jail for not more than twelve (12) months, or by both such fine and confinement.
 - (2) *Class 2 misdemeanor*: By a fine of not more than one thousand dollars (\$1,000.00) or by confinement in jail for not more than six (6) months, or by both such fine and confinement.
 - (3) *Class 3 misdemeanor*: By a fine of not more than five hundred dollars (\$500.00).
 - (4) *Class 4 misdemeanor*: By a fine of not more than two hundred fifty dollars (\$250.00).
- (b) Whenever in any provisions of this Code or in any other ordinance of the town or any rule or regulation promulgated by an officer or agency of the town, under authority duly vested in such officer or agency, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a Class 1 misdemeanor and be punished as prescribed in subsection (a)(1) above.
- (c) Notwithstanding any other provision of this section or any other section of this Code, no penalty for a violation of this Code or other ordinance, rule or regulation of the town shall exceed that prescribed by general law of the state for a like offense.
- (d) Each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

(Code 1971, § Art. 6-1; Ord. of 12-11-90; Ord. of 4-9-91)

State Law reference— Classification of misdemeanors and punishment therefor, Code of Virginia, §§ 18.2-9, 18.2-11; authority of town to provide penalties for violation of ordinances and provisions similar to subsection (c) above, § 15.2-1429; authority of court trying case, upon

conviction, to require bond conditioned that the person convicted will not violate the ordinance for the breach of which he was convicted for a period of not more than one year, § 15.2-1430; injunctive relief for continuing violations of ordinances, § 15.2-1432.

Sec. 1-12. - Installment, conditional, etc., payment of fines—Generally.

- (a) Whenever a defendant is convicted of a violation of any provision of this Code or other ordinance of the town, or found not innocent in the case of a juvenile, and is sentenced to pay a fine, and if the defendant does not pay the fine forthwith or by a date certain established by the court, the court, on its own motion or on motion of the defendant, may order the defendant to pay such fine and any costs which the defendant may be required to pay in installments or upon such other terms and conditions or within such period of time as may enable the defendant to pay such fine and costs. In determining whether to make such order, the court may require the defendant to file a petition, under oath, with the court, upon a form provided by the court, setting forth the financial condition of the defendant.
- (b) The form referred to in subsection (a) above shall be a questionnaire, and shall include, but shall not be limited to: The name and residence of the defendant; his occupation, if any; his family status and the number of persons dependent upon him; his monthly income; whether or not his dependents are employed and, if so, their approximate monthly income; his banking accounts, if any; real estate owned by the defendant, or any interest he may have in real estate, and income produced therefrom; any independent income accruing to the defendant; tangible and intangible personal property owned by the defendant, or in which he may have an interest; and a statement listing the approximate indebtedness of the defendant to other persons. Such form shall also include a payment plan of the defendant, if the court should exercise its discretion in permitting the payment of such fine and costs in installments or other conditions to be fixed by the court. At the end of such form there shall be printed in bold face type, in a distinctive color, the following: THIS STATEMENT IS MADE UNDER OATH. ANY FALSE STATEMENT OF A MATERIAL FACT TO ANY QUESTION CONTAINED HEREIN SHALL CONSTITUTE PERJURY UNDER THE PROVISIONS OF SECTION 18.2-434 OF

THE CODE OF VIRGINIA. THE MAXIMUM PENALTY FOR PERJURY IS CONFINEMENT IN THE PENITENTIARY FOR A PERIOD OF TEN YEARS. A copy of the petition shall be retained by the defendant.

- (c) If the defendant is unable to read or write, the court or the clerk may assist the defendant in completing the petition referred to in this section and require him to affix his mark thereto. The consequences of the making of a false statement shall be explained to such defendant.

(Code 1971, §§ 6-2, 6-3)

State Law reference— Similar provisions, Code of Virginia, §§ 19.2-354, 19.2-355.

Sec. 1-13. - Same—Payment as condition of probation or suspension of sentence.

If a defendant is sentenced to pay a fine and payment of the fine or fine and costs is ordered to be made on an installment basis or on other conditions under the provisions of section 1-12, and if the defendant is also placed on probation or imposition of the execution of sentence is suspended, the court may make payment of the fine pursuant to such order a condition of probation or suspension of sentence.

(Code 1971, § 6-4)

State Law reference— Similar provisions, Code of Virginia, § 19.2-356.

Sec. 1-14. - Same—Defendant may be required to be of peace and good behavior pending payment.

If a defendant is permitted to pay a fine or fine and costs on an installment basis or under such other conditions as the court shall fix under the provisions of section 1-12, the court may require, as a condition, that the defendant be of peace and good behavior until the fine and costs are paid.

(Code 1971, § 6-5)

State Law reference— Similar provisions, Code of Virginia, § 19.2-357.

Sec. 1-15. - Same—Procedure on default.

- (a) When a person sentenced to pay a fine defaults in the payment of the fine or an installment, the court, upon the motion of the Commonwealth or upon its own motion, may require him to show cause why he should not be imprisoned or fined for nonpayment.
- (b) Following an order to show cause under this section, unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant imprisoned as for a contempt for a term not to exceed sixty (60) days or impose a fine not to exceed five hundred dollars (\$500.00). The court may provide in its order that payment or satisfaction of the fine in default at any time will entitle the defendant to his release from such imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of such fine.
- (c) If it appears that the default is excusable under the standards set forth in subsection (b) hereof, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the fine or of each installment, or remitting the unpaid portion, in whole or in part.
- (d) Nothing in this section shall be deemed to alter or interfere with employment, for collection of fines, of any means authorized for the enforcement of money judgments rendered in favor of the town.

(Code 1971, § 6-6)

State Law reference— Similar provisions, Code of Virginia, § 19.2-358.

09/27/18

Chapter 2 - ADMINISTRATION

ARTICLE I. - IN GENERAL

Sec. 2-1. - Town manager to exercise control over town departments and offices.

The town manager shall exercise general control over all departments and offices of the town not inconsistent with the provisions of the Charter and other provisions of this Code.

(Ord. of 11-10-81, § 2-27)

Charter reference— Charter reference—Town manager, Ch. 4.

Sec. 2-1.1 – Town Clerk.

A town clerk shall be appointed by the town manager, and shall keep the minutes of the proceedings of the town council, shall have charge of and preserve the records of the town, and shall perform such other duties as assigned by the town manager.

Sec. 2-1.2. - Criminal background checks by town manager.

The town council determines that, in the interest of public welfare or safety, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with their employment by the town. To this end, the town manager shall conduct an investigation of applicants for employment with the town to obtain their criminal history record information. The town manager shall conduct this investigation prior to the town's making a final offer of employment to an applicant. If the results of the investigation reveal that the applicant's record would not be compatible with the nature of the public employment, the town manager may decide not to hire the applicant or may revoke any conditional offer made.

(Ord. of 12-14-99)

State Law reference— Code of Virginia § 19.2-389(A)(7).

Sec. 2-2. - Conduct of town officers and employees generally.

Town officers and employees shall be courteous in their official transactions with the public, and they shall conduct themselves in the performance of their official duties so as to not knowingly deprive any person, at the time and under the circumstances then and there existing, of any lawful right or benefit to which such person may be entitled. Any person who feels aggrieved by the conduct of any town officer or employee in violation of this section may bring such matter to the attention of such officer's or employee's department head or the town manager, without prejudice to any other recourse to which such aggrieved person may be entitled.

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

Sec. 2-4. - Resisting, etc., town officers and employees.

It shall be unlawful and a Class 1 misdemeanor for any person to resist, intimidate or interfere with, or to attempt to resist, intimidate or interfere with, any police officer, firefighter, EMS personnel, or other officer or employee of the town in the performance of their duties.

(Code 1971, § 13-24)

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

Sec. 2-5. - Impersonation of town officer or employee.

(a) No person shall falsely represent himself to be an officer or employee of the town or, without proper authority, wear or display any uniform, insignia or credential which identifies any town officer or employee; nor shall any person, without proper authority, assume to act as an officer or employee of

the town, whether to gain access to premises, obtain information, perpetrate a fraud or for any other purpose; provided, that nothing in this section shall be construed to prevent a private citizen from making a lawful citizen's arrest for felony or breach of the peace committed in his presence.

(b) A violation of this section shall constitute a Class 1 misdemeanor.

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

State Law reference— Impersonating officer, Code of Virginia, § 18.2-174; unlawful wearing of officer's uniform or insignia, § 18.2-175.

Sec. 2-6. - Disbursement of town funds.

Disbursements of town funds shall be approved or signed by either the town treasurer or town manager and, except for payroll disbursements, shall be approved or cosigned by either the mayor or (i) the recorder until July 1, 2022 or (ii) the vice mayor on or after July 1, 2022.

(Code 1971, § 2-4; Ord. of 7-11-06(1))

Sec. 2-7. - Fee for passing bad check to town.

There is hereby imposed, and there shall be collected, a fee approved by council for the uttering, publishing or passing of any check or draft, for payment of taxes or any other sums due the town, which is subsequently returned for insufficient funds or because there is no account or the account has been closed.

State Law reference— Authority for above section, Code of Virginia, § 15.2-106

Sec. 2-8. - Parts of official safety program designated.

The John H. Enders Fire Company, Inc., its Rescue Squad and their membership and the Berryville Police Department and its membership are hereby declared to be an integral part of the official safety program of the town.

(Ord. of 3-12-73)

Editor's note— The above section was adopted pursuant to the Line of Duty Act, § 9-400, et seq. of the Code of Virginia.

[Note: move (a) to Employee Handbook]

Secs. 2-9—2-18. - Reserved.

ARTICLE II. - THE COUNCIL⁽¹⁾

Footnotes:

--- (1) ---

Charter reference— Council generally, Chapter 3.

Cross reference— Disrupting meeting of council, § 13-11.

Sec. 2-19. - Standing committees.

- a) There shall be such standing committees of the council as are provided by the council. Members of such committees shall be appointed by the mayor.
- b) The council may amend committee appointments.
- c) Such committees shall have such powers and duties as are prescribed by council, not inconsistent with the Charter.

(Ord. of 04-11-17(2))

Sec. 2-20. - Meetings.

The regular meetings of the town council are set for the second Tuesday of each month at 7:30 p.m. When any regular meeting falls on a legal holiday, such regular meeting shall then be held upon the next Tuesday following. Regular meetings of council may be cancelled by, and special meetings may be called by, the mayor or three members of the town council.

(Code 1971, § 2-6)

Charter reference— § 3.13.

Sec. 2-21. - Rules of procedure.

The council shall establish its own rules of procedure. Except as otherwise provided in such rules, the proceedings of the council shall be governed by the current edition of Robert's Rules of Order.

(Code 1971, § 2-11)

Charter reference— Council to establish rules of procedure, § 3.15.

Sec. 2-22. - Procedure for adoption and effective date of ordinances and resolutions.

An ordinance or resolution of the council may be introduced and adopted or rejected at any particular meeting of the council. A full reading of the ordinance or resolution shall not be required prior to adoption. If the ordinance or resolution before the council is adopted, such ordinance or resolution shall become effective at such time as may be specified therein, but if no time is so specified, such ordinance or resolution shall become effective immediately.

(Code 1971, § 2-10)

Secs. 2-23—2-28. - Reserved.

ARTICLE III. - ADMINISTRATION DEPARTMENT

Sec. 2-29. - Established.

There is hereby established, in and for the town, an administration department.

Sec. 2-30. – Responsibilities.

The department shall be responsible for the billing and collection of taxes, fees, etc.; finance and accounting functions; purchasing and procurement functions; and human resource functions. The department shall be responsible for the efficient operation of the functions listed above. The department shall perform other duties as may be assigned by the town manager.

Section 2-31. – Assistant Town Manager for Administration/Treasurer.

The department shall be under the supervision and control of assistant town manager for administration/treasurer.

Sec. 2-33. – Town Treasurer.

The assistant town manager for administration/treasurer shall be the town treasurer.

Footnotes:

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Charter reference— Appointment of town treasurer, § 5.1.

Sec. 2-33. – Absence of Assistant Town Manager for Administration/Treasurer.

In the absence of the town treasurer or in the event of a vacancy in the position of town treasurer, the town manager shall perform the duties of the town treasurer and shall serve as the town treasurer.

Sec. 2-34 – Absence of Town Manager and Assistant Town Manager for Community Development/Operations.

In the absence of the town manager and the assistant town manager for community development/operations, the assistant town manager for administration/treasurer shall perform the duties of the town manager.

Sec. 2-35. - Bond.

Before entering upon the duties of the office, the treasurer shall execute a bond, the premium for which shall be paid by the town, with surety approved by the council in a penal sum established by council, conditioned upon the faithful performance of the duties of the office, for the proper collection of and accounting for all money which shall come into the treasurer's hands or which it shall be his or her duty to collect and for the payment of all money by the treasurer, or proper order of the council, to those entitled to receive the same.

(Code 1971, § 2-16)

Charter reference— Authority of council to require bond, § 7.2.

Sec. 2-36. - Duty to receive and deposit funds.

The treasurer shall receive all taxes, license taxes, assessments and other money, revenues and funds belonging to the town and deposit the same in such bank as the treasurer may deem proper and with the approval of council. (Code 1971, § 2-17)

Cross reference— Licenses, Ch. 9; taxation, Ch. 16.

Sec. 2-37. - Remedies available for collecting funds.

For the purpose of collecting taxes, license taxes, assessments and other money, revenues and funds due the town, the treasurer shall have the right of distress, levy, attachment, and all other remedies provided by general law.

(Code 1971, § 2-18)

Sec. 2-38. - General method of keeping books and records.

The treasurer shall keep the books and records so that all receipts and disbursements and the source and character of the same shall appear and a true and accurate understanding of the financial affairs and conditions of the town may be readily ascertained therefrom.

(Code 1971, § 2-20)

Sec. 2-39. - Bank and check books; checks and vouchers.

The treasurer shall keep the bank books and check books so that such books will accurately reflect the state of the accounts. Each check shall be drawn payable to the order of the person for whose benefit it is drawn and shall contain a notation on its face which will indicate the purpose for which it is drawn. All checks and vouchers shall be carefully preserved.

(Code 1971, § 2-19)

Sec. 2-40. - Inspection of books and records.

All of the treasurer's books and records shall be open at any time to inspection by any member of the council or such persons as the council may direct.

(Code 1971, § 2-21)

Sec. 2-41. - Annual audit and report.

An audit of the books of the treasurer shall be made annually by a certified public accountant approved by the council and assisted by the treasurer, and a report of such audit shall be made to the council as soon as possible. Such report shall also indicate the amount of uncollected assets of the town in the hands of the treasurer for collection.

(Code 1971, § 2-22)

Charter reference— Town manager to arrange for annual audit, § 4.2(e).

(Code 1971, § 2-23)

Secs. 2-42—2-51. - Reserved.

ARTICLE IV. - PUBLIC WORKS DEPARTMENT

Sec. 2-52. - Established.

There is hereby established, in and for the town, a public works department.

Sec. 2-53. - Responsibilities.

The department shall be responsible for the maintenance of the water distribution system (excluding pumping facilities), sewer collection system, town-maintained streets and sidewalks, town-owned property (excluding properties under the control of the public utilities department) as well as snow removal and collection of yard and other waste as provided in the code. The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

(Ord. of 11-10-81, § 2-26)

Cross reference— Refuse collection, § Chapter 8, Article II; streets and sidewalks, Ch. 15; water and sewers, Ch. 17.

Sec. 2-54. - Public Works Director.

The public works department shall be under the immediate supervision of the public works director, who shall be appointed by, and may be removed by, and shall be responsible to, the town manager; provided, however, that such appointment or removal shall be made by the town manager only after consultation with the council.

(Ord. of 11-10-81, § 2-27)

Secs. 2-55—2-61. - Reserved.

ARTICLE V. – PUBLIC UTILITIES DEPARTMENT

Sec. 2-62. – Established.

There is hereby established, in and for the town, a public utilities department.

Sec. 2-63. – Responsibilities.

The department shall be responsible for the operation and maintenance of the following facilities: water treatment, water distribution system, pumping facilities, water storage structures, and wastewater treatment and discharge. The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

Sec. 2-64. – Public Utilities Director.

The department shall be under the supervision and control of the public utilities director, who shall be appointed by, and may be removed by, and shall be responsible to, the town manager; provided, however, that such appointment or removal shall be made by the town manager only after consultation with the council.

ARTICLE VI. - POLICE DEPARTMENT⁽³⁾

Footnotes:

--- (3) ---

State Law reference— Authority of council to preserve peace and good order, Code of Virginia, § 15.2-1700; general powers and duties of local police force, § 15.2-1704.

Sec. 2-65. - Established; composition.

There is hereby established, in and for the town, a police department.

Sec. 2-65.1. – Responsibilities.

The police department is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and enforcement of state and local laws, regulations, and ordinances.

The police department shall be under the control of the town manager for the purpose of preserving and enforcing peace and order, for the execution of the laws of the state and this Code and other ordinances of the town, and the performance of such other duties as the town manager may prescribe.

Sec. 2-66. - Chief of Police.

The department shall be under the supervision of the chief of police, who shall be appointed by, and may be removed by, and shall be responsible to, the town manager; provided, however, that such appointment or removal shall be made by the town manager only after consultation with the council.

(Code 1971, § 2-24)

Sec. 2-67. - Powers and duties of chief.

The chief of police shall be the administrative head of the police department. It shall be the duty of the chief of police to enforce the provisions of this Code and other ordinances of the town. In addition, the chief of police shall have such powers and duties as are prescribed for the chief by state law and town ordinances.

The chief of police shall be the chief executive of the police department, but shall always be subject to the orders and regulations of the town manager. The chief of police shall be under the control of the town manager for the purpose of preserving and enforcing peace and order and executing the laws of the state and ordinances of the town, and it shall be the duty of the police force to respect and obey orders of the chief not in conflict with law or department regulations.

The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

(Code 1971, § 2-25)

Sec. 2-68. - Disposal of unclaimed property in possession of police.

Any personal property which has been in the possession of the police department and unclaimed for a period of more than sixty (60) days may be (i) sold at public sale in accordance with the provisions of § 15.2-1719, Code of Virginia, 1950, as amended, or (ii) retained for use by the police department. As used herein, "unclaimed personal property" shall be any personal property belonging to another which has been acquired by a police officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Sec. 55-210.1, Code of Virginia, et seq.). Unclaimed bicycles and mopeds may also be disposed of in accordance with § 15.2-1720, Code of Virginia. Unclaimed firearms may also be disposed of in accordance with § 15.2-1721, Code of Virginia.

Prior to the sale or retention for use by the law-enforcement agency of any unclaimed item, the chief of police, or his duly authorized agents, shall make reasonable attempts to notify the rightful owner of the property, obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in the locality once a week for two (2) successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the police department, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The chief of police, or his duly authorized agents, shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by chief of police or his agent for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the police department shall become the property of the town and shall be retained only if, in the opinion of the chief of police, there is a legitimate use for the property by the police department and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

If no claim has been made by the owner for the property or proceeds of such sale within sixty (60) days of the sale, the remaining funds shall be deposited in the general fund of the town and the retained property may be placed into use by the police department. Any such owner shall be entitled to apply to the locality within three (3) years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the town shall pay the remaining proceeds

of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three (3) years from the date of the sale.

(Ord. of 5-12-98)

State Law reference— Code of Virginia § 15.2-1719

Sec. 2-69. - Auxiliary police officers.

- (a) The chief of police, with the approval of the town manager, is hereby authorized to appoint auxiliary police officers as he deems necessary.
- (b) The chief of police, with the approval of the town manager, shall establish rules and regulations concerning the operation of the auxiliary police officers, including their uniforms, equipment, and training.
- (c) People appointed as auxiliary police officers shall be of good character. Their appointment shall be revocable at any time by the chief of police or the town manager.
- (d) The auxiliary police officers may be called into service as deemed necessary by the chief of police, or by the town manager. Said auxiliary may also be called into service at such times as there are insufficient numbers of regular police officers to preserve the peace, safety and good order of the town and at any time for the purpose of training.
- (e) Only those who have met the training requirements established by the Department of Criminal Justice Services pursuant to § 9.1-102(11) of the Code of Virginia, as amended, or its successor statute, shall have all the powers and authorities and immunities of constables at common law and shall have all the power and authority and immunities of full-time law enforcement officers.
- (f) Auxiliary police officers shall wear the prescribed uniform established by department general orders when called into service.
- (g) People appointed as auxiliary police officer shall serve without compensation.

(h) People appointed as auxiliary police officers may not engage in employment which may occasionally require the use of their police powers in the performance of such employment unless such employment is specifically approved by the town manager.

(Ord. of 5-10-11)

State Law reference-Code of Virginia § 15.2-1731 et seq.

Secs. 2-70—2-74. - Reserved.

ARTICLE VII. – PLANNING DEPARTMENT

Sec. 2-75. - Established.

There is hereby established, in and for the town, a planning department.

Sec. 2-76. – Responsibilities.

The department shall be responsible for community and economic development functions of the town. Such functions include, without limitation, the administration and enforcement of land use planning, zoning, subdivision, stormwater control and management, flood plain management, and erosion and sedimentation control ordinances and regulations; as well as business retention and attraction. The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

Sec. 2-77. – Assistant Town Manager for Community Development/Operations.

The department shall be under the supervision and control of the assistant town manager for community development/operations.

Sec. 2-77.1. – Zoning Administrator and Subdivision Agent.

The assistant town manager for community development/operations shall be the zoning administrator and subdivision agent.

Sec. 2-77.2 – Absence of Town Manager for Community Development/Operations.

In the absence of the assistant town manager for community development/operations or in the event of a vacancy in the position of assistant town manager for community development/operations, the town manager shall perform the duties of the assistant town manager for community development/operations and shall serve as zoning administrator and subdivision agent.

Sec. 2-77.3 – Absence of Town Manager.

In the absence of the town manager, the assistant town manager for community development/operations shall perform the duties of the town manager.

ARTICLE VIII. - PLANNING COMMISSION⁴¹

Footnotes:

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Cross reference— Zoning ordinance, App. A; subdivision ordinance, App. B.

State Law reference— Local planning commissions, Code of Virginia, § 15.2-2210, et seq.

Sec. 2-78. - Created.

A planning commission is hereby created for the town.

(Code 1971, § 14-1)

State Law reference— Duty to create planning commission, Code of Virginia, § 15.2-2210.

Sec. 2-79. - Composition; qualifications of members.

The planning commission shall consist of not less than five (5) nor more than nine (9) members, as may be determined from time to time by the council, all of whom shall be residents of the town, qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half ($\frac{1}{2}$) of the members shall be freeholders. One member may be a member of the town council.

(Code 1971, §. 14-2; Ord. of 12-11-79)

State Law reference— Code of Virginia, § 15.2-2212.

Sec. 2-80. - Appointment of members.

All members of the planning commission shall be appointed by the council.

(Code 1971, § 14-3)

State Law reference— Code of Virginia, § 15.2-2212.

Sec. 2-81. - Term of members; filling of vacancies.

- (a) The term of the council member of the planning commission shall be coextensive with the term of office to which the member has been elected or appointed, unless the council, at the first regular meeting of any year, appoints another to serve as its representative. (b) Any vacancy in the membership of the planning commission shall be filled by appointment by the council and such appointment shall be for the unexpired term.

(Code 1971, §§ 14-4, 14-5; Ord. of 12-11-79)

State Law reference— Code of Virginia, § 15.2-2212.

Sec. 2-82. - Reserved.

Editor's note— An ordinance adopted June 12, 1990, repealed former § 2-82, relative to members of the planning commission serving without compensation, which derived from Code 1971, § 14-7.

Sec. 2-83. - Removal of members.

Members of the planning commission may be removed, for malfeasance in office, by the council.

(Code 1971, § 14-6; Ord. of 12-11-79)

State Law reference— Code of Virginia, § 15.2-2212.

Sec. 2-84. - Powers, duties and functions.

The planning commission shall have the functions, powers, and duties which are prescribed for it by state law or by ordinance of the town.

(Code 1971, § 14-8)

07/11/18

Chapter 3 - ADVERTISING

Sec. 3-1. - Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 3 misdemeanor.

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

Sec. 3-2. - Posting advertising matter on buildings, poles, etc.

It shall be unlawful for any person to post, stick, fasten or otherwise attach any card, poster or advertisement upon or to any building, premise, wall, fence, post or pole, without having first secured the permission of the owner of such building, premise, wall, fence, post or pole.

(Code 1971, § 3-1)

Sec. 3-3. - Unauthorized removal, alteration, etc., of advertising matter.

It shall be unlawful for any person to tear down or otherwise remove or alter, mutilate or deface any advertisement or poster put up with the consent of the owner of the property whereupon the same is posted, without the consent of the person responsible for such advertisement or poster or the owner of such property.

(Code 1971, § 3-2)

BERRYVILLE TOWN COUNCIL

MOTION TO ADOPT AN ORDINANCE ESTABLISHING BONDING
REQUIREMENTS FOR CERTAIN TOWN EMPLOYEES

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville adopt the attached ordinance.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Attest: _____
Harry L. Arnold, Jr., Recorder

AN ORDINANCE ESTABLISHING BONDING REQUIREMENTS FOR CERTAIN TOWN
EMPLOYEES IN ACCORDANCE WITH SECTIONS 2.35 AND 2.33 OF THE CODE OF THE
TOWN OF BERRYVILLE

BE IT ORDAINED, by the Council of the Town Of Berryville, establishes a minimum bonding requirement of \$200,000 each for the Treasurer and Town Manager, in accordance with Sections 2.35 and 2.33 the Code of the Town of Berryville.

I HEREBY CERTIFY THAT THE FOREGOING Ordinance was duly adopted by the Council of the Town of Berryville in meeting assembled October 9, 2018 and will become effective immediately.

Signed: _____
Patricia Dickinson, Mayor

Date: October 9, 2018

Attest: _____
Harry L. Arnold, Jr., Recorder

Date: October 9, 2018

BERRYVILLE TOWN COUNCIL

MOTION TO ADOPT AN ORDINANCE ESTABLISHING THE AMOUNT OF
THE RETURNED CHECK FEE

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville adopt the attached ordinance.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Attest: _____
Harry L. Arnold, Jr., Recorder

AN ORDINANCE ESTABLISHING A RETURNED CHECK FEE IN ACCORDANCE WITH SECTION
2.7 OF THE CODE OF THE TOWN OF BERRYVILLE

BE IT ORDAINED, by the Council of the Town Of Berryville, establishes a returned check fee of \$50.00, in accordance with Sections 2.7 of the Code of the Town of Berryville.

I HEREBY CERTIFY THAT THE FOREGOING Ordinance was duly adopted by the Council of the Town of Berryville in meeting assembled October 9, 2018 and will become effective immediately.

Signed: _____
Patricia Dickinson, Mayor

Date: October 9, 2018

Attest: _____
Harry L. Arnold, Jr., Recorder

Date: October 9, 2018

Attachment 3

BERRYVILLE TOWN COUNCIL

MOTION TO ADOPT THE CONSENT AGENDA

Date: October 9, 2018

Motion By:

Second By:

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

VOTE:

Aye:

Nay:

Abstain:

Absent:

Attest: _____

Harry L. Arnold, Jr., Recorder

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
September 11, 2018
7:30 p.m.

Town Council: Present-Patricia Dickinson, Mayor; Harry Lee Arnold, Jr., Recorder; Donna Marie McDonald; Diane Harrison; Erecka Gibson; Kara Rodriguez

Staff: Keith Dalton, Town Manager; Heather Halterman, Finance Clerk; Tim Bristol, Sergeant; Karen Johnson, Front Desk Clerk

Press: Mickey Powell, The Winchester Star

1. Call to Order

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

Mayor Dickinson requested a moment of silence be given to remember the September 11 attacks to The World Trade Center, The Pentagon and Flight 93.

2. Pledge of Allegiance

3. Approval of Agenda

On motion of Council member Harrison, seconded by Council member Rodriguez, the agenda was approved.

Aye: McDonald, Harrison, Gibson, Rodriguez, Arnold

Nay: None

Abstain: Dickinson

4. Public Hearing

Jon Erickson, Agent, is requesting amendments to Proffers originally approved on August 9, 2009 as part of a rezoning in order to construct a 120-unit age-restricted apartment complex and associated improvements on 10.98 acres identified as Tax Map Parcel number 14-5-251B and zoned Older Person Residential (OPR).

Mayor Dickinson recognized Alton Echols, Berryville resident and Trustee for the project, who stated Robert Regan Village is intended to set a new standard for senior living. He said the facility will employ 90+ people. Mr. Echols stated he was hoping that the majority of Americans from middle and lower classes have the same opportunity for senior living standards as the upper class. Mr. Echols thanked Wilson Kirby, David Tollett, Donna McDonald, Ericka Gibson, Pat Dickinson, and Reverend Garrett that made this project possible.

The public hearing was closed.

The Berryville Town Council is proposing a text amendment to Article III, Section 321 Public Tree Ordinance, of the Town of Berryville Zoning Ordinance in order to allow for Town Council appointment of Tree Board members under Section 321.2. TA 04-18

There were no public hearing speakers. The public hearing was closed.

5. Citizens' Forum

Mayor Dickinson recognized Mary Ivie, town resident. Ms. Ivie stated that she has discussed the flooding and lack of storm drainage for the past couple of months. She said she has spoken to a neighbor who said she has constant flooding in her basement. She stated there is 3 to 6 inches of standing water in the road on Academy and Dorsey. Ms. Ivie said she had a copy of the Storm Water Management Flood Ordinance from 1997 signed by Mr. Dalton defining flooding. Ms. Ivie said a neighbor said the flooding on Walnut Street is from water flowing from houses on Ashby an Archer Courts. She said the neighbors have contacted the Town on numerous occasions and are getting no relief or response. Ms. Ivie said before the Town does any more building and expansion it should take care of the lack of storm water drainage and take care of the residents that are living in the Town that have been paying taxes.

Mayor Dickinson recognized Mr. Bob Nunn, town resident, who thanked Recorder Arnold and others who worked on and helped make the Cruise-In successful and said this event gave great exposure to the Town.

6. Consent Agenda

The Consent Agenda was approved, with removal of the Minutes of Streets and Utilities Committee meeting of 08/28/18, on motion of Recorder Arnold, seconded by Council member Harrison. The items approved on the Consent Agenda were:

Minutes of Regular Meeting – 08/14/18

Minutes of Work Session – 08/20/18

Minutes of Community Development Committee – 08/27/18

Minutes of Personnel, Appointments, and Policy Committee – 08/28/18

Aye: McDonald, Harrison, Gibson, Rodriguez, Arnold

Nay: None

Abstain: Dickinson

Mayor Dickinson asked why the minutes of the Budget and Finance committee meeting of 8/23/18 were not included in the agenda packet. Mr. Dalton said he wrote an email to that affect and the reason why they were not included was because there were significant changes that had not been discussed with all members of the Committee. Mayor Dickinson asked when she would receive the minutes. Mr. Dalton said they would be discussed at the next Committee meeting and then added to the next Town Council meeting packet.

7. Report of Patricia Dickinson, Mayor

The attached Resolution of Appreciation of Thanks was presented to former Council member Allen Kitselman. Mr. Kitselman was congratulated and thanked for his service by Mayor Dickinson and the current members of Town Council.

Mayor Dickinson noted the appointment of Mr. William Bigelow to the Berryville Tree Board and said she was impressed by his enthusiasm and commitment to improving Berryville. She noted the term of office begins immediately and expires April 30, 2021.

Mayor Dickinson said her final comment is about conversations that have been taking place on how individual Council members vote as well as the process Council uses for voting. She said it is her firm belief that each member of Council has the right, the obligation to vote as he or she decides. She said no member of Council should be allowed to intimidate or coerce a fellow Council member's choice. Additionally she believes it is disrespectful for a member of Council to ask that a fellow Council member explain or justify his or her vote. She stated that debate in discussion is held before votes are cast and if a member of Council wishes to share a position in a matter, it is their opportunity to do so. She said if a member of Council wishes to find out where another member of Council stands on a matter, a polite inquiry before votes are cast is appropriate but to demand an explanation after the vote has been taken is inappropriate. She added it is her desire that members of the Council are comfortable with the voting process.

Mayor Dickinson suggested considering a roll call vote and thinks that this will address the concerns of the voting process expressed by members of Town Council. She said each member of Town Council will be required to declare his or her vote and the audio recording will accurately capture each vote.

Mayor Dickinson said if there were no objections she would like to try this method today to see how it works and if it doesn't work they could try something else.

Reporter Arnold said he is ok with trying.

8. Report of Harry Lee Arnold, Jr., Recorder

Recorder Arnold said in July he expressed the need to better communicate and provide information to the citizens regarding water and sewer, specifically how it is billed, how meters are read, how the system and funding works. He said Town staff and Council have been working on the Town and utility brochures since July. Recorder Arnold suggested approving the brochures as presented. Council member Harrison suggested that the picture be replaced and the color and the type on the graph be improved on the water brochure. Council member Gibson agreed with Council member Harrison. Council member Gibson suggested that there be fewer categories listed on the graph on the water brochure and any category under 10% be listed as other with a description of that category. Council member McDonald suggested creating the graph in greyscale. Mr. Dalton said staff can update the graph and exchange the picture. Council member Gibson suggested sending the finals to Council via email for approval. Council member Rodriguez was fine with the Town brochure but suggested adding Council member's photos and bios to the www.berryvilleva.gov website. Mr. Dalton suggested that a group photo of Council be taken at the next Town Council meeting.

9. Report of Christy Dunkle, Assistant Town Manager/Planner

Ms. Dunkle was not present at the meeting so Mr. Dalton addressed the Council on her behalf.

Mr. Dalton said the reason for the public hearing for Modification to Robert Regan Village Proffer Statement was the Planner determined that the project, as submitted, did not meet the Proffers previously adopted.

Mr. Dalton recognized Jon Erickson, Agent. Mr. Erickson proposed that part of Chamberlain Street become a private entrance with onus of upkeep and maintenance on the owner instead of the Town. He said the lots off of Chamberlain will no longer be subdivided but will remain with parent parcel. He said it allows for pedestrian access from Mosby, through the assisted care facility, continuing down to the private section of Chamberlain and then onto the public part of Chamberlain. Mr. Erickson said the site plan had been submitted to the BADA with revisions forthcoming and that the Public Hearing is scheduled for September 26, 2018.

Recorder Arnold stated he was looking forward to the upgrade in this area due to challenges that Fire and Rescue trucks have had maneuvering their equipment. Mr. Erickson said the proposed private Chamberlain access will be upgraded and built to VDOT shoulder and ditch section standards.

Council member Harrison asked whether sidewalks will be included in the upgraded plan. Mr. Erickson said that there would be a standard 5 foot sidewalk included.

Mayor Dickinson asked if there was any discussion from Council members on the motion. Council member McDonald asked where the Mayor stood. Mayor Dickinson replied that Robert Regan Village will be one of the biggest benefits to the Town in a long time and thinks that this is a wonderful project and if this motion moves it forward she is fine with it.

Mayor Dickinson said there are four choices to the roll call vote which are yes, no, pass, or abstain. Council member McDonald replied that she was not comfortable with the pass vote. Mayor Dickinson said that if Council member McDonald was not comfortable with the pass vote it can be taken off the table. Mayor Dickinson stated there will now be three choices which are yes, no, or abstain.

Council member Gibson moved that the Council of the Town of Berryville approve modifications to the proffer statement for the property identified as Tax Map Parcel number 14-5-251B located on Mosby Boulevard and zoned OPR Older Person Residential as attached.

Council member Rodriguez seconded the motion.

The roll call vote was as follows:

- McDonald – Aye
- Harrison – Aye
- Gibson – Aye
- Rodriguez – Aye
- Arnold – Aye
- Dickinson – Aye
- Absent – none

+++++

Mr. Dalton reviewed the public hearing request for modification to the Zoning Ordinance that would allow for Town Council to appoint members of the Tree Board. Mr. Dalton referenced the action item in the agenda packet.

Mayor Dickinson said there had been prior discussion and this motion aligns with how all board appointments are made.

Council member Rodriguez requested the need to update section 323.3 of the Zoning Ordinance where appointments are made by Town Council as opposed to the Mayor.

Mayor Dickinson asked if there was any discussion on the motion. No discussion was noted.

Council member McDonald moved that the Council of the Town of Berryville adopt the attached ordinance amending Article III, Section 321 of the Berryville Zoning Ordinance, modifying the appointment process for Tree Board members.

Council member Rodriguez seconded the motion.

AN ORDINANCE AMENDING ARTICLE III, SECTION 321 PUBLIC TREE ORDINANCE, OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article III, Supplementary Regulations, of the Town of Berryville Zoning Ordinance shall be amended as follows:

SECTION 321 Public Tree Ordinance

321.2 Creation and Establishment of a Town Tree Board

There is hereby created and established a Town Tree Board for the Town of Berryville which shall consist of five members, citizens, and residents of the Town of Berryville, who shall be appointed by the Town Council.

A roll call vote was as follows:

- McDonald – Aye
- Harrison – Aye
- Gibson – Aye
- Rodriguez – Aye
- Arnold – Aye
- Dickinson – Aye
- Absent – none

+++++

Mr. Dalton noted a discussion regarding a resolution for a Traffic Calming Study. He said that citizens had approached the Town in November 2017 regarding concerns of speeding on South Buckmarsh Street. He stated that in accordance with the requirements of the Neighborhood Traffic Calming Program, citizens met, discussed, and signed a petition which constituted Step 1

of the Program. Mr. Dalton said Step 2 requires the Council to adopt a resolution requesting that a traffic calming study be completed.

Mayor Dickinson asked if there was any discussion from Council members on the resolution. Council member McDonald asked if there was a cost involved for the study. Mayor Dickinson replied there was no cost to the Town. Council member McDonald asked where the Mayor stood on the motion. Mayor Dickinson replied that she supports the people who have worked hard to try to calm traffic on Route 340 and applauded their efforts trying to make the Town a better place.

Council member Erickson said she understood there was no cost to perform the study but was concerned with costs in implementing and maintaining facilities as it relates to currently budgeted items.

Council member Harrison said there is a second phase and when VDOT makes recommendations then Council must approve.

Recorder Arnold said the study will reveal different phases and they will not all fall in the same budget year.

Council member Harrison moved that the Council of the Town of Berryville approve the attached resolution requesting that VDOT complete a traffic Calming Study on South Buckmarsh Street.

Recorder Arnold seconded the motion.

A roll call vote was as follows:

- McDonald – Nay
- Harrison – Aye
- Gibson – Aye
- Rodriguez – Aye
- Arnold – Aye
- Dickinson – Aye
- Absent – none

+++++

10. Report of Keith Dalton, Town Manager

Mr. Dalton noted that the proposed Charter and Town Code amendments from the Town Council Work Session held on August 20, 2018 were included in the agenda packet. Mr. Dalton stated that Mr. Mitchell, legal counsel, worked on changes and additions which were reflected in the packet. Mr. Dalton said he will continue with the schedule established and set the public hearing for October 9, 2018.

Mayor Dickinson said she would like to see the following changes/additions/requests:

Town Charter – find a home for the old section 3.8

Town Code:

- 2.4 – make gender neutral
- 2-34- replace coordinate with assume duties
- 2-53 – add snow removal to duties
- 2-76 - make sure Council is comfortable with planning department description of functions
- 2-77.1 - make sure Council is comfortable with zoning administrator description of functions
- 2-77.3 –replace coordinate with assume duties

Town Council unanimously agreed to schedule the public hearing for October 9, 2018.

Mr. Dalton noted that there was a motion included in the agenda packet to direct the Town Manager to Evaluate Budget Goals for FY 2020. He stated that a Town Council Work Session was held on September 5, 2018 to discuss the goals.

Mayor Dickinson asked if there was any discussion.

Council member McDonald asked what the thoughts were from Council on effective Social media presence. Council member Rodriguez replied that the Town needs its own identity and there is a need to develop a plan beyond Facebook.

Council member Rodriguez stated that she has concerns about excluding the storm water management challenges goal. She noted that the Town would be working on this matter even though it was not a defined goal.

Mayor Dickinson requested the Committees take active rolls and assist Mr. Dalton with the FY2020 goals.

Council member Gibson moved that the Council of the Town of Berryville direct the Town Manager to provide analysis and additional detail to the Council on the following budget goals for fiscal year 2020.

- Complete a traffic analysis for the planned southeast collector in partnership with Clarke County.
- Complete a salary survey and revise employee classification system.
- Complete a fixed assets inventory for area not addressed in the water and sewer study that will be completed in FY19.
- Receive accreditation of the Berryville Police Department from the Virginia Department of Criminal Justice.
- Develop branding, a marketing strategy, and a communication strategy for the Town (that will include enhancing www.berryvilleva.gov and developing an effective social media presence).
- Perform a payroll audit.

I further move that for each goal listed above, the Town Manager is to provide project scope, approach, cost estimates, risks, and benefits.

Council member Rodriguez seconded the motion.

A roll call vote was as follows:

- McDonald – Aye
- Harrison – Aye
- Gibson – Aye
- Rodriguez – Aye
- Arnold – Aye
- Dickinson – Aye
- Absent – none

+++++

Mr. Dalton discussed the Sewer Main Repair and Rehabilitation project. He said there are three areas on East Main Street where the sewer main is in need of repair. He said the project would be completed by different contractors. Mr. Dalton stated the total estimated project costs including contingency is \$117,444.60. He proposed funding be allocated from the Sewer System Rehab line item in the amount of \$110,000. Mr. Dalton said there would be a shortfall of \$67,444 which he proposed transferring from the Sewer System Rehab Reserve Balance. Mr. Dalton noted that the change in the budget was just under the percentage that requires a public hearing. He also noted that the cooperative procurement portion fell just under the amount that would require the Town Council's approval. Mr. Dalton stated that even though these measures were not required, the Council could, of course, use any process it saw fit. Mr. Dalton said the point and asphalt repair would most likely fall during the day and the lining repair would most likely occur at night. Mr. Dalton said a similar project was done a couple years ago on North Buckmarsh Street. He said this project addresses two main goals: 1) to sure up the stability of the line and 2) to decrease inflow and infiltration.

Mayor Dickinson stated that she doesn't want to see the project negatively impact businesses and access to residences. Mr. Dalton replied there might be times where access is restricted but that Public Works does their best to keep disruption to a minimum.

Council member McDonald questioned whether this would have a positive impact on storm water issues. Mr. Dalton replied it would not affect the storm water system.

Council member Rodriguez asked staff to explain what riding on a contract meant. Mr. Dalton replied cooperative procurement will permit another public body to save on procurement policy administrative costs and they can utilize the pricing that other jurisdictions have received.

Mayor Dickinson asked if the lining repair of \$96,344.60 included a contingency. Mr. Dalton replied that it did not but he felt good with the estimate.

Mayor Dickinson said she felt uncomfortable with approving a cost over \$100,000 for a contract that she has not seen. Recorder Arnold stated that typically Council does not get involved approving contracts and that that is the responsibility of the Town Manager.

Mayor Dickinson asked if there was any discussion on this motion. Council member McDonald asked where the Mayor stood. Mayor Dickinson replied that she is a little uncomfortable with

the \$100,000 but thinks this is something that needs to be done and recommends moving forward.

Recorder Arnold moved that the Council of the Town of Berryville approve the transfer of \$67,444.60 from the Sewer System Rehab Reserve into line item 502-4094200-8134 of the FY19 Budget.

Council member Harrison seconded the motion.

A roll call vote was as follows:

- McDonald – Aye
- Harrison – Aye
- Gibson – Aye
- Rodriguez – Aye
- Arnold – Aye
- Dickinson – Aye
- Absent – none

+++++

Mr. Dalton noted that the Town has worked intensely over the last 2 days preparing for the approaching hurricane and will continue to do so over the next few days.

11. Report of Erecka Gibson - Chair, Budget and Finance Committee
Council member Gibson noted the next Budget and Finance Committee meeting is scheduled for September 27, 2018 at 10:30 a.m. where discussion will take place on policy for checks and bank account management. Council member Gibson requested an update from staff, when possible, of the disputed transaction on the Bank of America statement.
12. Report of Kara Rodriguez - Chair, Community Development Committee
Council member Rodriguez recognized Ms. Lizzie Ryan from Berryville Main Street. Ms. Ryan discussed the Hogan's Alley project where there are plans to install planters with future goals of lighting, painting/texturing the sidewalk, and placing vintage signage. Ms. Ryan discussed the Virginia Main Street Feasibility Grant application. She said the Committee was interested in applying for a feasibility study for the Livery Stable which is done through Berryville Main Street. Ms. Ryan said they were hoping phase one plans for the alley would begin late October/early November.

Mr. Dalton said since Hogan's Alley is owned by the Town, he would need to seek to receive approval for modifications from Town Council. Mr. Dalton said he plans to examine lighting and hopes the Town, with approval of Town Council, commission a plaque to honor John Hogan, former Town Manager. He said he would request the Architectural Review Board's assistance and would also need the adjoining property owners' approval. Mr. Dalton said he will coordinate Berryville Main Street with the ARB and involve the Community Development Committee for further development and participation from the Town if approved by Council. Mayor Dickinson asked Council member Rodriguez if she was ok with taking on this project. Council member

Rodriguez replied yes. Town Council agreed by consensus. Mr. Dalton said he would discuss the details of the dedication plaque with Ms. Ryan.

Mr. Dalton said if Council approved, he would direct a letter to the Berryville Main Street Board of Directors requesting that the organization apply for a feasibility study for the Livery Stable. Mayor Dickinson asked if this study would encompass the entire building. Mr. Dalton replied that he thinks that the entire building should be considered. Town Council agreed by consensus.

Council member Rodriguez noted the next Community Development Committee meeting is scheduled for September 24, 2018 at 4:30 p.m.

13. Report of Donna McDonald – Chair Public Safety Committee

Council member McDonald noted the next Public Safety Committee meeting is scheduled for September 26, 2018 at 6:30 p.m.

Council member McDonald asked Sergeant Bristol if the department had any calls regarding storm water issues in the past years. Sergeant Bristol replied that there have not been a lot of calls this year but in past years there have been a few. Sergeant Bristol said typically they would respond to the call but then notify the Fire Department for assistance.

14. Report of Diane Harrison – Chair, Streets and Utilities Committee

Council member Harrison said the Committee discussed having a storm water survey completed before the water policy became a topic of discussion. Council member Harrison stated there are two meetings scheduled where there will be a forum for citizens to discuss storm water issues. Council member Harrison confirmed the public input Streets and Utilities Committee meetings as follows:

October 23, 2018 at 5:00 p.m. in Main Meeting Room

October 25, 2018 at 7:30 p.m. in Main Meeting Room (Committee members will arrive at 7:00 p.m. to discuss budget goals.)

A notice will be sent out in the water bill regarding these meetings which will also include a survey for citizens to fill out and return or discuss at the meeting.

Council member Harrison asked Mr. Dalton based on Dave Tyrell's report, if the air conditioning being out at the plant poses a problem. Mr. Dalton replied that it is being repaired but there should be no ill effects from the outage.

Mayor Dickinson asked, based on Dave Tyrell's report, if not being able to pull the membranes for service would pose a problem down the road. Mr. Dalton said that to his knowledge this should not be a problem.

Council member Harrison asked about the salt buildup in the hypochlorite feed lines at the water plant. Mr. Dalton said there is still investigation being done to find out why the buildup is occurring. He noted that all chlorination requirements are being met.

15. Report of Harry Lee Arnold, Jr. – Chair, Personnel, Appointment and Policy Committee

Recorder Arnold noted the next Personnel, Appointment and Policy Committee meeting is scheduled for October 23, 2018 at 9:00 a.m. Mayor Dickinson said there are at least two people

who have told her that they have submitted talent bank forms and are interested in filling the unfilled BADA appointment.

16. Other

Council member Rodriguez asked if there was support from Council members and requested that the agenda packets be distributed on Thursdays. Council member Gibson said she does not look at the binder until Monday or Tuesday. Mayor Dickinson would like to receive the packet earlier. Council member Harrison said she has no preference. Council member McDonald said she has no preference but suggested postponing the request until full staffing is maintained.

Mr. Dalton said he and Ms. Dunkle are reviewing agenda and minutes management systems. Mayor Dickinson said she and Mr. Dalton have had discussions about the schedule as to when to expect first draft minutes and when approvals are expected. Mr. Dalton said that he hopes to have the Town Clerk position filled by the next Town Council meeting and then to establish a schedule.

17. Closed Session

No closed session scheduled.

18. Adjourn

There being no other business, upon motion of Council member Rodriguez, seconded by Council member McDonald, the meeting was adjourned at 9:42 p.m.

Harry Lee Arnold, Jr., Recorder

Karen Johnson, Front Desk Clerk

MORRIS & RITCHIE ASSOCIATES, INC.

ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS,
AND LANDSCAPE ARCHITECTS



Robert Regan Village Proffers

August 6, 2018

1. Master Development Plan
 - 1.1 The development of the Property shall generally conform to the Robert Regan Village Concept Plan dated August 3, 2018 , a copy of said Concept Plan being attached hereto as Exhibit A, subject to revisions which may be approved by the Town in final site plan review and approval.
2. Land Use Restrictions
 - 2.1 Multi-family residential uses on the Property shall not exceed 120 units and shall be limited to areas containing 11 +/- acres subject to revisions which may be approved by the Town in final Site Plan review.
3. Real Estate Tax
 - 3.1 The Owner, the Owner's successors and assigns, shall pay the usual and customary real estate tax to the Town and the County based upon the full real estate tax assessment of the localities and the prevailing tax rate in each locality.
 - 3.2 Neither the Owner nor the Applicant, not their successors or assigns, shall seek any exemption for the Property from real estate taxation by classification or designation pursuant to Chapter 36 of Title 58.1 (Sec. 58.1- 3600, et seq.) of the Code of Virginia, or otherwise, and further, the Owner, and the Owner's successors and assigns, shall pay the annual real estate tax as set forth in 3.1, above, notwithstanding any such exemption which may have been granted or obtained.
4. Cash Proffers
 - 4.1 Prior to the issuance of a building permit for multi-family residential units on the property, the Recorded Owner shall pay to the Town, for fire and rescue [purposes], a sum equal to One Thousand Two Hundred Fifty Dollars (\$1,250.00) per unit for the total number of multi-family units shown on the applicable approved final site plan.
5. Deed
 - 5.1 Any deed conveying the Property, or any portion thereof, shall affix as attachment incorporation into said deed, a full copy of these proffers in order to advise any subsequent purchaser of the proffered terms and conditions.

43760 Trade Center Place, Suite 110, Sterling, VA 20166 (703) 674-0161 Fax: (703) 478-0137 www.mragta.com

OWNER:

A.C. Echols, Jr., Trustee of the Battlefield Center
Trust Under A Trust Agreement Dated June 15, 2001

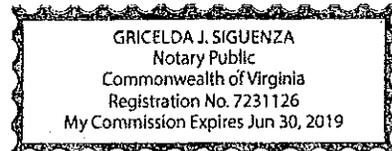
By: A.C. Echols, Jr. - Trustee
A.C. Echols, Jr., Trustee

COMMONWEALTH OF VIRGINIA;
City / County of Clame, to wit:

The foregoing instrument was acknowledged before me, in the aforesaid jurisdiction, this 11th
day of September, 2018 by A.C. Echols, Jr., Trustee of the Battlefield Center Trust Under a Trust
Agreement Dated June 15, 2001.

My commission expires June 30, 2019.

Gracela Siguenza
NOTARY PUBLIC





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

WHEREAS, H. Allen Kitselman, III was first appointed to the Berryville Town Council on May 8, 2001; and

WHEREAS, Mr. Kitselman was subsequently elected for four additional terms serving on the Council for 17 years; and

WHEREAS, Mr. Kitselman continues to serve on the Berryville Area Development Authority where he has served since 1999; and

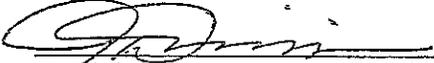
WHEREAS, During his tenure on Council, Mr. Kitselman has faithfully served the citizens of the Town of Berryville, utilizing his expertise to guide and manage many projects including the construction of the Berryville – Clarke County Government Center and serving as a member of the Community Improvements Committee and the Building Committee; and

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

WHEREAS, Through his dedication to the Berryville Town Council, Mr. Kitselman has served as an exceptional example of a citizen's concern for his community and has positively affected the lives of Berryville's residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Town of Berryville, that H. Allen Kitselman, III's extensive and distinguished service to this community is recognized and that he is thanked for his hard work and dedication.

By Order of the Council of the Town of Berryville on this the tenth day of July, 2018.


Patricia Dickinson,
Mayor


Harry Lee Arnold, Jr.,
Recorder



RESOLUTION TO REQUEST VDOT TRAFFIC CALMING STUDY
SOUTH BUCKMARSH STREET | US 340

WHEREAS, Public safety is a priority for the Council of the Town of Berryville; and

WHEREAS, Citizens are concerned about speeding on South Buckmarsh Street; and

WHEREAS, A sufficient number of signatures have been submitted to Town Council to warrant a request for a study; and

NOW, THEREFORE, BE IT RESOLVED The Council of the Town of Berryville supports and requests a Traffic Calming Study be conducted by VDOT on South Buckmarsh Street.

By Order of the Council of the Town of Berryville on this the eleventh day of September, 2018.

Patricia Dickinson, Mayor

Harry Lee Arnold, Jr., Recorder

AN ORDINANCE AMENDING
ARTICLE III, SECTION 321 PUBLIC TREE ORDINANCE, OF THE
TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article III, Supplementary Regulations, of the Town of Berryville Zoning Ordinance shall be amended as follows:

SECTION 321 Public Tree Ordinance

321.2 Creation and Establishment of a Town Tree Board

There is hereby created and established a Town Tree Board for the Town of Berryville which shall consist of five members, citizens, and residents of the Town of Berryville, who shall be appointed by the Town Council.

SIGNED: _____
Patricia Dickinson, Mayor

ATTEST: _____
Harry Lee Arnold, Jr., Recorder

BERRYVILLE TOWN COUNCIL SIGN UP SHEET

Citizens' Forum

Tuesday, September 11, 2018

7:30 p.m.

Name:	Town of Berryville Resident?
MARY WIE	<input checked="" type="radio"/> Yes No
BOB NUNN	<input checked="" type="radio"/> Yes No
	Yes No
	Yes No
	Yes No
	Yes No
	Yes No
	Yes No
	Yes No
	Yes No
	Yes No
	Yes No
	Yes No
	Yes No

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Work Session
September 5, 2018
3:00 p.m.

Town Council: Present-Patricia Dickinson, Mayor; Harry Lee Arnold, Jr., Recorder; Diane Harrison; Erecka Gibson; Kara C. Rodriguez

Staff: Keith Dalton, Town Manager; Karen Johnson, Front Desk Clerk

Press: Mickey Powell, The Winchester Star

1. Call to Order

Mayor Dickinson called the meeting to order at 3:00 p.m.

2. Approval of Agenda

On motion of Council member Harrison, seconded by Council member Rodriguez the agenda was approved as presented.

Aye: Harrison, Gibson, Rodriguez, Arnold

Nay: None

Abstain: Dickinson

3. Discussion – Goals for Fiscal Year 2020

Mr. Dalton reviewed the standing committee goals for FY2020 with Council as identified below.

Budget Committee

1. Complete a fixed assets inventory for areas not addressed in the water and sewer study.

Council member Gibson said she is passionate about the fixed asset inventory listing being done because it adds value with regards to what the Town owns, where items are located, the condition of items and their value. She said it deters theft, aids in disaster recovery, aids for insurance and tax purposes and lends to improved planning and budgeting. She noted that the fixed asset inventory is a start and leads to developing a policy.

2. Develop Budget and Finance related policies for inclusion in a Town Council Policy Manual.

Council member Gibson stated that Town Council should develop a structured formal policy document and gave examples of her current employer's structure.

3. Perform a payroll system audit.

Mayor Dickinson said this goal developed from the audit for procurement and cash disbursement presentation where it was suggested that there be a payroll system audit.

4. After purchase, installation, and integration of new budgeting software in FY 2019; improve upon budgeting and reporting functions.

Council member Gibson said this software will allow for improved reports in a more timely manner.

5. Develop a five-year budget beginning in FY2020.

Mayor Dickinson stated she would like to see a five year pro forma budget to see where the Town is headed and when adjustments may need to occur.

Community Development

1. Develop a strategy for use of consumer tax revenue for economic development within the Town.

Council member Rodriguez said they have had discussions at the Committee meetings to develop a strategy to fund a part time position to focus on economic development possibly using the transient occupancy tax. She stated that Lizzie from Berryville Main Street was going to approach Berryville Main Street board members to discuss a possible partnership. Recorder Arnold noted that at one time there had been discussion about the transient occupancy tax being used for economic development and to also partner with the County. Recorder Arnold proposed taking a percentage of the transient occupancy tax and meals tax to help with economic development.

2. Enhance www.berryvilleva.gov and develop an effective social media presence.

Council member Rodriguez said that it is time for the Town to have its own social media presence. Council member Harrison stated that it would be a place where accurate information resides. Mayor Dickinson noted the site could be used as a communication tool as well as social media. Council member Harrison suggested placing a newsletter in each water bill that would include meeting dates on important information. Council member Rodriguez suggested updating this goal to read enhance www.berryvilleva.gov and develop an effective communication strategy to include a social media presence.

3. Develop branding and a marketing strategy for the Town.

Council member Rodriguez said creating an identity for the Town will enhance business. Council member Harrison stated the Town needs a tagline. Mr. Dalton said we do need to move forward with branding and TOD's, which should be included on the entrance signs into the Town.

Personnel, Appointments, and Policy Committee

1. Complete a salary survey.

Mr. Dalton said there was discussion about having this done in house. He said going the more informal route will give an idea as to where the Town compares and any shortcomings. Mr. Dalton noted if a consultant is hired it would be incumbent for the Town to make adjustments as suggested. Mayor Dickinson said she would be surprised that a salary survey would show

grossly under compensation based on the low turnover. Mr. Dalton said we are entering a job market where the retention aspect is going to rise in importance. Mayor Dickinson said a consultant can easily do the salary survey. Council member Harrison said a consultant should already have the data. Mr. Dalton suggested having the consultant also explore the classification system. Mr. Dalton said he will check with the County for consultant costs based on a study they completed a couple years ago.

Public Safety Committee

1. Receive accreditation of the Berryville Police Department from the Virginia Department of Criminal Justice.

Mr. Dalton said this will be done in house but there will be some costs associated with the Reviewer's accommodations, travel and expenses. Mr. Dalton said that we need to place approved SOP's in a specific form and a specific order. Mr. Dalton stated that Council member McDonald said that this was a high priority.

Streets and Utilities Committee

1. Identify and evaluate storm water management challenges throughout the Town.

Mr. Dalton stated the storm water management would focus on the Town Run and other areas. He said the process would begin with fact finding, prioritizing, and then budgeting. Mayor Dickinson said she would like to create a strategy that would be all encompassing to see what the Town, communities, and individual homeowners could do. She said she would like to facilitate a connection between individuals and organizations.

2. Advocate for and inform Town's residents, as train and through truck traffic increases.

Mayor Dickinson stated that Norfolk will create the largest port traffic on the East Coast. She stated this will increase train and truck traffic significantly in the Town. Mayor Dickinson said she would advocate for a 340 Bypass just like Route 7 to stop trucks from having to come through the middle of town.

3. Complete a traffic analysis for the planned southeast collector in partnership with Clarke County.

Mr. Dalton stated the County has budgeted for the traffic analysis for FY2019.

After discussion between Council and staff, the list was paired down to the top six Town Council Goals for Fiscal Year 2020. The list will then be paired down further after project scope, approach, internal/external risks and estimated costs are evaluated by the Town staff. The top six selected goals were as follows:

1. Complete a traffic analysis for the planned southeast collector in partnership with Clarke County.

Mr. Dalton stated that this goal, if not done, has ramifications with thru and town traffic. He said the business park is full and we need to look for expansion which will help with economic development.

2. Complete a salary survey and classification system.

Mr. Dalton said we are behind the curve on salaries and there will be more challenges at retention and recruitment.

3. Complete a fixed assets inventory for area not addressed in the water and sewer study.

Mr. Dalton said the larger the Town becomes there is a need for a fixed asset inventory and this will make it easier to manage what we have for budgeting and planning.

4. Receive accreditation of the Berryville Police Department from the Virginia Department of Criminal Justice.

Mr. Dalton said that this is important because it leads to good morale and communication and shows that the police department is professional and supported by the Town and Town Council.

5. Develop branding and marketing study enhancing www.berryvilleva.gov and develop an effective communication strategy to include a social media presence.

Mr. Dalton said this goal is about letting the world know who we are which lends to supporting businesses, economic development, and drawing more people and bringing more money to the Town.

6. Perform a payroll system audit

Mayor Dickinson said this is important for the list because if there are underpaid employees we need to make adjustments.

Council member Rodriguez stated that she agrees with the list but has a little heartache excluding the storm water management challenges.

Council member Harrison stated there are two Streets and Utilities committee meetings scheduled and there can be discussion on ideas of what homeowners can do to help with immediate problems.

Mr. Dalton said that this listing was broad and would need to be more specific if included.

On motion of consensus of Town Council the following budget goals for fiscal year 2020 were adopted:

1. Complete a traffic analysis for the planned southeast collector in partnership with Clarke County.

2. Complete a salary survey and classification system.

3. Complete a fixed assets inventory for area not addressed in the water and sewer study.

4. Receive accreditation of the Berryville Police Department from the Virginia Department of Criminal Justice.

5. **Develop branding and marketing study enhancing www.berryvilleva.gov and develop an effective communication strategy to include a social media presence.**
6. **Perform a payroll system audit.**

4. Other

Council member Rodriguez asked where we stood with the Town and utility brochures. Mr. Dalton said the staff will finalize the brochures for the next Town Council meeting.

Mr. Dalton and Council member Harrison confirmed the public input Streets and Utilities Committee meetings as follows:

October 23, 2018 at 5:00 p.m. in Main Meeting Room

October 25, 2018 at 7:30 p.m. in Main Meeting Room

Council member Harrison said the format will be as follows:

1. Introduction of discussion about storm water drainage
2. Discussion and compilation of data from forms that people will fill out sent out in water bill
3. Provide helpful information and resources that are available

5. Closed Session – No closed session scheduled

6. Adjourn

There being no other business upon motion of Mayor Dickinson, seconded by Council member Rodriguez, the meeting was adjourned at 4:20 p.m.

Harry Lee Arnold, Jr., Recorder

Karen Johnson, Front Desk Clerk

BERRYVILLE TOWN COUNCIL BUDGET AND FINANCE COMMITTEE
Berryville-Clarke County Government Center
MINUTES
August 23, 2018

A meeting of the Berryville Town Council Budget and Finance Committee was held on Thursday, August 23, 2018 at 10:30am in the Berryville – Clarke County Government Center located at 101 Chalmers Court in Berryville, Virginia.

Attendance: Members of the Committee present: Erecka Gibson, Chair; Pat Dickinson; Kara Rodriguez

Staff present: Keith Dalton, Town Manager; Desiree Moreland, Assistant Town Manager/Treasurer; Chief Neal White, Berryville Police Department

Press present: none

1. Call to Order

Chair Gibson called the meeting to order at 10:45am.

2. Approval of Agenda

The agenda was approved by Chair Gibson and Ms. Dickinson by consent.

3. Discussion – FY 2020 Budget Goals

The Committee discussed its list of budget goals and determined that it would provide a list of five goals to the Town Council as follows:

1. Complete a fixed assets inventory for areas not covered by the water and sewer study to be completed in FY19.
2. Develop Budget and Finance related policies for inclusion in a Town Council Policy Manual. It is expected that this work will continue through FY 2019 and into FY 2020.
3. Procure an auditing firm to perform a payroll system audit.
4. After purchase, installation, and integration of new budgeting software in FY 2019, improve upon budgeting and reporting functions.
5. Develop a five-year budget beginning in FY 2020.

Other ideas that were discussed included examination/review of revenues and planning for short-term budget windfalls to benefit areas such as economic development.

4. Discussion - Year-End Expenses – Process/Policy

Chair Gibson noted an email the Mayor Dickinson sent regarding a check presented just prior to year-end without proper documentation and asked the Treasurer for an explanation of the process used for year-end expenses and accruals.

The committee discussed end of year processing and the possible use of accruals to manage transactions that cross the fiscal year end. The Treasurer stated that, as part of the annual audit, the auditors review all transactions posted from July 1 through August 15 and then inform the treasurer which entries are to be moved to the prior reporting period. Committee members stated they were unfamiliar with this process. The Treasurer reported that it was a standard process and had been followed for many years. Mayor Dickinson suggested that the committee discuss the process with the auditors.

The committee discussed concerns regarding the same check being presented to Mayor Dickinson after year end with invoice(s) and an "OK to Pay" initialed but not released as task had not yet been completed. The committee was not aware the check was being held or that the task had not yet been completed. Ms. Dickinson said that she had signed the check with assurance that the subject work had been completed. Accordingly, she is not comfortable with the check being held. The committee agreed that the check should be voided. Ms. Moreland said the check would be voided.

Mayor Dickinson asked how checks that had a hand written note of "Hold for XXX" on them were handled. The Treasurer explained that there are occasions when a department head asks that a check be held so he or she can hand deliver the check to the vendor. The committee indicated they were not sure if this was an appropriate process and asked that the treasurer draft a check handling policy for the committee's consideration.

5. Discussion - Establishing Bank Accounts – Process/Policy

Committee members agreed to provide Ms. Moreland with comments on the draft policy.

6. Closed Session

There was no closed session.

7. Other

Committee members agreed to provide Ms. Moreland with comments on the Fourth Quarter Budget Analysis.

The Committee set their next meeting for September 27, 2018 at 10:30am.

8. Adjourn

There being no further business, the meeting was adjourned at 11:54am.

MINUTES
BERRYVILLE TOWN COUNCIL
BUDGET & FINANCE COMMITTEE
Berryville-Clarke County Government Center
September 27, 2018
10:30 a.m.

Town Council: Present: Erecka Gibson, Chair; Patricia Dickinson; Kara Rodriguez

Staff: Keith Dalton, Town Manager; Desiree Moreland, Treasurer; Heather Halterman, Finance Clerk

Press: Mickey Powell, The Winchester Star

1. **Call to Order**
The meeting was called to order at 10:32 a.m. by Committee Chair Gibson.
2. **Approval of Agenda**
Ms. Rodriguez made the motion to approve the amended agenda, seconded by Ms. Dickinson, the motion was approved by voice vote.
3. **Discussion – On-line payment options**
Ms. Halterman reviewed on-line payment options with the Committee. The Committee discussed the advantages and disadvantages of the options presented. The Committee requested that staff provide transaction summary data to them at the next meeting. The summary data requested would include ACH, cash, check, and credit card transaction numbers.
4. **Discussion – Minutes of 8/23/2018 Committee Meeting**
The Committee discussed the draft minutes of the 8/23/2018 meeting and proposed amendments thereto. The Committee agreed to have Chair Gibson provide language to staff for addition to the draft minutes.
5. **Discussion – Bank Account Policy**
Ms. Moreland stated that the attached draft included changes requested to the version previously reviewed by the Committee. The Committee agreed to forward this policy to the Town Council. Ms. Dickinson stated that a wire transfer policy should be considered.
6. **Discussion – Check Handling Policy**
The Committee discussed the draft memorandum and agreed that a formal policy should be developed. The Committee provided guidance regarding the policy, including the development of a receipt form to be used when a check is hand-delivered. Staff was asked to develop a draft policy for review at the next Committee meeting.
7. **Discussion – Frequency of requests to use contingency funds and other financial decisions outside of the normal budget process**

Ms. Dickinson expressed concern about the numerous requests for more money the Council has been receiving. She noted that there was a request for funds to meet the additional costs of the ground reservoir work and the work on the sewer main in East Main Street. Ms. Dickinson questioned whether such requests are normal. The Committee discussed the matter. Chair Gibson noted that in the case of the use of contingency funds for computer work, the planned asset inventory would assist with planning.

8. Closed Session

No Closed Session Scheduled

9. Other

Ms. Moreland noted that she has a conflict with the next Committee meeting regular meeting date. The Committee set their next meeting for 18 October at 10:30 am.

10. Adjourn

There being no further business, Ms. Dickinson made a motion to adjourn the meeting, seconded by Ms. Rodriguez, the motion passed by voice vote at 12:27 p.m.

BERRYVILLE TOWN COUNCIL COMMUNITY DEVELOPMENT COMMITTEE
Berryville-Clarke County Government Center
MINUTES
Monday, September 24, 2018

A meeting of the Berryville Town Council Community Development Committee was held on Monday, September 24, 2018 at 4:30pm in the Berryville – Clarke County Government Center located at 101 Chalmers Court in Berryville, Virginia.

Attendance: Members of the Committee present: Kara Rodriguez, Chair; Diane Harrison; Donna McDonald

Staff present: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner

Press present: None

Others present: None

Chair Rodriguez called the meeting to order at 4:30pm.

Approval of Agenda

The agenda was approved by consensus.

Updates

Hogan's Alley

Mr. Dalton said he has not discussed the project with Berryville Main Street (BMS) since the last meeting. He said he would like to update Town Council or Community Development Committee members once he speaks to BMS staff. There was a discussion about temporary installation of improvements in order to facilitate an October event that BMS had previously referenced. Committee members were in favor of a temporary installation. Mr. Dalton identified elements of the project that should be addressed including modifications to the sidewalk in front of the alley on Main Street; storm water improvements; possible replacement of the light pole; and bollard removal. He said he has begun drafting the narrative for a plaque to place in the alley in honor of Mr. Hogan.

Livery Stable

Mr. Dalton said he had no update and will continue to work on the project and assist BMS with the feasibility study grant.

Mr. Dalton reminded Committee members of budget requirements for playground improvements. He said that a base map of the park should be finalized by November. He reiterated that a discussion to identify CIP funding for the playground should be included in the FY 2020 budget process.

Discussion - Committee Charge

Chair Rodriguez said the draft Committee charge included in the packet was a starting point for discussion. She said Mrs. Dickinson offered comments that indicated too much of the Committee charge was geared to downtown and that it should include housing, medical facilities, and other items. There was a discussion about the importance of downtown and how a healthy downtown attracts businesses and residents while improving quality of life. Mr. Dalton said it was important for all of the committees to have similar language and structure. He added that a certain amount of overlap between committees would occur. There was a discussion on modifications to the draft Committee charge. Chair Rodriguez requested members to forward additional comments to Mr. Dalton for changes and distribution.

Discussion – Sidewalk Gap on Mosby

There was a discussion about a gap in the sidewalk on the north side of Mosby Boulevard adjacent to the grocery store parking lot. Ms. Harrison said with existing and new senior housing in the area, she felt that it was important to complete this section. There was a discussion about a comprehensive study of sidewalk gaps in the Town and funding options including VDOT Revenue Sharing. Committee members requested staff to begin a comprehensive identification of sidewalk gaps in the Town.

Other

Ms. McDonald discussed planting options in the median on Page Street. Committee members requested that Mr. Dalton determine existing conditions of the site (e.g., depth of soil, sight distance). There was a discussion about maintenance of the median and the need for an agreement between the Battletown HOA and the Town. Chair Rodriguez suggested including the Tree Board in this conversation.

There was a discussion about asking Mr. Echols for financial assistance for the sidewalk section on Mosby Boulevard.

Ms. Harrison discussed a shuttle between the fairgrounds to the downtown for large events at the fairgrounds.

There was a discussion about constituent meetings. Mr. Dalton said previous Council members have held such meetings in the past and recommended holding them at the Government Center. It was determined that these meetings should be scheduled in February and March with notification and a copy of the ward map included in water bills prior to the meetings.

There being no further discussion, the meeting was adjourned at 5:55pm.

MINUTES
BERRYVILLE TOWN COUNCIL
PUBLIC SAFETY COMMITTEE
Berryville-Clarke County Government Center
September 26, 2018
6:30 p.m.

Committee members: Present - Donna McDonald, Chair; Patricia Dickinson, Diane Harrison

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

Press: Mickey Powell, The Winchester Star

1. **Call to Order**

The meeting was called to order at 6:30 p.m. by Committee Chair McDonald.

2. **Approval of Agenda**

Ms. Dickinson made the motion to approve the amended agenda, seconded by Ms. Harrison, the motion was approved by voice vote.

3. **Department Update**

The Committee and staff discussed the following topics:

- Need for Town Council to set Trick or Treating date and hours at next Town Council meeting
- Homecoming Parade went well
- Cruise-In went well – after action meeting to happen in near future
- Bluegrass Festival at fairgrounds – no issues
- E-Citation – nearly completed and soon to be fully implemented
- 4 of 6 department office computers replaced
- FY2020 budget items

4. **Town Code Review Update**

The Committee and staff discussed the following topics:

- Review of Chapter 20 of the Berryville Code
- Review of Chapter 8 of the Berryville Code
- Staff committed to retuning both draft code revisions to the Committee on 11/28/18

5. **Status Update**

Trash Collection – discussed in Item 4

6. **Closed Session**

No Closed Session Scheduled

7. **Other**

The Committee and staff discussed the following topics:

- Chief White hopes to have two officers attend the next bike patrol school the next time is offered
- Lighting concerns in the Battletown Townhome neighborhood
- Neighborhood watch in Battletown Townhome neighborhood

- Building maintenance code /rental property inspections

8. Adjourn

There being no further business, Ms. Dickinson made a motion to adjourn the meeting, seconded by Ms. Harrison, the motion passed by voice vote at 7:41 p.m.

BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
MINUTES
August 28, 2018

A meeting of the Berryville Town Council Streets and Utilities Committee was held on Tuesday, August 28, 2018 at 10:30am in the Berryville – Clarke County Government Center located at 101 Chalmers Court in Berryville, Virginia.

Attendance: Members of the Committee present: Diane Harrison, Chair; Pat Dickinson

Staff present: Keith R. Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Rick Boor, Director of Public Works; David Tyrrell, Director of Utilities

Press present: Mickey Powell, Winchester Star

Chair Harrison called the meeting to order at 10:48am.

Approval of Agenda

The agenda was approved by consent.

Project Updates – Paving

Mr. Boor updated the Committee on paving projects stating that W-L Construction has completed work on Swan Avenue and Rosemont Circle.

Project Updates – Water Tank Maintenance

Mr. Dalton said the final phase on the exterior blasting and coating is underway on the three million gallon tank. He added that the welding had been completed and said that the northwest tank work will likely be in the spring.

Project Updates - I & I

Mr. Dalton said that he would like to move forward with an IFB for trenchless technology for infiltration and inflow projects. He said that a budget amendment would be required and identified East Main Street and Church Street as locations for this work to occur. Ms. Dickinson asked for an explanation of infiltration and inflow which he described. Mr. Dalton added that the trenchless work would be done at night and spot repairs during the day. The Committee agreed to request the budget amendment to full Council for approval.

Discussion – FY 2020 Budget Goals

Chair Harrison discussed the installation of water meters. Ms. Dickinson said she needed to see a full cost of the installation. Mr. Dalton said he is requesting a plan for meter replacement by 2022 in which the project is defined and cost estimates are refined. He added that water rates need to be discussed now in order to avoid increasing the rates significantly in 2022.

Mr. Dalton said he has been in contact with the consulting engineers to confirm the cost of the utility rate study and will let the Committee know when he hears from them. He added that the rate study will also include an asset inventory and create a new hydraulic model.

Ms. Dickinson discussed looking at storm water management to review the current state of the Town's system and develop a strategy. She said it was not just engineering but wanted to look at the granular concerns on individual lots. She discussed the investments at the Port of Virginia in Norfolk and that the railroad will be adding more cars to the trains which are causing 20-minute delays at crossings. She said there will also be additional truck traffic due to this effort.

Speeding Concerns

The Committee agreed to forward a resolution to request a VDOT traffic calming study to the Council in September.

Water and Sewer Bill Adjustment Policy

Chair Harrison expressed concern regarding the portion of the Water and Sewer Bill Adjustment Policy that provides for an appeal to Town Council. She stated that she would like the Committee to examine the section in total. She noted that the Council was in agreement with such appeals coming to the Committee.

Ms. Dickinson stated that she had several concerns about the Policy but she wants to review the results of the water and sewer rate study before going in to detail on the matter. She noted that she thinks there can be a means by which sewer charges would not apply to the filling of pools. Chair Harrison noted that such charges can be avoided by having water hauled in if you choose.

The Committee agreed to discuss the matter further after the water and sewer rate study is complete. The Committee also agreed to review water and sewer adjustment request appeals and provide a recommendation for the Council.

Storm Water Concerns

The Committee agreed to have a meeting in order to receive comment from property owners and residents regarding storm water concerns.

Ms. Dickinson noted that it is important to examine the matter fully and not assume that conditions, such as properties having sump pumps in their basements, must continue into the future. Chair Harrison noted that a comprehensive approach is needed.

The Committee agree to hold meeting on October 23, 2018 at which the public could provide input on this matter.

Future Capital Projects

Mr. Dalton reviewed a memorandum written to the Council on February 15, 2018. He noted that the memorandum was written to start a discussion on future needs and to underscore the need to adjust water rates soon if the projects in question are to be completed.

Mr. Dalton reviewed portion of the memorandum that covered VDOT's paving of Buckmarsh and Main Streets. He noted that any needed work that the Town can coordinate with VDOT, such as utility work, crosswalks, storm water improvements, and the like; in the window just before paving can result in significant savings by reducing asphalt patching costs. He recommended that the Council review this matter.

Ms. Dickinson stated that the Town needs to examine this matter comprehensively and needs to be looking at issues such as a U.S. Route 340 bypass and the shifting of on-street parking on Main Street to another location in order to permit significant enhancement to the downtown.

Next Meeting

The committee confirmed that its next meeting would be held on October 23, 2018 at 5:00 pm

Adjourn

There being no further business, the meeting was adjourned at 12.07 pm.

Attachment 4

BERRYVILLE TOWN COUNCIL
Resolution – FISH 50th Anniversary
October 9, 2018

A resolution recognizing the 50th anniversary of FISH of Clarke County will be distributed at the meeting.

BERRYVILLE TOWN COUNCIL

**MOTION FOR APPROVAL OF A RESOLUTION
RECOGNIZING THE 50TH ANNIVERSARY OF FISH OF CLARKE COUNTY**

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville approve the attached resolution recognizing the 50th anniversary of FISH of Clarke County.

VOTE:

Aye:

Nay:

Abstain:

Absent:

ATTEST:

Harry Lee Arnold, Jr., Recorder

Attachment 5

October 9, 2018 Report

At the September 11, 2018 meeting, the Town Council discussed the draft water and sewer brochure. The Council expressed concerns about the: graphs contained in the brochure and the photo on the front.

A new draft of the brochure has been placed in the front binder pocket.

September 11, 2018 Report

At the August 14, 2018 meeting, the Town Council discussed the 2 draft brochures. The Council determined that it would provide comments on the brochures to staff. No additional changes were suggested by the Council.

With that said, staff continued to work on both the structure and flow of the documents as well as content. New versions of the brochures have been placed in the Council's front binder pocket.

Staff requests that the Council release this matter for final review by staff and then printing.

August 14, 2018 Report

Since the last Town Council meeting:

- draft versions of both brochures were provided to the Town Council and
- Town Council members provided comments on the drafts.

Staff has reviewed the comments and has worked to incorporate them as best as possible. New drafts are attached to this report. Comments regarding the chart in the Water and Sewer brochure have been noted and staff is working to address those concerns.

It is important to note that several suggestions, including the addition Town Council member pictures and the like have not been incorporated into the drafts. Staff suggests that a separate Meet The Berryville Town Council brochure be developed if the Town Council desires having photo and biographical information to be distributed to citizens.

Staff requests that the Town Council provide additional suggestions on the attached drafts and authorize the staff to complete the brochures and have them printed.

Attachments

- Draft Welcome to Berryville brochure
- Draft Town of Berryville Water and Sewer Brochure
- Motion

Action

Identify the process by which the brochures can be finalized and made ready for printing.

July 10, 2018 Report

At the May Town Council meeting, the Council discussed the need to provide more detailed information to utility customers. The discussions centered on information regarding enterprise fund operation and meter reading. The Council directed staff to provide them with additional information that could be provided to the public through utility bills, the town's website, and the packet provided to new residents.

Staff reviewed the current Welcome to Berryville brochure and recommends significant changes to it as well as the development of a separate Town of Berryville Water and Sewer brochure.

Please find attached (in front pocket of agenda binder):

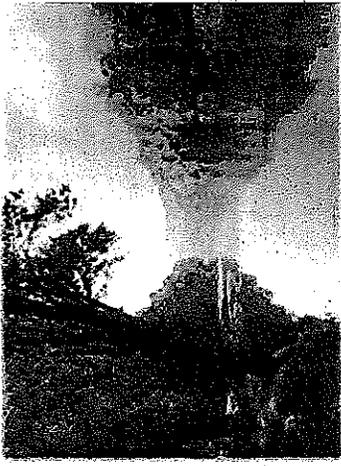
- Draft Welcome to Berryville brochure
- Draft Town of Berryville Water and Sewer brochure

Staff requests comment and guidance from the Council on both the approach and the brochures themselves. With that guidance, staff would like to finalize the brochures and website revisions by August 31.

Per direction it has received from Council, staff intends to include a version of the Water and Sewer brochure with the November water/sewer bills.

TOWN OF BERRYVILLE

WATER AND SEWER

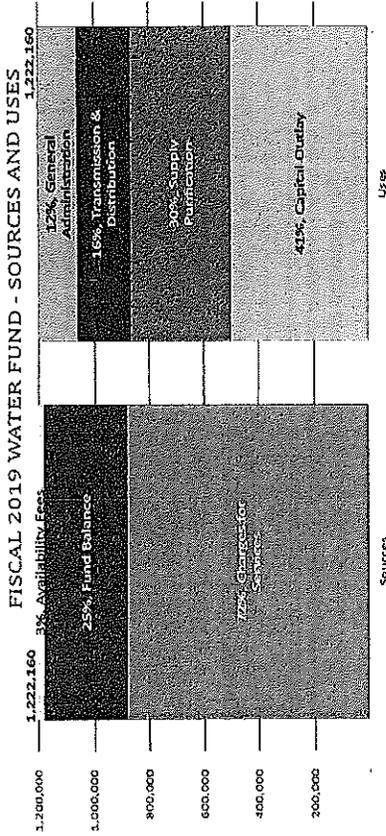


Shenandoah River, Clarke County

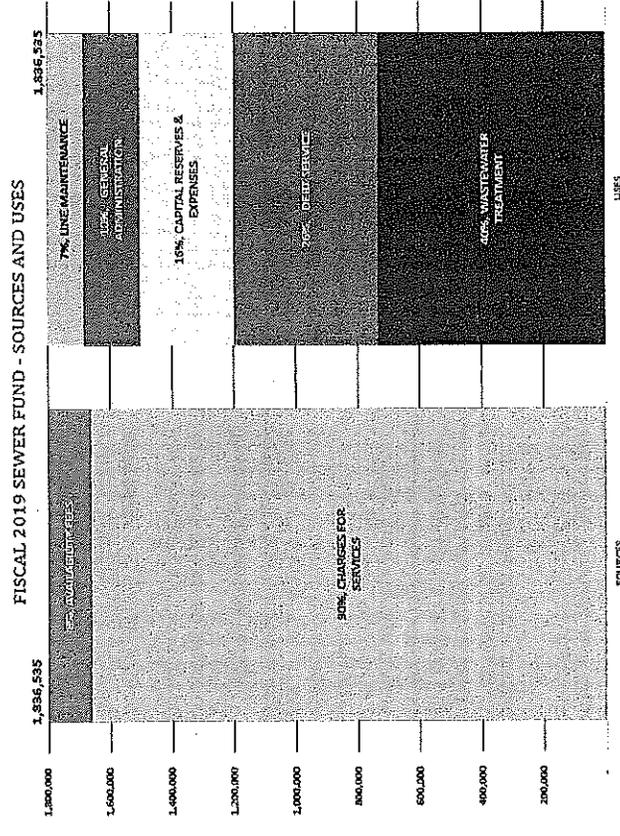
The Town of Berryville is committed to providing its customers with a safe and dependable supply of drinking water and with being a good steward of the Shenandoah River and the Chesapeake Bay when treating wastewater. This brochure provides our customers with information regarding water and sewer utilities and billing.

Additional information can be found at www.berryvilleva.gov

Berryville-Clarke County Government Center
101 Chalmers Court, Suite A
Berryville, VA 22611
540-955-1099



*Water Fund(Uses) amounts less than 2% not reflected consist of Contingency.



*Sewer Fund (Sources) amounts less than 2% not reflected consist of Fund Balance and Revenue from Money or Property.
*Sewer Fund (Uses) amounts less than 2% not reflected consist of Contingency.

Water Leaks and Sewer Blockages
Water: If you have or suspect that you have a water leak in your home or in the water lateral between your building and the water meter, then you should contact a plumber to correct the problem. The Town will assist residents with leak detection. If such detection assistance is needed, then please call the Town Business Office at 540-955-1099 to schedule this service.

Sewer: If you have a sewer blockage in your home or in the sewer lateral between your building and the sewer main, then you should contact a plumber to correct the problem. The Town will assist residents with determining whether a blockage is the Town's sewer main or not. If such assistance is needed, then please call the Town Business Office at 540-955-1099.

Water and Sewer Emergencies Occurring After Regular Work Hours or on Holidays: For water and sewer emergencies occurring outside of work hours or on holidays, call Clarke County Communications at 540-955-1234, and they will contact Town personnel.

Disclaimer
This brochure contains general information on various laws and regulations and should only be used as a guide. As this document is general in nature it cannot fully explain how laws and regulations are applied to specific situations and invariably such guides contain some errors. Further, laws and regulations are added or changed periodically and may not be immediately amended in this brochure. Please contact the appropriate agency to obtain specific information on a given law or regulation.

Treatment of Your Drinking Water

The Town of Berryville obtains its water from the Shenandoah River. This water is treated at the Roy E. Potts Water Treatment Plant by means of mixed-media filters. Once treated, the water is pumped into the Town's water distribution system which provides water service to over 1,800 service connections.

Annual Drinking Water Quality Report

Each year a Water Quality Report is published. The report includes detailed information about the Town's water. The Town's water meets or exceeds all state and federal requirements. The most current report can be found on the Town's website at berryvilleva.gov/2160/Water-Sewer.

Water Conservation

To find out more about water conservation, read the Water Saving Tips (PDF) document found online at berryvilleva.gov/2160/Water-Sewer. It is in everyone's best interest to conserve water.

Wastewater

The Town of Berryville owns and operates a 700,000 gallon per day Advanced Membrane Bioreactor Wastewater Treatment and Nutrient Reduction Facility. The treatment process is a four-stage activated sludge system which biologically removes organic waste and nitrogen and chemically precipitates phosphorus from the Town's wastewater. After biological treatment, all water must pass through a membrane microfiltration unit. Water is disinfected with ultraviolet light prior to returning to the Shenandoah River. The Town's wastewater treatment plant treats wastewater to a level that exceeds permit requirements.

Meter Reading

Meters are read monthly, usually the last week of the month, although snow and ice may cause a delay. Meter readings are recorded to the lowest thousand gallons of usage. For example, 1,999 gallons of usage will be billed as 1,000 gallons in the current period. The 999 gallons not billed in the current month will be included in the next billing period. As a result of this usage carry over, you may notice fluctuations in your bills.

Billing

Water and sewer bills are due the 15th of each month. In the event meter reading is delayed, bill due dates may be modified. Wastewater (sewer) usage is determined and billed based on the water meter reading.

Billing Questions and Concerns: Questions or concerns about your bill should be directed to the Town Business Office at 540-955-1099 immediately. Applications for water and sewer bill adjustments must be filed with the Town Business Office no more than 10 days after the date of billing. For more information regarding water and sewer bill adjustments, please see the Water and Sewer Billing Adjustment Policy (PDF) and Water and Sewer Adjustment Request Form (PDF) at berryvilleva.gov/2160/Water-Sewer.

Rates

Rate Type	Rate Per 1,000 Gallons of Usage	Minimum Monthly Charge
Water	\$ 8.40	\$ 5.00
Sewer	\$ 17.00	\$ 15.00
Total	\$ 25.40	\$ 20.00

Water Rates: The Town Council sets water rates at a level that provides for payment of expenses related to water treatment, water distribution, and administration. The Water Fund receives all of its revenues from user fees (water bills), availability fees (fees charged to connect to the Town's water system), or borrowing. This income from fees must pay for all water system expenses, including debt service. Sources (revenues) and Uses (expenses) for the water fund are illustrated in the graph on the reverse of this brochure. More details about the Water Fund revenues and expenses can be found in the FY 19 Operating Budget and CIP for 2019-2023 on our website at berryvilleva.gov/2175/Treasurer (Specifically pages 81, 89-91, 107-109)

Sewer Rates: The Town Council sets rates at a level that provides for payment of expenses related to sewer collection, treatment, and discharge. The Sewer Fund receives all of its revenues from either user fees (sewer bills), availability fees (fees charged to connect to the Town's sewer system), or borrowing. This income from

fees must pay for all sewer system expenses, including debt service. Sources (revenues) and Uses (expenses) for the sewer fund are illustrated in the graph on the reverse of this brochure. More details about the Sewer Fund revenues and expenses can be found in the FY 19 Operating Budget and CIP for 2019-2023 on our website at berryvilleva.gov/2175/Treasurer (Specifically pages 81-82, 91-93, 111-113)

Penalty/Late Fees: A 10% late payment penalty is assessed to accounts on which full payment is not made by the due date.

Second Notice: After the penalty is assessed a second notice will be mailed. This notice will inform the customer that service will be disconnected if payment is not made by the cut-off date. PLEASE NOTE: No additional notice will be provided.

Service Disconnection: If service is disconnected, it will be restored only when the account and service charges, including a \$40 administrative fee, have been paid.

The Town strictly enforces this policy. Please refer to the back of your bill for additional information.

Payment Extension Policy

Customers who are unable to pay their bill on time may request an extension. A Payment Extension is provided to temporarily extend the due date of the bill for those situations when a customer is in need. The account holder may request this service provided that the request is made prior to the scheduled cut-off day and they meet all requirements of the Payment Extension Policy. More details about the Payment Extension Policy can be found online at berryvilleva.gov/2160/Water-Sewer or by contacting the Town Business Office at 540-955-1099.

Automatic Payment Authorization

The Town offers you the option to pay your utility bill through automatic monthly debits from your bank account. These automatic debits are a safe and convenient method of paying your utility bill. To

enroll, complete the Automatic Payment Sign-Up Form found online at berryvilleva.gov/2160/Water-Sewer. Once you are set up, your payment will be drafted automatically on the 15th of each month. If the 15th falls on a weekend or holiday, your payment will be made the next business day.

Water and Sewer Accounts

New Accounts: To set up a new account, please call the Town Business Office at 540-955-1099.

Customer Responsibilities: Customers are responsible for contacting the Town Business Office to ensure the account for a new residence is properly placed in their name, when contact information changes, and to notify the Town Business Office when they plan to vacate a property.

Security Deposit: A refundable security deposit is required for all customers who are renting their occupancy. The amount of the required deposit varies depending on the use of the space. Required deposits:

- Residence - \$225
- Business / Commercial - \$860
- Laundry - \$2,450
- Restaurant - \$785

Landlord Responsibilities: The Owner and/or Landlord must complete the Owner Authorization for Tenant Utility Service Form, authorizing renters to have water and sewer service placed in their name at the rental property. This form can be found online at berryvilleva.gov/2160/Water-Sewer.

Availability Fees

Availability fees are charged for new connections to the water distribution and/or sewer collection systems. Such fees are also charged when an existing connection is increased in size. Please contact the Town Manager at either townmanager@berryvilleva.gov or 540-955-1099 for more information.

Attachment 6

Planning and Community Development

Action Item

Resolution of Support – Robert Regan Village

October 9, 2018

Planning Commission

The Planning Commission did not hold a meeting in September. Their next meeting is scheduled for Tuesday, October 23, 2018 at 7:30pm.

Berryville Area Development Authority

The BADA held the following public hearing at their September 26, 2018 meeting:

Jon Erickson (MRA, Inc., Agent) and Alton Echols, Jr., Trustee (Owner), are requesting Site Plan approval to construct a 120-unit age- and income-restricted multifamily apartment building on 10.98 acres as a use under Section 614.2(c) of the Berryville Zoning Ordinance at the property located at 418 Mosby Boulevard, identified as Tax Map Parcel number 14-((5))-251B, zoned OPR Older Person Residential. SP 02-18

Per the request of the applicant, the Authority deferred their decision to the October meeting in order to receive final agency comments. Their next meeting is scheduled for Wednesday, October 24, 2018 at 7:00pm.

Architectural Review Board

The ARB will hold a meeting on Wednesday, October 3, 2018 to hear the following requests:

Sign Review

Russell McKelway, MD, is requesting a Certificate of Appropriateness for a projecting sign located at 1 West Main Street, identified as Tax Map Parcel number 14A5-((A))-10, zoned C General Commercial.

Sign Review

Eddie Edwards Signs (Erin Meadows, Agent), is requesting a Certificate of Appropriateness in order to install two blade signs at the gasoline pumps at Circle K located at 1 South Buckmarsh Street, identified as Tax Map Parcel number 14A4-((A))-49, zoned C General Commercial. .

Tree Board

The Tree Board's next meeting is scheduled for Wednesday, October 3 at 7:30pm.

Board of Zoning Appeals

The BZA has not held a meeting since the last Council meeting

BERRYVILLE TOWN COUNCIL

Resolution of Support – Robert Regan Village

October 9, 2018

David Koogler, President and COO of Mark-Dana Corporation, has requested Town Council approval of a resolution of support in order to allow 20 market-rate units as a part of the 120 unit age- and income-restricted Robert Regan Village apartment complex currently under review by the Berryville Area Development Authority. Mr. Koogler said the Virginia Housing and Development Authority (VHDA) requires a resolution regarding this mixed income unit status.

The resolution, exhibit, and motion follow this report.

Recommendation

Approve as presented.

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

RESOLUTION OF SUPPORT

WHEREAS, The Council of the Town of Berryville, Virginia, desires to make the determination required by § 36-55.30.2:2.B of the Code of Virginia of 1950, as amended, in order for the Virginia Housing Development Authority to finance the economically mixed project (the "Project") described on Exhibit A attached hereto; and

NOW, THEREFORE, BE IT HEREBY DETERMINED as follows:

1. The ability to provide residential housing and supporting facilities that serve the persons or families of lower or moderate income will be enhanced if a portion of the units in the Project are occupied or held available for occupancy by persons and families who are not of low and moderate income; and
2. Private enterprise and investment are not reasonably expected, without assistance, to produce the construction or rehabilitation of decent, safe, and sanitary housing and supporting facilities that will meet the needs of low and moderate income persons and families in the surrounding area of the Project and will induce other persons and families to live within such area and thereby create a desirable economic mix of residents in such area.

By Order of the Council of the Town of Berryville on this the ninth day of October, 2018.

Patricia Dickinson, Mayor

Harry Lee Arnold, Jr., Recorder

Patricia Dickinson
Mayor

Harry Lee Arnold, Jr.
Recorder

Council Members

Donna Marie McDonald
Ward 1

Diane Harrison
Ward 2

Erecka L. Gibson
Ward 3

Kara C. Rodriguez
Ward 4

Keith R. Dalton
Town Manager

EXHIBIT A

Robert Regan Village is a proposed new construction multifamily development for seniors with 120 total units. 100 units will be set aside at restricted rent levels for persons with incomes at or below 60% of the Area Median Income. 20 units will have no income restriction and will be leased at market rate.

Address for Robert Regan Village will be 418 Mosby Boulevard, Berryville, Clarke County, Virginia 22611.

BERRYVILLE TOWN COUNCIL

**MOTION FOR APPROVAL OF A RESOLUTION
OF SUPPORT FOR MARKET RATE APARTMENTS AS PART
OF THE ROBERT REGAN VILLAGE**

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville approve the attached resolution of support to include 20 market rate apartments as part of the Robert Regan Village on the parcel identified as Tax Map Parcel number 14-((5))-251B, zoned OPR Older Person Residential.

VOTE:

Aye:

Nay:

Abstain:

Absent:

ATTEST:

Harry Lee Arnold, Jr., Recorder

Attachment 7

BERRYVILLE TOWN COUNCIL

MOTION TO ADOPT A RESOLUTION REQUESTING ADOPTION OF A
REVISED TOWN CHARTER

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville adopt the attached resolution.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Attest: _____

Harry L. Arnold, Jr., Recorder

Town of Berryville
Resolution
Charter Amendments

WHEREAS, the Berryville Town Council determined that it was appropriate to comprehensively review the Town Charter and propose amendments thereto for adoption by the General Assembly pursuant to § 15.2-202 of the Virginia Code; and

WHEREAS, notice of a public hearing at which citizens had the opportunity to be heard on the proposed amendments was given in accordance with said statute and the public hearing was held on October 9, 2018; and

WHEREAS, the Town Council has determined that amendment of the Town Charter as proposed will be in the interest of the Town and its citizens.

NOW, THEREFORE, BE IT RESOLVED that the Berryville Town Council hereby approves a request on behalf of the Town of Berryville that the General Assembly amend its existing Charter in accordance with the proposed amended Charter attached hereto.

BE IT FURTHER RESOLVED that the Town Manager is authorized to sign all correspondence and documents reasonably required to process this request and submit two copies of this resolution, the proposed amended Charter and append certified copies of minutes evidencing the action taken on this matter and the publisher's affidavit evidencing that the public hearing was advertised, to the members of the General Assembly representing the Town.

VOTE:

Ayes:

Nays:

Abstentions:

Absent for Vote

Adopted: October 9, 2018

Patricia Dickinson, Mayor

Harry Lee Arnold, Jr., Recorder

AMENDED AND RESTATED CHARTER OF THE
TOWN OF BERRYVILLE
Established 1798.

Moved from County of Frederick to County of Clarke, 1841.

Incorporation and Charter, 1870, c. 366; repealed, 1898, c. 819.

Charter, 1898, c. 819; repealed, 1971, c. 112.

Charter, 1971, c. 112.

Amended 1972, c. 29 (§ 3.2)

1994, c. 324 (§§ 2.3, 4.2, 7.1, 7.3).

CHAPTER 1.

INCORPORATION AND BOUNDARIES.

§ 1.1. Incorporation.--The inhabitants of the territory comprised within the present limits of the town of Berryville, as such limits are now or may hereafter be altered and established by law, shall constitute and continue a body politic and corporate to be known and designated as the town of Berryville, and as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, review or amend at its pleasure by proper ordinance.

§ 1.2. Boundaries.--The corporate boundaries of the town of Berryville shall be as follows:

Beginning at a pipe in the west side of North Buckmarsh Street (U.S. Route No. 340), such point being at the intersection of the west right-of-way line of North Buckmarsh Street and an extension of the north lot line of the Episcopal parsonage; thence along the west right-of-way line of North Buckmarsh Street, N 27° 43' E. a distance of 634.47 feet to a pipe; thence N. 45° 42' W. 2241.36 feet along the rear lot lines on the north side of Walnut Street to a pipe; thence S. 56° 34' 30" W. a distance of 160.38 feet to a pipe; thence S. 45° 45' 30" W. a distance of 4490.77 feet to a pipe in the

orchard of H. F. Byrd, such line crossing West Main Street (Va. Route 7); thence, still through the orchards of H. F. Byrd and other properties, S. 57° 25' E. a distance of feet to a spike in the center line of South Church Street; thence S. 53° 42' E. a distance of 1736.86 feet to a pipe, such line crossing the Norfolk and Western Railway right-of-way; thence along a 13° 13' curve, parallel to the Norfolk and Western Railway, such curve having a tangent bearing of N. 62° 10' E. and a tangent distance of 250.80 feet to a pipe and point of intersection; thence still parallel to the Norfolk and Western Railway N. 49° 03' E. a distance of 2484.97 feet to a point of intersection of a 15° 38' curve, the corporate limits following the curve; thence N. 64° 44' E. a distance of 585.77 feet to a pipe; thence N. 49° 41' W. a distance of 3315.36 feet to a pipe and the place of beginning. (1971, c. 112)

plus the following additions:

Annexation Area A

Adopted 12/29/88
Effective 1/1/89
Acreage 350 acres
Deed Book Reference DB 193 Pg 226

Annexation Area B1

Adopted 11/10/92
Effective 1/1/93
Acreage 7.691 acres
Deed Book Reference DB 227 Pg 779

Annexation Area B2

Adopted 11/9/93
Effective 1/1/94
Acreage 8.965 acres
Deed Book Reference DB 237 Pg 794

Annexation Area B3

Adopted 11/21/95
Effective 1/1/96
Acreage 63.0898 acres
Deed Book Reference DB 258 Pg 156

Annexation Area B4
Adopted 11/11/97
Effective 1/1/98
Acreage 10.5316 acres
Deed Book Reference DB 279 Pg 257

Annexation Area B5
Adopted 11/9/1999
Effective 1/1/2000
Acreage 196.5 acres
Deed Book Reference DB 308 Pg 685

Annexation Area B6
Adopted 11/12/02
Effective 1/1/03
Acreage 114.38 acres
Deed Book Reference DB 364 Pg 501

Annexation Area B7
Adopted 11/9/04
Effective 1/1/05
Acreage 42.2588 acres
Deed Book Reference DB 421 Pg 722

Annexation Area B8
Adopted 11/14/06
Effective 1/1/07
Acreage 41.81 acres
Deed Book Reference DB 472 Pg 284

§ 1.3. Wards.--The town of Berryville shall be divided into four wards. The boundaries of such wards shall be established by the town council by ordinance.

CHAPTER 2.

POWERS.

§ 2.1. General grant of powers.--The town of Berryville shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to

towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this charter shall be held to be exclusive, and the town shall have, exercise and enjoy all the rights, immunities, powers and privileges, and be subject to all the duties and obligations, now appertaining to and incumbent on the town as a municipal corporation.

§ 2.2. Adoption of certain sections of Code of Virginia.--The powers set forth in §§ 15.2-1100 through 15.2-1133, both inclusive, of Chapter 11 of Title 15.2 of the Code of Virginia, as in force on January 1, 2019, are hereby conferred on and vested in the town of Berryville.

§ 2.3. Eminent domain.--The powers of eminent domain set forth in Chapter 19 of Title 15.2, Title 25.1, and Chapter 10 of Title 33.2 of the Code of Virginia, as amended, and all acts amendatory thereof and supplemental thereto, *mutatis mutandis*, are hereby conferred upon the town of Berryville subject to the provisions of § 25.1-200.

(a) In any case in which a petition for condemnation is filed by or on behalf of the town, a true copy of a resolution or ordinance duly adopted by the town council declaring the necessity for any taking or damaging of any property, within or without the town, for the public purposes of the town, shall be filed with the petition and shall constitute sufficient evidence of the necessity of the exercise of the powers of eminent domain by the town. The town may employ the procedures conferred by the foregoing laws, *mutatis mutandis*, and may, in addition thereto, proceed as hereinafter provided.

(b) Certificates issued pursuant to §§ 33.2-1019 to 33.2-1029, inclusive, Code of Virginia, as amended, and acts amendatory thereof and supplemental thereto, may be issued by the town council, signed by the mayor and countersigned by the town treasurer.

Such certificate shall have the same effect as certificates issued by the Commonwealth Transportation Commissioner, under the aforesaid laws, and may be issued in any case in which the town proposes to acquire property or interest therein by the exercise of its powers of eminent domain for any lawful public purpose, whether within or without the town; provided, that the condemnation authority shall be subject to the provisions of § 25.1-200 of the Code of Virginia.

(c) In addition to the powers conferred by the aforesaid laws, such certificates may be amended or canceled by the court having jurisdiction of the proceedings, upon petition of the town, at any time after the filing thereof; provided, that the court shall have jurisdiction to make such order for the payment of costs and damages, if any, or the refund of any excessive sums theretofore paid pursuant to such certificate as shall, upon due notice and hearing, appear just. The court shall have jurisdiction to require refunding bonds, for good cause shown by the town or any other person or party in interest, prior to authorizing any distribution of funds pursuant to any certificate issued or deposit made by the town.

CHAPTER 3.

MAYOR, VICE MAYOR, AND COUNCIL.

§ 3.1. Composition of council; qualifications of mayor, vice mayor, and council members -- The town of Berryville shall be governed by a town council composed of the mayor, the vice mayor, and four council members. The mayor, vice mayor, and council members shall be residents and qualified voters of the town. The mayor and vice mayor shall be elected from the town at large. The four council members shall reside one in each ward of the town, but shall be elected by all of the qualified voters of the town.

§ 3.2 Office of vice mayor/office of recorder – The office of vice mayor shall

become effective on July 1, 2022, and the office of recorder shall remain effective until July 1, 2022.

§ 3.3. Election and term of office of mayor, vice mayor, and council members -- Elections for mayor, vice mayor, and council members shall be held on the first Tuesday in May of each even-numbered year. On the first Tuesday in May, 2020, a mayor and council members from Wards 1 and 3 shall be elected for a term of four years. On the first Tuesday in May, 2022, a vice mayor and council members from Wards 2 and 4 shall be elected for terms of four years.

§ 3.4. When terms of office to begin.--The terms of office for the mayor, vice mayor, and council members shall begin on the first day of July next following their election.

§ 3.5. Oath of office.--The mayor, vice mayor, and council members shall each, before entering upon the duties of their office, make oath or affirmation that they will truly, faithfully, and impartially discharge the duties of their offices to the best of their abilities, so long as they shall continue therein.

§ 3.6. Vacancies in office.--Vacancies in the office of mayor, vice mayor, or council member shall be filled within forty-five days for the unexpired terms by a majority vote of the remaining members of the town council.

§ 3.7. When new election for mayor, vice mayor, or council member required.--If any person who shall have been duly elected mayor, vice mayor, or council member shall not be eligible, as herein prescribed, or shall refuse to take the oath or affirmation required under this Charter within two weeks from the day of the beginning of the term of office, the town council shall declare the office vacant, and shall order a new election for mayor, vice mayor, or council member as the case may be.

§ 3.8. Powers and duties of mayor.-- The mayor shall be a member of the town

council, shall preside over the meetings of the town council, and shall have the same right to speak and vote therein as other members of the town council. The mayor shall be recognized as the head of the town government for all ceremonial purposes, for the purposes of military law, and for the service of civil processes. The mayor shall have no power of veto over the ordinances and resolutions of the town council.

§ 3.9. Powers and duties of vice mayor; vice mayor to act as mayor during absence, disability, etc., of mayor.—The vice mayor shall be a member of the town council and shall have the same right to speak and vote therein as other members of the town council. In the absence from the town, or disqualification, inability, or sickness of the mayor, or during any vacancy in the office of mayor, the vice mayor shall perform the duties of the mayor and be vested with all powers of the mayor. The recorder shall have the powers and duties of the vice mayor as set forth above until July 1, 2022.

§ 3.10. Absence or disability of mayor and vice mayor.--If both the mayor and vice mayor are absent or unable to act, the town council shall, by a majority vote of the members present, elect from its members a person to serve as acting mayor until either the mayor or vice mayor is present and able to act. The person so elected shall possess the powers and discharge the duties of the mayor during such period of time.

§ 3.11. Council a continuing body.--The town council shall be a continuing body, and no measures pending before such body, or any contract or obligation incurred by it, shall abate or be discontinued by reason of the expiration of the term of office or removal of any of its members.

§ 3.12. General grant of powers to council.--The town council shall have all powers and authority that are now or may hereafter be granted to councils of towns by the general laws of the Commonwealth and by this charter, and the recital of special powers

and authorities herein shall not be taken to exclude the exercise of any power and authority granted by the general laws of the Commonwealth to town councils, but not herein specified.

§ 3.13. Meetings of council.--The town council shall fix the time of their regular meetings.. Special meetings may be called at any time by the mayor or by three members of the town council; provided, that all members shall be duly notified a reasonable period of time prior to any special meeting.

§ 3.14. Quorum; reconsideration of action.--Three members of the town council shall constitute a quorum for the transaction of business. No vote taken at any meeting shall be reconsidered or rescinded at any subsequent special meeting unless at such special meeting there are as many members of the town council present as were present when such vote was taken.

§ 3.15. Rules of order and procedure.--The town council shall establish its own rules of order and procedure, and may punish its own members and other persons for violations thereof.

§ 3.16. Council to fix salaries.--The town council is hereby authorized to fix the salaries of each of the members of the town council, members of boards or commissions, and all appointed officers. The salaries of the mayor, vice mayor, and council members shall not be changed during the term for which they were elected.

CHAPTER 4.

TOWN MANAGER.

§ 4.1. Appointment and qualifications.--There shall be a town manager, who shall be the executive officer of the town and shall be responsible to the town council for the proper administration of the town government. The town manager shall be appointed by

the town council for an indefinite term, and shall serve at the pleasure of the town

council. The town manager shall be chosen solely on the basis of executive and administrative qualifications, with special reference to actual experience in or knowledge of accepted practice in respect to the duties of the office. At the time of the appointment the town manager need not be a resident of the town or the Commonwealth, but during the tenure of office shall reside within Clarke County.

§ 4.2. Duties.--It shall be the duty of the town manager to:

(a) Attend all meetings of the town council, with the right to speak but not to vote.

(b) Keep the town council advised of the financial condition and the future needs of the town and of all matters pertaining to its proper administration, and make such recommendations as may seem desirable.

(c) Prepare and submit the annual budget to the town council and be responsible for its administration after its adoption.

(d) Present adequate financial and activity reports as required by the town council.

(e) Arrange for an annual audit by a certified public accountant, the selection of whom shall be approved by the town council.

(f) Be responsible for supervision of all town employees.

(g) Perform such other duties as may be prescribed by this charter or required of the town manager in accordance therewith by the town council or which may be required of the chief executive officer of a town by the general laws of the Commonwealth, other than the duties conferred on the mayor by this charter.

§ 4.3. Powers as to town officers and employees.--All officers and employees of the town, except those appointed by the town council pursuant to this charter or the general laws of the Commonwealth, shall be appointed and may be removed by the town manager, who shall advise the town council of each appointment or removal promptly

following any such appointment or removal.

§ 4.4. Temporary transfer of personnel between departments.--The town manager shall have power, whenever the interests of the town require, irrespective of any other provisions of this charter, to assign employees of any department, bureau, office, or agency to the temporary performance of duties in another department, bureau, office, or agency.

§ 4.5. Council not to interfere in appointments or removals; relationship with council.--Neither the town council nor any of its members, including the mayor and vice mayor, shall direct or request the appointment of any person to or removal from any office or employment by the town manager or by any subordinates or in any way take part in the appointment or for removal of officers and employees of the town, except as specifically provided in this charter. Except for the purpose of inquiry, the town council and its members shall deal with the administrative services solely through the town manager, and neither the town council nor any member thereof shall give orders, either publicly or privately, to any subordinate of the town manager.

§ 4.6. Relations with boards, commissions and agencies.--The town manager shall have the right to attend and participate in the proceedings of, but not vote in, the meetings of all boards, commissions, or agencies created by this charter or by ordinance and any other board or commission the town council may designate.

§ 4.7. Acting town manager.--The town council shall designate by resolution a person to act as town manager in case of the extended absence, incapacity, death, or resignation of the town manager, until the town manager's return to duty or the appointment of a successor.

CHAPTER 5.

APPOINTIVE OFFICERS.

§ 5.1. Appointment.--The town council may appoint the following officers of the town as they may deem necessary: town manager, assistant town manager for administration/treasurer, assistant town manager for community development/operations, and town attorney. Such officers shall be appointed for an indefinite term, and shall serve at the pleasure of the town council. The enumeration of officers in this section shall not be construed to require the appointment of any of such officers herein named. Officers appointed by the town council shall perform such duties as may be specified by the town council.

§ 5.2. Deputies and assistants.--The town council may establish a deputy or assistant position for the appointive offices as the town council may deem necessary. The town manager shall appoint and supervise such deputies and assistants.

§ 5.3. Appointment of one person to more than one office.--The town council may appoint the same person to more than one appointive office, at the discretion of the town council.

CHAPTER 6

FINANCIAL PROVISIONS.

§ 6.1. Fiscal year.--The fiscal year of the town shall begin on July 1 of each year and end on June 30 of the year following.

§ 6.2. Actions against town for damages, etc.

(a) No action shall be maintained against the town for damages for any injury to any person or property alleged to have been sustained by reason of the negligence of the town, or any officer, agent, or employee thereof, unless written notice is given to the town

in accordance with Va. Code § 15.2-209.

(b) In any action against the town to recover damages against it for any negligence in the construction or maintenance of its streets, alleys, lanes, parks, public places, sewers, reservoirs, water mains, water treatment plant, wastewater treatment plant, stormwater system, or other town facilities, where any person or corporation is liable with the town for such negligence, every such person or corporation shall be joined as defendant with the town in such action brought to recover damages for such negligence, and where there is a judgment or verdict against the town, as well as the other defendant, it shall be ascertained by the court or jury which of the defendants is primarily liable for the damages assessed.

(c) If it is ascertained by the judgment of the court that some person or corporation other than the town is primarily liable, there shall be a stay of execution against the town until execution against such person or persons or corporation or corporations shall have been returned without realizing the full amount of such judgment.

(d) If the town, when not primarily liable, shall pay such judgment in whole or in part, the plaintiff shall, to the extent that such judgment is paid by the town, assign the judgment to the town, without recourse on the plaintiff, and the town shall be entitled to have execution issued for its benefit against the other defendant or defendants who have been ascertained to be primarily liable, or may institute any suit to enforce such judgment or an action at law, or scire facias to revive such judgment.

(e) No order shall be entered or made, and no injunction shall be awarded by any court or judge, to stay proceedings of the town in the prosecution of their works, unless it be manifest that they, their officers, agents, or servants are transcending the authority given them in this charter, and that the interposition of the court is necessary to prevent

injury that cannot be adequately compensated in damages.

(f) The town council is authorized and empowered to compromise any claim for damages or any suit or action brought against the town.

§ 6.3. Creation of debt; issuance of bonds.--The town council by a majority vote is authorized to cause the town to incur debt and to issue bonds, notes and other evidences of indebtedness for the purposes and in the manner set forth for towns in the Constitution of the Commonwealth of Virginia and the Public Finance Act Chapter 26 of Title 15.2 of the Code of Virginia, or any acts amendatory thereof or supplemental thereto.

CHAPTER 7.

MISCELLANEOUS.

§ 7.1. Elections governed by State law.--All town elections shall be held and conducted in the manner prescribed by the laws of the Commonwealth.

§ 7.2. Bonds of officers and employees.--The town council may require all or any officers and employees of the town to give bond for the faithful and proper discharge of their duties. As used herein, the words "officers and employees" shall include officers and employees paid solely or partly by the town. The town shall pay the premium on such bonds from the town funds and may provide for individual surety bonds or for a bond covering all officers and employees or any group thereof. The bond shall be payable to the town as its interest may appear in event of breach of the conditions thereof.

§ 7.3. United States government employees.--No person, otherwise eligible, shall be disqualified by reason of his accepting or holding an office, post, trust, or emolument under the United States government, from serving as an officer or employee of the town, or as a member, officer, or employee of any board or commission.

§ 7.4. Acceptance of federal aid, contributions, etc.--The town shall have the

power to receive and accept from any federal agency grants of any kind for or in aid of the construction of any project, the procuring or reserving of park land, open spaces or any recreational facility, and to do all such things or make any covenants or agreements which may be necessary or required in order to obtain and use such federal grants. The town may receive and accept aid or contributions from any source or money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

§ 7.5. Conflicts of interest; disclosures of interest.--The town council is hereby empowered to enact a conflict of interest and disclosure ordinance to govern elected and/or appointed town officials not inconsistent with general law.

§ 7.6. Present officers to continue.--The present elected officers of the town shall be and remain in office until expiration of their several terms, and until their successors have been duly elected and qualified.

§ 7.7. Ordinances continued in force.--All ordinances now in force in the town of Berryville, not inconsistent with this charter, shall be and remain in force until altered, amended, or repealed by the town council.

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

Attachment 8

BERRYVILLE TOWN COUNCIL

MOTION TO ADOPT AN ORDINANCE REPEALING AND RE-ADOPTING
CHAPTERS 1, 2, AND 3 OF THE TOWN CODE

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville adopt the attached ordinance.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Attest: _____
Harry L. Arnold, Jr., Recorder

AN ORDINANCE REPEALING AND RE-ADOPTING CHAPTERS 1, 2, AND 3 – GENERAL
PROVISIONS, ADMINISTRATION, AND ADVERTISING
OF THE CODE OF THE TOWN OF BERRYVILLE

BE IT ORDAINED, by the Council of the Town Of Berryville, that Chapters 1, 2, and 3 –
General Provisions, Administration, and Advertising, of the Code of the Town of
Berryville be repealed and re-adopted as attached.

I HEREBY CERTIFY THAT THE FOREGOING Ordinance was duly adopted by the Council of
the Town of Berryville in meeting assembled October 9, 2018 and will become effective
immediately.

Signed: _____
Patricia Dickinson, Mayor

Date: October 9, 2018

Attest: _____
Harry L. Arnold, Jr., Recorder

Date: October 9, 2018

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as the "Code of the Town of Berryville, Virginia" and may be so cited. Such ordinances may also be cited as the "Berryville Town Code."

(Code 1971, § 1-1)

State Law reference— Authority of town to codify and recodify its ordinances, Code of Virginia, § 15.2-1433.

Sec. 1-2. - Definitions and rules of construction.

In the interpretation and construction of this Code and of all ordinances and resolutions of the town, the following rules of construction and definitions shall be observed, unless they are inconsistent with the manifest intent of the council or the context clearly requires otherwise:

And, or. "And" may be read as "or" and "or" may be read as "and," if the sense requires it.

Bond. When a bond is required, an undertaking in writing, with such surety, if any, as the council may direct, shall be sufficient.

Charter. The word "Charter" shall mean the Charter of the Town of Berryville, as amended.

Code. Whenever the term "Code" or "this Code" is used without further qualification, it shall mean the "Berryville Town Code," as designated in section 1-1.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day be Sunday or a legal holiday, that day shall be excluded.

Council. The term "council" or "town council" shall mean the council of the Town of Berryville, Virginia.

County. The word "county" shall mean the County of Clarke in the State of Virginia.

Following. The word "following," when used by way of reference to any section or subsection of this Code, shall be construed to mean next following that in which such reference is made.

Gender. A word importing the masculine gender only may extend and be applied to females and to firms, partnerships and corporations, as well as to males.

Health officer. The term "health officer" shall mean the public health officer of Clarke County or representative of the state board of health serving this county.

In the town. The words "in the town" or "within the town" shall mean any territory, jurisdiction of which, for the exercise of its regulatory power, has been conferred on the town by public or private law.

Month. The word "month" shall mean a calendar month.

Number. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing, and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath.

Occupant or tenant. The word "occupant" or "tenant," applied to a building or land, shall mean any person who holds a written or oral lease of, or actually occupies the whole or a part of, such building or land, either alone or with others.

Officers, boards, etc. Whenever reference is made to a particular officer, department, board, commission or other agency, without further qualification, it shall be construed as if followed by the words "of the Town of Berryville." Any reference to a specific officer shall include that officer's duly authorized deputies, assistants or other representatives, subject, however, to the provisions of section 15.2-1502 of the Code of Virginia.

Official time standard. Whenever particular hours are referred to, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the town.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word "person" shall include a firm, partnership, association of persons, corporation, organization or any other group acting as a unit.

Preceding. The word "preceding," when used by way of reference to any section or subsection of this Code, shall be construed to mean next preceding that in which such reference is made.

Property. The word "property" shall mean real, personal or mixed property.

Public grounds. The words "public grounds" shall mean the parks and all public lands owned by the town, and those parts of public places which do not form traveled parts of streets, as defined in this section.

Shall. The word "shall" shall be mandatory.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Section numbers. Whenever reference is made to a section by number only (e.g. "section 2-1") without further qualification, it shall be construed as referring to that section of this Code.

Signature; subscription. The words "signature" and "subscription" shall include a mark when the person cannot write, his name being written near it and being witnessed by a person who writes his own name as a witness.

State; commonwealth. The terms "the state," "the commonwealth," "this state" and "this commonwealth" shall be construed as if followed by the words "of Virginia."

State Code. References to the "State Code" or the "Code of Virginia" shall mean the Code of Virginia, 1950, as amended.

Street. The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges, and the approaches thereto, and all other public thoroughfares in the town, and shall mean the

entire width thereof between abutting property lines. It shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the council.

Swear; sworn. The word "swear" or "sworn" shall be equivalent to the word "affirm" or "affirmed" in all cases in which, by law, an affirmation may be substituted for an oath.

Tense. Words used in the past or present tense include the future as well as the past and present.

Town. The words "town," "the town" and "this town" shall mean the Town of Berryville, in the County of Clarke and State of Virginia.

Written; in writing. The words "written" and "in writing" shall include typewriting, printing on paper and any other mode of representing words, letters or figures.

Year. The word "year" shall mean a calendar year.

(Code 1971, § 1-5)

State Law reference— Similar definitions and rules of construction applicable to state law, Code of Virginia, § 1-200, et seq.

Sec. 1-3. - Headlines of sections.

The headlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and do not constitute part of the section adopted by council.

(Code 1971, § 1-4)

State Law reference— Similar provisions as to sections of state code, Code of Virginia, § 1-217.

Sec. 1-4. - Severability of parts of Code.

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1971, § 1-3)

Sec. 1-5. - Provisions of Code considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same in substance as those of the 1971 Berryville Town Code and ordinances adopted subsequent to such Code and included herein, shall be considered as continuations thereof and not as new enactments.

(Code 1971, § 1-2)

Sec. 1-6. - Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect:

- (1) Any ordinance promising or guaranteeing the payment of money by or for the town or authorizing the issuance of any bonds or any evidence of indebtedness;
- (2) Any ordinance authorizing or otherwise relating to any contract;
- (3) Any ordinance granting any franchise or right;
- (4) Any ordinance appropriating funds, levying or imposing taxes or relating to an annual budget or the salaries or compensation of officers and employees;
- (5) Any ordinance authorizing, providing for or otherwise relating to any public improvement;
- (6) Any ordinance making any assessment;

- (7) Any ordinance authorizing or otherwise relating to the sale or conveyance of town property;
- (8) Any zoning ordinance or ordinance regulating the subdivision of land; ⁽¹⁾
- (9) Any ordinance the purposes of which have been accomplished;
- (10) Any ordinance which is temporary, although general in effect; or
- (11) Any ordinance which is special, although permanent in effect;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Footnotes:

--- (1) ---

Cross reference— Zoning ordinance, App. A; subdivision ordinance, App. B.

Sec. 1-7. - Code and new ordinances do not affect prior offenses, rights, etc.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, or any prosecution, suit or proceeding pending or any judgment rendered, on or before the effective date of this Code.
- (b) No new ordinance shall be construed to repeal a former ordinance as to any offense committed against the former ordinance or as to any act done, any penalty, forfeiture or punishment incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or any right accrued, or claim arising before the new ordinance takes effect, save only that the proceedings thereafter had shall conform, so far as practicable, to the ordinance in force at the time of such proceedings.

State Law reference— Similar provisions applicable to state statutes, Code of Virginia, § 1-239.

Sec. 1-8. - Repeal of ordinance not to revive former ordinance.

When any ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

State Law reference— Similar provisions applicable to state statutes, Code of Virginia, § 1-240.

Sec. 1-9. - Supplementation of Code.

- (a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been replaced shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate headlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code);
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

State Law reference— Authority to supplement Code, Code of Virginia, § 15.2-1433.

Sec. 1-10. - Copies of Code and supplements to be available for public inspection.

A copy of this Code and every supplement thereto shall be kept in the office of the town clerk and shall there be available for public inspection, during normal business hours. Also, this Code shall be accessible through the town website.

State Law reference— Similar provisions, Code of Virginia, § 15.2-1433.

Sec. 1-11. - Classification of and penalties for violations; continuing violations.

- (a) Whenever in this Code or any other ordinance of the town or any rule or regulation promulgated by any officer or agency of the town, under authority duly vested in such officer or agency, it is provided that a violation of any provision thereof shall constitute a Class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as follows:

- (1) *Class 1 misdemeanor*: By a fine of not more than two thousand five hundred dollars (\$2,500.00), or by confinement in jail for not more than twelve (12) months, or by both such fine and confinement.
 - (2) *Class 2 misdemeanor*: By a fine of not more than one thousand dollars (\$1,000.00) or by confinement in jail for not more than six (6) months, or by both such fine and confinement.
 - (3) *Class 3 misdemeanor*: By a fine of not more than five hundred dollars (\$500.00).
 - (4) *Class 4 misdemeanor*: By a fine of not more than two hundred fifty dollars (\$250.00).
- (b) Whenever in any provisions of this Code or in any other ordinance of the town or any rule or regulation promulgated by an officer or agency of the town, under authority duly vested in such officer or agency, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a Class 1 misdemeanor and be punished as prescribed in subsection (a)(1) above.
- (c) Notwithstanding any other provision of this section or any other section of this Code, no penalty for a violation of this Code or other ordinance, rule or regulation of the town shall exceed that prescribed by general law of the state for a like offense.
- (d) Each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

(Code 1971, § Art. 6-1; Ord. of 12-11-90; Ord. of 4-9-91)

State Law reference— Classification of misdemeanors and punishment therefor, Code of Virginia, §§ 18.2-9, 18.2-11; authority of town to provide penalties for violation of ordinances and provisions similar to subsection (c) above, § 15.2-1429; authority of court trying case, upon

conviction, to require bond conditioned that the person convicted will not violate the ordinance for the breach of which he was convicted for a period of not more than one year, § 15.2-1430; injunctive relief for continuing violations of ordinances, § 15.2-1432.

Sec. 1-12. - Installment, conditional, etc., payment of fines—Generally.

- (a) Whenever a defendant is convicted of a violation of any provision of this Code or other ordinance of the town, or found not innocent in the case of a juvenile, and is sentenced to pay a fine, and if the defendant does not pay the fine forthwith or by a date certain established by the court, the court, on its own motion or on motion of the defendant, may order the defendant to pay such fine and any costs which the defendant may be required to pay in installments or upon such other terms and conditions or within such period of time as may enable the defendant to pay such fine and costs. In determining whether to make such order, the court may require the defendant to file a petition, under oath, with the court, upon a form provided by the court, setting forth the financial condition of the defendant.
- (b) The form referred to in subsection (a) above shall be a questionnaire, and shall include, but shall not be limited to: The name and residence of the defendant; his occupation, if any; his family status and the number of persons dependent upon him; his monthly income; whether or not his dependents are employed and, if so, their approximate monthly income; his banking accounts, if any; real estate owned by the defendant, or any interest he may have in real estate, and income produced therefrom; any independent income accruing to the defendant; tangible and intangible personal property owned by the defendant, or in which he may have an interest; and a statement listing the approximate indebtedness of the defendant to other persons. Such form shall also include a payment plan of the defendant, if the court should exercise its discretion in permitting the payment of such fine and costs in installments or other conditions to be fixed by the court. At the end of such form there shall be printed in bold face type, in a distinctive color, the following: THIS STATEMENT IS MADE UNDER OATH. ANY FALSE STATEMENT OF A MATERIAL FACT TO ANY QUESTION CONTAINED HEREIN SHALL CONSTITUTE PERJURY UNDER THE PROVISIONS OF SECTION 18.2-434 OF

Chapter 2 - ADMINISTRATION

ARTICLE I. - IN GENERAL

Sec. 2-1. - Town manager to exercise control over town departments and offices.

The town manager shall exercise general control over all departments and offices of the town not inconsistent with the provisions of the Charter and other provisions of this Code.

(Ord. of 11-10-81, § 2-27)

Charter reference— Charter reference—Town manager, Ch. 4.

Sec. 2-1.1 – Town Clerk.

A town clerk shall be appointed by the town manager, and shall keep the minutes of the proceedings of the town council, shall have charge of and preserve the records of the town, and shall perform such other duties as assigned by the town manager.

Sec. 2-1.2. - Criminal background checks by town manager.

The town council determines that, in the interest of public welfare or safety, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with their employment by the town. To this end, the town manager shall conduct an investigation of applicants for employment with the town to obtain their criminal history record information. The town manager shall conduct this investigation prior to the town's making a final offer of employment to an applicant. If the results of the investigation reveal that the applicant's record would not be compatible with the nature of the public employment, the town manager may decide not to hire the applicant or may revoke any conditional offer made.

(Ord. of 12-14-99)

State Law reference— Code of Virginia § 19.2-389(A)(7).

Sec. 2-2. - Conduct of town officers and employees generally.

Town officers and employees shall be courteous in their official transactions with the public, and they shall conduct themselves in the performance of their official duties so as to not knowingly deprive any person, at the time and under the circumstances then and there existing, of any lawful right or benefit to which such person may be entitled. Any person who feels aggrieved by the conduct of any town officer or employee in violation of this section may bring such matter to the attention of such officer's or employee's department head or the town manager, without prejudice to any other recourse to which such aggrieved person may be entitled.

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

Sec. 2-4. - Resisting, etc., town officers and employees.

It shall be unlawful and a Class 1 misdemeanor for any person to resist, intimidate or interfere with, or to attempt to resist, intimidate or interfere with, any police officer, firefighter, EMS personnel, or other officer or employee of the town in the performance of their duties.

(Code 1971, § 13-24)

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

Sec. 2-5. - Impersonation of town officer or employee.

(a) No person shall falsely represent himself to be an officer or employee of the town or, without proper authority, wear or display any uniform, insignia or credential which identifies any town officer or employee; nor shall any person, without proper authority, assume to act as an officer or employee of

the town, whether to gain access to premises, obtain information, perpetrate a fraud or for any other purpose; provided, that nothing in this section shall be construed to prevent a private citizen from making a lawful citizen's arrest for felony or breach of the peace committed in his presence.

(b) A violation of this section shall constitute a Class 1 misdemeanor.

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

State Law reference— Impersonating officer, Code of Virginia, § 18.2-174; unlawful wearing of officer's uniform or insignia, § 18.2-175.

Sec. 2-6. - Disbursement of town funds.

Disbursements of town funds shall be approved or signed by either the town treasurer or town manager and, except for payroll disbursements, shall be approved or cosigned by either the mayor or (i) the recorder until July 1, 2022 or (ii) the vice mayor on or after July 1, 2022.

(Code 1971, § 2-4; Ord. of 7-11-06(1))

Sec. 2-7. - Fee for passing bad check to town.

There is hereby imposed, and there shall be collected, a fee approved by council for the uttering, publishing or passing of any check or draft, for payment of taxes or any other sums due the town, which is subsequently returned for insufficient funds or because there is no account or the account has been closed.

State Law reference— Authority for above section, Code of Virginia, § 15.2-106

Sec. 2-8. - Parts of official safety program designated.

The John H. Enders Fire Company, Inc., its Rescue Squad and their membership and the Berryville Police Department and its membership are hereby declared to be an integral part of the official safety program of the town.

(Ord. of 3-12-73)

Editor's note— The above section was adopted pursuant to the Line of Duty Act, § 9-400, et seq. of the Code of Virginia.

[Note: move (a) to Employee Handbook]

Secs. 2-9—2-18. - Reserved.

ARTICLE II. - THE COUNCIL^[1]

Footnotes:

--- (1) ---

Charter reference— Council generally, Chapter 3.

Cross reference— Disrupting meeting of council, § 13-11.

Sec. 2-19. - Standing committees.

- a) There shall be such standing committees of the council as are provided by the council. Members of such committees shall be appointed by the mayor.
- b) The council may amend committee appointments.
- c) Such committees shall have such powers and duties as are prescribed by council, not inconsistent with the Charter.

(Ord. of 04-11-17(2))

Sec. 2-20. - Meetings.

The regular meetings of the town council are set for the second Tuesday of each month at 7:30 p.m. When any regular meeting falls on a legal holiday, such regular meeting shall then be held upon the next Tuesday following. Regular meetings of council may be cancelled by, and special meetings may be called by, the mayor or three members of the town council.

(Code 1971, § 2-6)

Charter reference— § 3.13.

Sec. 2-21. - Rules of procedure.

The council shall establish its own rules of procedure. Except as otherwise provided in such rules, the proceedings of the council shall be governed by the current edition of Robert's Rules of Order.

(Code 1971, § 2-11)

Charter reference— Council to establish rules of procedure, § 3.15.

Sec. 2-22. - Procedure for adoption and effective date of ordinances and resolutions.

An ordinance or resolution of the council may be introduced and adopted or rejected at any particular meeting of the council. A full reading of the ordinance or resolution shall not be required prior to adoption. If the ordinance or resolution before the council is adopted, such ordinance or resolution shall become effective at such time as may be specified therein, but if no time is so specified, such ordinance or resolution shall become effective immediately.

(Code 1971, § 2-10)

Secs. 2-23—2-28. - Reserved.

ARTICLE III. - ADMINISTRATION DEPARTMENT

Sec. 2-29. - Established.

There is hereby established, in and for the town, an administration department.

Sec. 2-30. – Responsibilities.

The department shall be responsible for the billing and collection of taxes, fees, etc.; finance and accounting functions; purchasing and procurement functions; and human resource functions. The department shall be responsible for the efficient operation of the functions listed above. The department shall perform other duties as may be assigned by the town manager.

Section 2-31. – Assistant Town Manager for Administration/Treasurer.

The department shall be under the supervision and control of assistant town manager for administration/treasurer.

Sec. 2-33. – Town Treasurer.

The assistant town manager for administration/treasurer shall be the town treasurer.

Footnotes:

--- (2) ---

Charter reference— Appointment of town treasurer, § 5.1.

Sec. 2-33. – Absence of Assistant Town Manager for Administration/Treasurer.

In the absence of the town treasurer or in the event of a vacancy in the position of town treasurer, the town manager shall perform the duties of the town treasurer and shall serve as the town treasurer.

Sec. 2-34 – Absence of Town Manager and Assistant Town Manager for Community Development/Operations.

In the absence of the town manager and the assistant town manager for community development/operations, the assistant town manager for administration/treasurer shall perform the duties of the town manager.

Sec. 2-35. - Bond.

Before entering upon the duties of the office, the treasurer shall execute a bond, the premium for which shall be paid by the town, with surety approved by the council in a penal sum established by council, conditioned upon the faithful performance of the duties of the office, for the proper collection of and accounting for all money which shall come into the treasurer's hands or which it shall be his or her duty to collect and for the payment of all money by the treasurer, or proper order of the council, to those entitled to receive the same.

(Code 1971, § 2-16)

Charter reference— Authority of council to require bond, § 7.2.

Sec. 2-36. - Duty to receive and deposit funds.

The treasurer shall receive all taxes, license taxes, assessments and other money, revenues and funds belonging to the town and deposit the same in such bank as the treasurer may deem proper and with the approval of council. (Code 1971, § 2-17)

Cross reference— Licenses, Ch. 9; taxation, Ch. 16.

Sec. 2-37. - Remedies available for collecting funds.

For the purpose of collecting taxes, license taxes, assessments and other money, revenues and funds due the town, the treasurer shall have the right of distress, levy, attachment, and all other remedies provided by general law.

(Code 1971, § 2-18)

Sec. 2-38. - General method of keeping books and records.

The treasurer shall keep the books and records so that all receipts and disbursements and the source and character of the same shall appear and a true and accurate understanding of the financial affairs and conditions of the town may be readily ascertained therefrom.

(Code 1971, § 2-20)

Sec. 2-39. - Bank and check books; checks and vouchers.

The treasurer shall keep the bank books and check books so that such books will accurately reflect the state of the accounts. Each check shall be drawn payable to the order of the person for whose benefit it is drawn and shall contain a notation on its face which will indicate the purpose for which it is drawn. All checks and vouchers shall be carefully preserved.

(Code 1971, § 2-19)

Sec. 2-40. - Inspection of books and records.

All of the treasurer's books and records shall be open at any time to inspection by any member of the council or such persons as the council may direct.

(Code 1971, § 2-21)

Sec. 2-41. - Annual audit and report.

An audit of the books of the treasurer shall be made annually by a certified public accountant approved by the council and assisted by the treasurer, and a report of such audit shall be made to the council as soon as possible. Such report shall also indicate the amount of uncollected assets of the town in the hands of the treasurer for collection.

(Code 1971, § 2-22)

Charter reference— Town manager to arrange for annual audit, § 4.2(e).

(Code 1971, § 2-23)

Secs. 2-42—2-51. - Reserved.

ARTICLE IV. - PUBLIC WORKS DEPARTMENT

Sec. 2-52. - Established.

There is hereby established, in and for the town, a public works department.

Sec. 2-53. - Responsibilities.

The department shall be responsible for the maintenance of the water distribution system (excluding pumping facilities), sewer collection system, town-maintained streets and sidewalks, town-owned property (excluding properties under the control of the public utilities department) as well as snow removal and collection of yard and other waste as provided in the code. The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

(Ord. of 11-10-81, § 2-26)

Cross reference— Refuse collection, § Chapter 8, Article II; streets and sidewalks, Ch. 15; water and sewers, Ch. 17.

Sec. 2-54. - Public Works Director.

The public works department shall be under the immediate supervision of the public works director, who shall be appointed by, and may be removed by, and shall be responsible to, the town manager; provided, however, that such appointment or removal shall be made by the town manager only after consultation with the council.

(Ord. of 11-10-81, § 2-27)

Secs. 2-55—2-61. - Reserved.

ARTICLE V. – PUBLIC UTILITIES DEPARTMENT

Sec. 2-62. – Established.

There is hereby established, in and for the town, a public utilities department.

Sec. 2-63. – Responsibilities.

The department shall be responsible for the operation and maintenance of the following facilities: water treatment, water distribution system, pumping facilities, water storage structures, and wastewater treatment and discharge. The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

Sec. 2-64. – Public Utilities Director.

The department shall be under the supervision and control of the public utilities director, who shall be appointed by, and may be removed by, and shall be responsible to, the town manager; provided, however, that such appointment or removal shall be made by the town manager only after consultation with the council.

ARTICLE VI. - POLICE DEPARTMENT³

Footnotes:

--- (3) ---

State Law reference— Authority of council to preserve peace and good order, Code of Virginia, § 15.2-1700; general powers and duties of local police force, § 15.2-1704.

Sec. 2-65. - Established; composition.

There is hereby established, in and for the town, a police department.

Sec. 2-65.1. – Responsibilities.

The police department is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and enforcement of state and local laws, regulations, and ordinances.

The police department shall be under the control of the town manager for the purpose of preserving and enforcing peace and order, for the execution of the laws of the state and this Code and other ordinances of the town, and the performance of such other duties as the town manager may prescribe.

Sec. 2-66. - Chief of Police.

The department shall be under the supervision of the chief of police, who shall be appointed by, and may be removed by, and shall be responsible to, the town manager; provided, however, that such appointment or removal shall be made by the town manager only after consultation with the council.

(Code 1971, § 2-24)

Sec. 2-67. - Powers and duties of chief.

The chief of police shall be the administrative head of the police department. It shall be the duty of the chief of police to enforce the provisions of this Code and other ordinances of the town. In addition, the chief of police shall have such powers and duties as are prescribed for the chief by state law and town ordinances.

The chief of police shall be the chief executive of the police department, but shall always be subject to the orders and regulations of the town manager. The chief of police shall be under the control of the town manager for the purpose of preserving and enforcing peace and order and executing the laws of the state and ordinances of the town, and it shall be the duty of the police force to respect and obey orders of the chief not in conflict with law or department regulations.

The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

(Code 1971, § 2-25)

Sec. 2-68. - Disposal of unclaimed property in possession of police.

Any personal property which has been in the possession of the police department and unclaimed for a period of more than sixty (60) days may be (i) sold at public sale in accordance with the provisions of § 15.2-1719, Code of Virginia, 1950, as amended, or (ii) retained for use by the police department. As used herein, "unclaimed personal property" shall be any personal property belonging to another which has been acquired by a police officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the State Treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Sec. 55-210.1, Code of Virginia, et seq.). Unclaimed bicycles and mopeds may also be disposed of in accordance with § 15.2-1720, Code of Virginia. Unclaimed firearms may also be disposed of in accordance with § 15.2-1721, Code of Virginia.

Prior to the sale or retention for use by the law-enforcement agency of any unclaimed item, the chief of police, or his duly authorized agents, shall make reasonable attempts to notify the rightful owner of the property, obtain from the attorney for the Commonwealth in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in the locality once a week for two (2) successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the police department, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The chief of police, or his duly authorized agents, shall pay from the proceeds of sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by chief of police or his agent for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the police department shall become the property of the town and shall be retained only if, in the opinion of the chief of police, there is a legitimate use for the property by the police department and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

If no claim has been made by the owner for the property or proceeds of such sale within sixty (60) days of the sale, the remaining funds shall be deposited in the general fund of the town and the retained property may be placed into use by the police department. Any such owner shall be entitled to apply to the locality within three (3) years from the date of the sale and, if timely application is made therefor and satisfactory proof of ownership of the funds or property is made, the town shall pay the remaining proceeds

of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three (3) years from the date of the sale.

(Ord. of 5-12-98)

State Law reference— Code of Virginia § 15.2-1719

Sec. 2-69. - Auxiliary police officers.

- (a) The chief of police, with the approval of the town manager, is hereby authorized to appoint auxiliary police officers as he deems necessary.
- (b) The chief of police, with the approval of the town manager, shall establish rules and regulations concerning the operation of the auxiliary police officers, including their uniforms, equipment, and training.
- (c) People appointed as auxiliary police officers shall be of good character. Their appointment shall be revocable at any time by the chief of police or the town manager.
- (d) The auxiliary police officers may be called into service as deemed necessary by the chief of police, or by the town manager. Said auxiliary may also be called into service at such times as there are insufficient numbers of regular police officers to preserve the peace, safety and good order of the town and at any time for the purpose of training.
- (e) Only those who have met the training requirements established by the Department of Criminal Justice Services pursuant to § 9.1-102(11) of the Code of Virginia, as amended, or its successor statute, shall have all the powers and authorities and immunities of constables at common law and shall have all the power and authority and immunities of full-time law enforcement officers.
- (f) Auxiliary police officers shall wear the prescribed uniform established by department general orders when called into service.
- (g) People appointed as auxiliary police officer shall serve without compensation.

- (h) People appointed as auxiliary police officers may not engage in employment which may occasionally require the use of their police powers in the performance of such employment unless such employment is specifically approved by the town manager.

(Ord. of 5-10-11)

State Law reference-Code of Virginia § 15.2-1731 et seq.

Secs. 2-70—2-74. - Reserved.

ARTICLE VII. – PLANNING DEPARTMENT

Sec. 2-75. - Established.

There is hereby established, in and for the town, a planning department.

Sec. 2-76. – Responsibilities.

The department shall be responsible for community and economic development functions of the town. Such functions include, without limitation, the administration and enforcement of land use planning, zoning, subdivision, stormwater control and management, flood plain management, and erosion and sedimentation control ordinances and regulations; as well as business retention and attraction. The department shall be responsible for the efficient operation of the facilities and functions listed above. The department shall perform other duties as may be assigned by the town manager.

Sec. 2-77. – Assistant Town Manager for Community Development/Operations.

The department shall be under the supervision and control of the assistant town manager for community development/operations.

Sec. 2-77.1. – Zoning Administrator and Subdivision Agent.

The assistant town manager for community development/operations shall be the zoning administrator and subdivision agent.

Sec. 2-77.2 – Absence of Town Manager for Community Development/Operations.

In the absence of the assistant town manager for community development/operations or in the event of a vacancy in the position of assistant town manager for community development/operations, the town manager shall perform the duties of the assistant town manager for community development/operations and shall serve as zoning administrator and subdivision agent.

Sec. 2-77.3 – Absence of Town Manager.

In the absence of the town manager, the assistant town manager for community development/operations shall perform the duties of the town manager.

ARTICLE VIII. - PLANNING COMMISSION^[4]

Footnotes:

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Cross reference— Zoning ordinance, App. A; subdivision ordinance, App. B.

State Law reference— Local planning commissions, Code of Virginia, § 15.2-2210, et seq.

Sec. 2-78. - Created.

A planning commission is hereby created for the town.

(Code 1971, § 14-1)

State Law reference— Duty to create planning commission, Code of Virginia, § 15.2-2210.

Sec. 2-79. - Composition; qualifications of members.

The planning commission shall consist of not less than five (5) nor more than nine (9) members, as may be determined from time to time by the council, all of whom shall be residents of the town, qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half ($\frac{1}{2}$) of the members shall be freeholders. One member may be a member of the town council.

(Code 1971, §. 14-2; Ord. of 12-11-79)

State Law reference— Code of Virginia, § 15.2-2212.

Sec. 2-80. - Appointment of members.

All members of the planning commission shall be appointed by the council.

(Code 1971, § 14-3)

State Law reference— Code of Virginia, § 15.2-2212.

Sec. 2-81. - Term of members; filling of vacancies.

- (a) The term of the council member of the planning commission shall be coextensive with the term of office to which the member has been elected or appointed, unless the council, at the first regular meeting of any year, appoints another to serve as its representative. (b) Any vacancy in the membership of the planning commission shall be filled by appointment by the council and such appointment shall be for the unexpired term.

(Code 1971, §§ 14-4, 14-5; Ord. of 12-11-79)

State Law reference— Code of Virginia, § 15.2-2212.

Sec. 2-82. - Reserved.

Editor's note— An ordinance adopted June 12, 1990, repealed former § 2-82, relative to members of the planning commission serving without compensation, which derived from Code 1971, § 14-7.

Sec. 2-83. - Removal of members.

Members of the planning commission may be removed, for malfeasance in office, by the council.

(Code 1971, § 14-6; Ord. of 12-11-79)

State Law reference— Code of Virginia, § 15.2-2212.

Sec. 2-84. - Powers, duties and functions.

The planning commission shall have the functions, powers, and duties which are prescribed for it by state law or by ordinance of the town.

(Code 1971, § 14-8)

07/11/18

Chapter 3 - ADVERTISING

Sec. 3-1. - Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 3 misdemeanor.

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

Sec. 3-2. - Posting advertising matter on buildings, poles, etc.

It shall be unlawful for any person to post, stick, fasten or otherwise attach any card, poster or advertisement upon or to any building, premise, wall, fence, post or pole, without having first secured the permission of the owner of such building, premise, wall, fence, post or pole.

(Code 1971, § 3-1)

Sec. 3-3. - Unauthorized removal, alteration, etc., of advertising matter.

It shall be unlawful for any person to tear down or otherwise remove or alter, mutilate or deface any advertisement or poster put up with the consent of the owner of the property whereupon the same is posted, without the consent of the person responsible for such advertisement or poster or the owner of such property.

(Code 1971, § 3-2)

THE CODE OF VIRGINIA. THE MAXIMUM PENALTY FOR PERJURY IS CONFINEMENT IN THE PENITENTIARY FOR A PERIOD OF TEN YEARS. A copy of the petition shall be retained by the defendant.

- (c) If the defendant is unable to read or write, the court or the clerk may assist the defendant in completing the petition referred to in this section and require him to affix his mark thereto. The consequences of the making of a false statement shall be explained to such defendant.

(Code 1971, §§ 6-2, 6-3)

State Law reference— Similar provisions, Code of Virginia, §§ 19.2-354, 19.2-355.

Sec. 1-13. - Same—Payment as condition of probation or suspension of sentence.

If a defendant is sentenced to pay a fine and payment of the fine or fine and costs is ordered to be made on an installment basis or on other conditions under the provisions of section 1-12, and if the defendant is also placed on probation or imposition of the execution of sentence is suspended, the court may make payment of the fine pursuant to such order a condition of probation or suspension of sentence.

(Code 1971, § 6-4)

State Law reference— Similar provisions, Code of Virginia, § 19.2-356.

Sec. 1-14. - Same—Defendant may be required to be of peace and good behavior pending payment.

If a defendant is permitted to pay a fine or fine and costs on an installment basis or under such other conditions as the court shall fix under the provisions of section 1-12, the court may require, as a condition, that the defendant be of peace and good behavior until the fine and costs are paid.

(Code 1971, § 6-5)

State Law reference— Similar provisions, Code of Virginia, § 19.2-357.

Sec. 1-15. - Same—Procedure on default.

- (a) When a person sentenced to pay a fine defaults in the payment of the fine or an installment, the court, upon the motion of the Commonwealth or upon its own motion, may require him to show cause why he should not be imprisoned or fined for nonpayment.
- (b) Following an order to show cause under this section, unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant imprisoned as for a contempt for a term not to exceed sixty (60) days or impose a fine not to exceed five hundred dollars (\$500.00). The court may provide in its order that payment or satisfaction of the fine in default at any time will entitle the defendant to his release from such imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of such fine.
- (c) If it appears that the default is excusable under the standards set forth in subsection (b) hereof, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the fine or of each installment, or remitting the unpaid portion, in whole or in part.
- (d) Nothing in this section shall be deemed to alter or interfere with employment, for collection of fines, of any means authorized for the enforcement of money judgments rendered in favor of the town.

(Code 1971, § 6-6)

State Law reference— Similar provisions, Code of Virginia, § 19.2-358.

BERRYVILLE TOWN COUNCIL

MOTION TO ADOPT AN ORDINANCE ESTABLISHING BONDING
REQUIREMENTS FOR CERTAIN TOWN EMPLOYEES

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville adopt the attached ordinance.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Attest: _____
Harry L. Arnold, Jr., Recorder

AN ORDINANCE ESTABLISHING BONDING REQUIREMENTS FOR CERTAIN TOWN
EMPLOYEES IN ACCORDANCE WITH SECTIONS 2.35 AND 2.33 OF THE CODE OF THE
TOWN OF BERRYVILLE

BE IT ORDAINED, by the Council of the Town Of Berryville, establishes a minimum bonding requirement of \$200,000 each for the Treasurer and Town Manager, in accordance with Sections 2.35 and 2.33 the Code of the Town of Berryville.

I HEREBY CERTIFY THAT THE FOREGOING Ordinance was duly adopted by the Council of the Town of Berryville in meeting assembled October 9, 2018 and will become effective immediately.

Signed: _____
Patricia Dickinson, Mayor

Date: October 9, 2018

Attest: _____
Harry L. Arnold, Jr., Recorder

Date: October 9, 2018

BERRYVILLE TOWN COUNCIL

MOTION TO ADOPT AN ORDINANCE ESTABLISHING THE AMOUNT OF
THE RETURNED CHECK FEE

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville adopt the attached ordinance.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Attest: _____
Harry L. Arnold, Jr., Recorder

AN ORDINANCE ESTABLISHING A RETURNED CHECK FEE IN ACCORDANCE WITH SECTION
2.7 OF THE CODE OF THE TOWN OF BERRYVILLE

BE IT ORDAINED, by the Council of the Town Of Berryville, establishes a returned check fee of \$50.00, in accordance with Sections 2.7 of the Code of the Town of Berryville.

I HEREBY CERTIFY THAT THE FOREGOING Ordinance was duly adopted by the Council of the Town of Berryville in meeting assembled October 9, 2018 and will become effective immediately.

Signed: _____
Patricia Dickinson, Mayor

Date: October 9, 2018

Attest: _____
Harry L. Arnold, Jr., Recorder

Date: October 9, 2018

Attachment 9

FINANCE AND ADMINISTRATION STAFF REPORT

TO: TOWN COUNCIL
FROM: DESIREE MORELAND, TREASURER
SUBJECT: MONTHLY REPORTS
DATE: 10/2/2018
CC: KEITH DALTON, TOWN MANAGER

A/P Check Listing

Checks issued in September 2018.

Bank of America/P-Card Statement

August 2018 P-Card Purchases that were paid on September 25, 2018.

A/P Check Listing

Vendor Range - 4IMPRINT, INC.' - 'ZENON ENVIRONMENTAL CORPORATION

Date From - 9/1/2018 Date To - 9/30/2018

Town of Berryville
10/02/2018 08:58 AM

Page: 1 of 2

Check Number	Bank	Vendor	Date	Amount
5022	1	BRIAN HURTT	09/11/2018	\$49.20
5023	1	Bureau for Child Support Enforcement	09/11/2018	\$875.00
5024	1	CIVICPLUS	09/11/2018	\$2,715.94
5025	1	DIANE M HARRISON	09/11/2018	\$346.85
5026	1	DMV	09/11/2018	\$65.00
5027	1	Douglas A. Shaffer	09/11/2018	\$75.00
5028	1	H. Allen Kitselman	09/11/2018	\$75.00
5029	1	Hall, Monahan, Engle, Mahan & Mitchell	09/11/2018	\$4,572.50
5030	1	Herbert L. Beskin, Trustee	09/11/2018	\$115.00
5031	1	KATHRYN LEE MEELHEIM	09/11/2018	\$72.60
5032	1	Keith Dalton	09/11/2018	\$50.00
5033	1	LILIAN AFANDI AMANAKA	09/11/2018	\$47.20
5034	1	Michelle M. Jones	09/11/2018	\$1,190.00
5035	1	Northern Shenandoah Valley Regional Commission	09/11/2018	\$645.00
5036	1	Rappahannock Electric Cooperative	09/11/2018	\$17,032.73
5037	1	REYES CONCRETE CO., LLC	09/11/2018	\$13,281.00
5038	1	SKYVIEW TREE EXPERTS, LLC	09/11/2018	\$1,275.00
5039	1	The Winchester Star	09/11/2018	\$1,695.10
5040	1	TIFFANY QUILLER	09/11/2018	\$128.86
5041	1	USPS	09/11/2018	\$107.16
5042	1	VA Dept of Criminal Justice Services	09/11/2018	\$4,000.00
5043	1	Waterloo Electric Service, LLC	09/11/2018	\$144.48
5044	1	ADRIENNE MARIE BUTTS	09/21/2018	\$174.20
5045	1	APRIL HUNTER FERRER	09/21/2018	\$148.80
5046	1	BERRYVILLE AUTO PARTS	09/21/2018	\$24.06
5047	1	Bureau for Child Support Enforcement	09/21/2018	\$875.00
5048	1	CORE & MAIN LP	09/21/2018	\$4,225.00
5049	1	CUMMINS ATLANTIC	09/21/2018	\$844.69
5050	1	Hach Chemical Company	09/21/2018	\$9,880.00
5051	1	Lewin-Yount Company, LLC	09/21/2018	\$7,940.00

A/P Check Listing

Vendor Range - 4IMPRINT, INC.' - 'ZENON ENVIRONMENTAL CORPORATION

Date From - 9/1/2018 Date To - 9/30/2018

Town of Berryville
10/02/2018 08:58 AM

Page: 2 of 2

Check Number	Bank	Vendor	Date	Amount
5052	1	- Lincoln Financial Group	09/21/2018	\$761.76
5053	1	- LOUDOUN PEDIATRIC ASSOC	09/21/2018	\$814.60
5054	1	- Nationwide Retirement Solutions	09/21/2018	\$585.00
5055	1	- OCC Health Service Winchester	09/21/2018	\$118.00
5056	1	- PAULA CRISTINA GRACA	09/21/2018	\$9.50
5057	1	- PENNONI ASSOCIATES INC	09/21/2018	\$405.00
5058	1	- Rappahannock Regional Criminal Justice Acad VOIDED	09/21/2018	\$111.70
5059	1	- Treasurer of Frederiek County	09/21/2018	\$6,210.28
5060	1	- Treasurer of Virginia - DEQ	09/21/2018	\$2,768.00
5061	1	- Virasec, LLC	09/21/2018	\$6,192.96
5062	1	- Virginia Department of Transportation	09/21/2018	\$100.00
5063	1	- VUPS	09/21/2018	\$74.55
5064	1	- GERMAN JEOVEL LOVO PAZ	09/26/2018	\$199.60
5065	1	- Hach Chemical Company	09/26/2018	\$13,139.00
5066	1	- REYES CONCRETE CO., LLC	09/26/2018	\$9,896.00
5067	1	- USPS	09/26/2018	\$785.37
5068	1	- Waterloo Electric Service, LLC	09/26/2018	\$3,092.90
47	Checks Totaling -			\$117,934.59

Totals By Fund

Fund	Checks	Voids	Total
100	\$61,982.63	\$111.70	\$61,870.93
501	\$19,561.36		\$19,561.36
502	\$36,390.60		\$36,390.60
Totals:	\$117,934.59	\$111.70	\$117,822.89



BERRYVILLE TOWN OF
 DESIRÉE MORELAND
 XXXX-XXXX-XXXX-
 August 01, 2018 - August 31, 2018

Purchasing Card

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 08/31/18 Payment Due Date 09/25/18 Days in Billing Cycle 31 Credit Limit \$500,000 Cash Limit \$0 Total Payment Due \$56,856.43	Previous Balance \$52,034.00 Payments -\$52,034.00 Credits -\$114.18 Cash \$0.00 Purchases \$56,970.61 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 \$56,856.43

Important Messages

Please do not send payment. Your automatic payment is scheduled to be credited to this account on 09/25/18.

Cardholder Activity Summary

Account Number Credit Limit	Credits	Cash	Purchases and Other Debits	Total Activity
BOOR, RICK XXXX-XXXX-XXXX-1 15,000	0.00	0.00	5,132.72	5,132.72
BOOTH, KEVIN XXXX-XXXX-XXXX- 1,000	0.00	0.00	181.65	181.65

5203400 5685643 5685643 4715291201837237

Account Number: XXXX-XXXX-XXXX-
 August 01, 2018 - August 31, 2018

Total Payment Due \$56,856.43
Payment Due Date 09/25/18

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



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



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

**N0016844

5499900 1 0005 1 20 18 37 23 7

Cardholder Activity Summary

Account Number Credit Limit	Credits	Cash	Purchases and Other Debits	Total Activity
BUSSERT, ERNIE XXXX-XXXX-XXXX- 500	0.00	0.00	389.20	389.20
ELLIOTT, RALPH XXXX-XXXX-XXXX- 5,000	0.00	0.00	128.54	128.54
FERREBEE, DARRELL XXXX-XXXX-XXXX- 500	0.00	0.00	1.00	1.00
HALTERMAN, HEATHER XXXX-XXXX-XXXX- 15,000	0.00	0.00	590.95	590.95
JACKSON, MIA XXXX-XXXX-XXXX- 1,000	114.18	0.00	329.16	214.98
JOHNSON, KAREN XXXX-XXXX-XXXX- 1,000	0.00	0.00	217.62	217.62
LILLY, STEPHEN XXXX-XXXX-XXXX- 15,000	0.00	0.00	4,385.95	4,385.95
LINK, BRIAN XXXX-XXXX-XXXX- 1,000	0.00	0.00	71.51	71.51
MORELAND, DESIREE XXXX-XXXX-XXXX- 50,000	0.00	0.00	25,694.97	25,694.97
REYNOLDS, CHARLES XXXX-XXXX-XXXX- 500	0.00	0.00	31.34	31.34
STOVER, KEITH XXXX-XXXX-XXXX- 1,000	0.00	0.00	870.79	870.79
TYRRELL, DAVE XXXX-XXXX-XXXX- 20,000	0.00	0.00	15,450.77	15,450.77
WHITE, NEAL XXXX-XXXX-XXXX- 15,000	0.00	0.00	3,494.44	3,494.44

Transactions

Posting Transaction Date Date Description	Reference Number	MCC	Charge	Credit
				Total Activity
BERRYVILLE TOWN OF Account Number: XXXX-XXXX-XXXX				-\$52,034.00
08/24 08/24 AUTO PAYMENT DEDUCTION		0071		52,034.00
				Total Activity
BOOR, RICK Account Number: XXXX-XXXX-XXXX				5,132.72
08/01 07/30 WINCHESTER BUILDING SUPP 540-667-2301 VA	24323008212754120926893	1771	95.22	
08/01 07/30 WINCHESTER BUILDING SUPP 540-667-2301 VA	24323008212754120928246	1771	621.00	
08/06 08/03 PMSI WINCHESTER 2 703-723-2899 VA	24632698216500686379385	7342	74.00	
08/13 08/11 JOHNNY BLUE, INC. 540-6650968 VA	24003418224900010500629	7394	82.00	
08/22 08/21 BAY INDUSTRIES 920-406-4000 WI	24055238233266411500014	5039	2,431.17	
08/23 08/21 GRIFFITH ENERGY SERVIC 410-956-3000 MD	24258028234017034946295	5983	1,464.02	
08/23 08/22 TOTAL PEST SERVICES INC 540-9740768 VA	24755428234262347679957	7342	339.00	
08/24 08/23 BEST BUY 00010868 WINCHESTER VA	24399008235295044069594	5732	26.31	
				Total Activity
BOOTH, KEVIN Account Number: XXXX-XXXX-XXXX				181.65
08/03 08/02 BERRYVILLE TRUE VALUE BERRYVILLE VA	24801978215091400000160	5251	29.38	
08/13 08/10 BERRYVILLE AUTO PARTS INC BERRYVILLE VA	24767898224791300502089	5533	42.51	
08/14 08/13 BERRYVILLE TRUE VALUE BERRYVILLE VA	24801978226091402000231	5251	29.38	
08/22 08/21 BIG DADDY AUTOMOTIVE LLC BERRYVILLE VA	24247608233200127589164	7538	51.00	
08/24 08/23 BERRYVILLE TRUE VALUE BERRYVILLE VA	24801978236091402000015	5251	29.38	
				Total Activity
BUSSERT, ERNIE Account Number: XXXX-XXXX-XXXX				389.20

Transactions

Posting Transaction							
Date	Date	Description	Reference Number	MCC	Charge	Credit	
08/13	08/10	DR WANLESS AND ASSOCIATES	8336-538-2262 NC	24247608223001257316465	8299	352.00	
08/16	08/15	JNO. S SOLENBERGER AND C	WINCHESTER VA	24138298228400002151325	5251	37.20	
ELLIOTT, RALPH						Total Activity	128.54
Account Number: XXXX-XXXX-XXXX-							
08/20	08/18	WAL-MART #1406	WINCHESTER VA	24226388231091000656246	5411	96.54	
08/22	08/21	BIG DADDY AUTOMOTIVE LLC	BERRYVILLE VA	24247608233200127588828	7538	32.00	
FERREBEE, DARRELL						Total Activity	1.00
Account Number: XXXX-XXXX-XXXX-							
08/16	08/14	BERRYVILLE AUTO PARTS INC	BERRYVILLE VA	24767898227815600395246	5533	1.00	
HALTERMAN, HEATHER						Total Activity	590.95
Account Number: XXXX-XXXX-XXXX-							
08/06	08/03	Amazon web services	aws.amazon.coWA	24692168215100829708053	7399	0.64	
08/13	08/08	VIRGINIA BEACH RESORT HOT	VIRGINIA VA	24258028222018010874398	7011	234.86	
Arrival: 08/06/18							
08/17	08/15	FOX'S PIZZA	540-9553697 VA	24073148228900012100034	5812	36.00	
08/20	08/17	IN *TRUESHRED	888-7508783 VA	24692168229100386878533	7399	49.00	
08/27	08/23	UVA COOPER CNTR CONF WEB	434-9825714 VA	24755428236172364539950	8220	145.00	
08/27	08/24	USPS PO 5107560300	BERRYVILLE VA	24445008237001031622854	9402	125.45	
JACKSON, MIA						Total Activity	214.98
Account Number: XXXX-XXXX-XXXX-							
08/02	08/01	STAPLS7200255019002001	SOUTH HACKENS NJ	74164078213105028780511	5111		114.18
08/06	08/03	STAPLS7202049089000001	877-8267755 NJ	24164078215105022446088	5111	167.91	
08/20	08/17	STAPLS7202888708000001	877-8267755 NJ	24164078229105163914062	5111	34.17	
08/20	08/17	STAPLS7202888708000002	877-8267755 NJ	24164078229105973914062	5111	127.08	
JOHNSON, KAREN						Total Activity	217.62
Account Number: XXXX-XXXX-XXXX-							
08/01	07/31	PRESENTA PLAQUE CORPORATI	TEMPE AZ	24690298212027012843258	5999	148.77	
08/06	08/03	USPS PO 5107560300	BERRYVILLE VA	24445008216000988629230	9402	27.25	
08/10	08/07	THE SPRING HOUSE TAVERN	540-4594755 VA	24453448221133503108636	5812	14.19	
08/24	08/23	USPS PO 5107560300	BERRYVILLE VA	24445008236000920636505	9402	2.42	
08/28	08/27	VISTAPR*VistaPrint.com	866-8936743 MA	24692168239100544124174	2741	24.99	
LILLY, STEPHEN						Total Activity	4,385.95
Account Number: XXXX-XXXX-XXXX-							
08/09	08/08	USA BLUE BOOK	800-548-1234 IL	24326848220636000064547	5085	1,109.58	
08/09	08/08	USA BLUE BOOK	800-548-1234 IL	24326848220636000065155	5085	143.90	
08/16	08/06	COYNE CHEMICAL	215-785-3000 PA	24224438228101029286238	5169	1,306.08	
08/16	08/15	COYNE CHEMICAL	215-785-3000 PA	24224438228101029286352	5169	1,344.36	
08/16	08/06	COYNE CHEMICAL	215-785-3000 PA	24224438228101029286220	5169	442.85	
08/20	08/17	BERRYVILLE TRUE VALUE	BERRYVILLE VA	24801978230091400000252	5251	39.18	
LINK, BRIAN						Total Activity	71.51
Account Number: XXXX-XXXX-XXXX-							
08/17	08/16	FISHER AUTO PARTS 009	BERRYVILLE VA	24431068229200824300252	5533	7.51	
08/20	08/17	VA DMV WINCHESTER CSC	WINCHESTER VA	24755428230122303507192	9399	64.00	
MORELAND, DESIREE						Total Activity	25,694.97
Account Number: XXXX-XXXX-XXXX-							
08/14	08/14	COMCAST	800-COMCAST MD	24692168226100398084438	4899	85.69	
08/17	08/16	REPUBLIC SERVICES TRASH	866-576-5548 AZ	24431058228083705413838	4900	125.00	
08/17	08/16	REPUBLIC SERVICES TRASH	866-576-5548 AZ	24431058228083759800716	4900	20,479.20	
08/17	08/16	REPUBLIC SERVICES TRASH	866-576-5548 AZ	24431058228083704000362	4900	2,509.27	
08/17	08/16	VA DMV ONLINE BILLING	PAY804-3670595 VA	24755428229132291493258	9399	925.00	
08/20	08/17	VZWRLSS*MY VZ VB P	800-922-0204 FL	24692168229100074674996	4814	753.08	
08/20	08/17	VERIZON*ONETIMEPAYMENT	800-VERIZON FL	24692168229100175785675	4899	225.07	
08/20	08/17	VERIZON*ONETIMEPAYMENT	800-VERIZON FL	24692168229100175785683	4899	173.14	
08/20	08/17	VERIZON*ONETIMEPAYMENT	800-VERIZON FL	24692168229100175785691	4899	383.69	
08/20	08/17	TelRite Corporation	COVINGTON GA	24393498229004439884659	4814	15.83	
08/23	08/22	VA DEPARTMENT OF STATE	PO804-6742000 VA	24755428234172349741962	9399	20.00	
REYNOLDS, CHARLES						Total Activity	31.34
Account Number: XXXX-XXXX-XXXX-							
08/31	08/30	BERRYVILLE TRUE VALUE	BERRYVILLE VA	24801978243091406000012	5251	31.34	
STOVER, KEITH						Total Activity	870.79
Account Number: XXXX-XXXX-XXXX-							
08/06	08/02	ANDERSON'S NURSERY	BERRYVILLE VA	24061068215016031707599	5261	132.80	
08/06	08/03	LOWES #02724*	WINCHESTER VA	24692168216100030048249	5200	349.00	
08/08	08/07	SHADE EQUIPMENT CO-WINCH	WINCHESTER VA	24412908219027012168908	5599	16.95	
08/09	08/07	ANDERSON'S NURSERY	BERRYVILLE VA	24061068220016025789515	5261	25.98	
08/22	08/21	GRAND RENTAL STATION	540-6671400 VA	24073148233900019200038	7394	50.22	
08/22	08/21	LOWES #00656*	WINCHESTER VA	24692168233100414384193	5200	105.88	



Transactions

Posting Transaction						
Date	Date	Description	Reference Number	MCC	Charge	Credit
08/27	08/23	BERRYVILLE AUTO PARTS INCBERRYVILLE VA	24767898236871900475989	5533	36.97	
08/27	08/25	BATTLEFIELD BOOTS WINCHESTER VA	24755428237272375015864	5661	152.99	
TYRRELL, DAVE						Total Activity
Account Number: XXXX-XXXX-XXXX-						15,450.77
08/02	08/01	SMITH AND LOVELESS INC 913-888-5201 KS	24412958213606000162147	4900	873.00	
08/03	08/02	KOBOLD INSTRUMENTS INC 412-788-2830 PA	24435658214207857100013	5046	2,182.41	
08/08	08/07	COYNE CHEMICAL 215-785-3000 PA	24224438220101027928144	5169	1,341.08	
08/08	08/07	USA BLUE BOOK 800-548-1234 IL	24326848219636000067600	5085	567.38	
08/09	08/07	PROCOM 999-9999999 NC	24073148220900010365223	5085	411.45	
08/10	08/09	IN *CONSOLIDATED ELECTRIC540-6625994 VA	24692168221100099838673	1731	770.00	
08/10	08/09	JOINER MICRO LABORATORIE 540-347-7212 VA	24435658222200389200039	7399	4,160.00	
08/13	08/10	BROY & SON PUMP SERVICE 540-9553928 VA	24073148222900019900010	1799	300.00	
08/13	08/09	MID ATLANTIC CRANE AND EQ919-7903535 NC	24207858222164301463020	5046	1,800.00	
08/13	08/10	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801978223091406000032	5251	58.78	
08/14	08/13	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801978226091402000165	5251	35.26	
08/20	08/17	ROBERTS OXYGEN CO BR 00 800-6263433 MD	24755428230642300821858	5085	29.75	
08/23	08/22	SQ *INSTRULOGIC LLC 877-417-4551 VA	24492158234740301451142	7392	639.60	
08/24	08/22	WILKINS SHOE CENTER WINCHESTER VA	24269798235500690806741	5661	170.84	
08/27	08/24	LOWES #02724* WINCHESTER VA	24692168236100004087849	5200	59.88	
08/27	08/24	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801978237091404000558	5251	22.79	
08/27	08/24	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801978237091404000608	5251	5.09	
08/27	08/24	JNO. S SOLENBERGER AND C WINCHESTER VA	24138298237400002193862	5251	22.43	
08/28	08/27	JNO. S SOLENBERGER AND C WINCHESTER VA	24138298240400220807017	5251	166.91	
08/28	08/27	JNO. S SOLENBERGER AND C WINCHESTER VA	24138298240400002208210	5251	15.98	
08/29	08/28	JNO. S SOLENBERGER AND C WINCHESTER VA	24138298241400002212898	5251	13.50	
08/29	08/28	JNO. S SOLENBERGER AND C WINCHESTER VA	24138298241400002214274	5251	752.00	
08/30	08/28	MCMASTER-CARR 630-834-9600 IL	24789308241901700545405	5085	950.06	
08/31	08/30	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801978243091406000319	5251	36.51	
08/31	08/30	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801978243091406000442	5251	13.70	
08/31	08/30	BERRYVILLE TRUE VALUE BERRYVILLE VA	24801978243091406000624	5251	52.37	
WHITE, NEAL						Total Activity
Account Number: XXXX-XXXX-XXXX-						3,494.44
08/01	07/30	TIRE WORLD WHOLESALE, LLC301-6989200 MD	24639238212900010000198	5532	265.68	
08/02	08/01	CORE & MAIN LP 514 3042636986 WV	24792628213206122700111	5039	1,097.50	
08/03	08/02	IACPNET 651-222-6506 MN	24258028214017054377425	8699	275.00	
08/24	08/22	BERRYVILLE AUTO PARTS INCBERRYVILLE VA	24767898235865500300051	5533	467.34	
08/27	08/24	THE HOTEL ROANOKE & CONFEROANOKE VA	24239008236900010688060	3504	121.23	
Arrival: 08/23/18						
08/28	08/27	IN *POLICE AND SHERIFFS P912-5370780 GA	24692168239100724444103	7399	17.49	
08/28	08/27	SQ *ROY'S UPHOLSTER BERRYVILLE VA	24492158239740268625352	1520	335.00	
08/28	08/27	COMMERCIAL PRESS INC. 5408693496 VA	24801978239608632567419	2741	135.95	
08/29	08/27	TIRE WORLD WHOLESALE, LLC301-6989200 MD	24639238240900012400129	5532	213.36	
08/29	08/27	GALLS 8592667227 KY	24435658240762715567660	5137	565.89	

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.



BERRYVILLE TOWN OF
DESIRÉE MORELAND
XXX-XXX-XXX-7237
August 01, 2018 - August 31, 2018
Page 6 of 6



1892490 - 018844 - 003 - 003 - 2

Attachment 10

FINANCE AND ADMINISTRATION STAFF REPORT

TO: TOWN COUNCIL
FROM: DESIREE MORELAND, TREASURER
SUBJECT: MONTHLY REPORTS
DATE: 10/2/2018
CC: KEITH DALTON, TOWN MANAGER

At their September 27, 2018 meeting the Budget and Finance Committee reviewed the attached draft Bank Account Policy and recommended it for Town Council approval.

Bank Account Policy

Effective Date:

Bank Account Policy

Policy Statement

This policy sets certain requirements for opening, closing, updating, and maintaining Town of Berryville bank accounts. For purposes of this policy, "Town bank accounts" mean any bank account opened by or for the Town or any of its departments.

Reasons for the Policy

The purpose of this policy is to establish adequate control procedures over Town assets and minimize the Town's risk of financial loss.

Responsible Town Department

The Finance & Administration Department

Who is Governed by this Policy

Each individual or department that require and utilize Town bank accounts should review and understand this policy.

Scope

In accordance with the Town's policies, bank accounts may only be opened and closed by the authorization of the Town Council after review and recommendation of the Budget and Finance Committee. This condition applies to all Town bank accounts as defined above, regardless of how the accounts are named.

Policy

A Town of Berryville bank account can only be used for legitimate and allowable revenue and/or expense activities of the Town. Proposals for new bank accounts must be submitted by Town Departments to the Treasurer's office and the ultimate decision to open a bank account is at the discretion of the Town Council. All Town bank accounts must have the Town of Berryville's Employer Identification Number (EIN, and either the name "Town of Berryville" or the name of the Town department in the account title.

Choosing a Bank

Wherever possible, it is important to open and maintain bank accounts with entities that have well established Town banking relationships. The Town has relationships with both local banks (Bank of Clarke County and BB&T).

Opening Bank Accounts

Contact the Treasurer's office to open a bank account.

The following information is required prior to opening a new Town bank account:

1. Account Specifications:
 - Town's Employers Identification Number (EIN)
 - Account Name
 - Purpose of Account
 - Type of Account (receipts only, receipts and disbursements, internally funded project expense account, other)
 - Source of funding
2. Suggested bank, address and contact information. (Once the selection of the bank is agreed with the Treasurer's office, additional bank account documentation may be required.)
3. Approval of Town Council after review and recommendation of the Budget and Finance Committee.

Signing of checks on town funds (Town Code Sec. 2-6)

Checks for duly authorized disbursements of town funds shall be signed by either the town treasurer or town manager and, except for payroll checks, cosigned by either the mayor or recorder.

Bank Account Reconciliation

Bank accounts must be reconciled monthly by the treasurer and available to be reviewed by council members at any time. The ending bank balance on the bank statement must be reconciled to the bank balance in the Town of Berryville General Ledger.

Updating Bank Accounts

Contact the Treasurer's office to update a bank account.

1. The business purpose for the update
2. Approval of Town Council after review and recommendation of the Budget and Finance Committee.
3. The Budget and Finance Committee will review and confirm all bank account every two years.

Updates to bank accounts may include:

- Shift in purpose or type of account
- Account name change
- Address change
- Local bank communication relevant to bank procedures and/or systems

Closing Bank Accounts

Contact the Treasurer's office to close a bank account.

The following information is required:

1. The business purpose for the closure
2. Confirmation that the bank account has a \$0 balance
3. Confirmation that the Town of Berryville General Ledger account has a \$0 balance
4. Approval of Town Council after review and recommendation of the Budget and Finance Committee.

Reasons to close bank accounts may include:

- Unauthorized activity
- No activity/dormant account
- Change in business purpose or type of account

BERRYVILLE TOWN COUNCIL
MOTION TO APPROVE BANK ACCOUNT POLICY

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville approve the attached Bank Account Policy as recommended by the Budget and Finance Committee.

VOTE:

Aye:

Nay:

Absent:

ATTEST:

Harry Lee Arnold, Jr., Recorder

Attachment 11



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: 10/01/2018

TO: Town Council

FROM: Chief W. Neal White

CC:

RE: Police Department Monthly Report – 10/09/2018

Monthly Activity Report

The activity report for the month of September 2018 is attached to this memo.

Public Safety Committee

Minutes from the September 26, 2018 Public Safety Committee can be found in the consent agenda. The next scheduled meeting for the Committee is October 24, 2018 at 4:30 pm in the A/B meeting room.

Halloween

The department is preparing for another year of trick or treating, and by virtue of sec. 13-38 of the Berryville Town Code the designated hours should be set by Council at this meeting. The normal hours for this activity are generally between 6:00 pm and 08:30 pm.

Radar Feedback Signs

The four (4) radar feedback signs have been received and will be installed in the near future by Public Works. The Chief has received training from the vendor on managing the software and how to generate informational reports from the sites.



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Police and Security Report

	Year To Date	September	August
Month: September	2018	2018	2018
Year: 2018			
<u>Complaints Answered</u>			
911 Hang Up:	9	0	0
Alarms:	140	8	12
Animal Complaint:	107	17	10
Assault and Battery:	6	0	0
Assist County:	23	2	3
Auto Larceny:	0	0	0
Burglary:	6	0	0
Civil Complaints:	58	6	8
Disturbance (Non Violent):	20	2	6
Domestic Disturbance:	20	2	2
Drunk In Public:	10	2	2
Forgery & Uttering:	0	0	0
Fraud:	20	0	2
Larceny:	32	1	5
Harassment/Intimidation:	20	3	2
Homicide:	0	0	0
Juvenile Related:	18	0	2
Noise:	41	5	8
Public Service:	15	4	1
Rape:	0	0	0
Robbery:	0	0	0
Runaway:	0	0	0
Shoplifting:	0	0	0
Suspicious Activity:	139	13	16
Trespassing:	8	0	3
Vandalism:	32	3	0
Welfare Check:	108	9	13
Miscellaneous Complaints:	627	76	90
Total Complaints Answered:	1459	153	185



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W. Neal White – Chief of Police

Police and Security Report (Continued)

	Year To Date 2018	September 2018	August 2018
<u>Traffic</u>			
Accidents Investigated:	43	8	5
Assist Motorist:	10	0	1
Child Safety Seat Install:	4	1	0
Funeral Escort:	28	3	1
Hit & Run:	1	0	0
Parking Tickets:	128	7	29
Traffic Warnings:	456	37	44
<u>Traffic Summons Issued</u>			
Defective Equipment:	2	0	0
Driving Suspended:	12	1	4
Expired Inspection:	52	7	6
Expired Registration:	11	1	2
Fail to Obey Highway Sign:	95	10	15
Fail to Obey Traffic Signals:	7	0	1
Fail to Stop/Lights & Siren:	0	0	0
Fail to Yield Right of Way:	4	1	0
Hit and Run:	0	0	0
No Liability Insurance:	0	0	0
No Operator's License:	17	0	3
No Seat Belt:	1	0	1
Reckless Driving:	5	0	1
Speeding:	186	27	38
Miscellaneous Summons:	21	5	2
Total Traffic Summons Issued:	413	52	73
<u>Found Open at Businesses in Town</u>			
Doors:	13	3	0
Windows:	0	0	0
Garage Doors:	0	0	0



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W. Neal White – Chief of Police

Police and Security Report (Continued)

	Year To Date	September	August
	2018	2018	2018
<u>Criminal Arrests Made</u>			
Abduction:	0	0	0
Arson:	0	0	0
Assault and Battery:	5	0	1
Assault and Battery on Police Officer:	0	0	0
Auto Larceny:	0	0	0
Breaking and Entering:	0	0	0
Capias:	9	0	0
Disorderly Conduct:	0	0	0
Driving While Intoxicated:	6	1	1
Drunk In Public:	6	1	1
Fail to Obey Police Officer:	1	0	0
Fail to Pay Parking Ticket:	12	0	0
Forgery:	0	0	0
Fraud:	0	0	0
Grand Larceny:	0	0	0
Homicide:	0	0	0
Illegal Drugs/Paraphernalia:	2	0	0
Petty Larceny:	1	1	0
Possess Alcohol Underage:	1	0	0
Protective Order Violations:	0	0	0
Rape:	0	0	0
Resisting Arrest:	0	0	0
Robbery:	0	0	0
Shoplifting:	0	0	0
Trespassing:	0	0	0
Vandalism:	4	0	3
Weapons Violation:	0	0	0
Miscellaneous Criminal Arrests:	34	4	1
Juvenile Detention Order Totals:	0	0	0
Total Criminal Arrests:	81	7	7

BERRYVILLE TOWN COUNCIL

MOTION TO SET HOURS FOR "TRICK OR TREATING"

Date: October 9, 2018

Motion By:

Second By:

I move that the Council of the Town of Berryville, in accordance with § 13-38 of the Berryville Code, designate October 31, 2018 between the hours of 6:00 pm and 8:30 pm as the period in which Halloween Trick or Treating may occur within the Town.

VOTE:

Aye:

Nay:

Abstain:

Absent:

Attest: _____
Harry L. Arnold, Jr., Recorder

Attachment 12

Memo

To: Town Council

From: David Tyrrell

Date: October 1, 2018

Re: September 2018 Operations Report

The water treatment plant complies for September 2018 with its monthly parameters per data available to date. We sent 10.071 MG of water to the system with an average of 0.336 MGD and a daily max of 0.413 MG.

SUEZ Utility Service has completed the repairs to the tanks metal surfaces leaving painting and foundation work to complete. Sections of the upper lattice work are being resurfaced by hand and recoated. Spraying of the floor surface is scheduled for no later than Wednesday October 3 weather permitting. Currently once the lattice is retooled and coated final coat application of the exterior will begin.

Our celebration last month of no storms was short lived. We experienced two additional flooding events this month both making water treatment difficult. Operations were able to maintain the water quality at all times.

Design work for the replacement of the finish pumps is continuing to move forward/ After meeting with the design engineers, it was decided to relocated the new VFD's for the finish pumps into the main process room. The new units are capable of handling the humidity and temperature variations of the process room saving the cost of upgrading the cooling units for the office area.

A full low flow flushing of the water distribution system is under way. To date, the entire high side of Town, Battlefield and Hermitage subdivisions, has been completed. The remainder of the system should be completed in the month of October.

Drought Conditions: There are no concerns for drought at this time.

The wastewater plant complies with its discharge permit for September per data received to date. We treated a total of 32.31 MG with a daily average of 1.08 MGD and a daily max of 2.31 MG. As a reminder our dry weather flows at the wastewater plant are around 0.3 MGD for comparison.

As with the water system, we have had to deal with two high flow events at the wastewater plant. We have been able to keep up with the flows.

With our staffing shortage and 24-hour coverage we have not been able to pull the membranes for service. We have changed the operational mode which has helped to improve the filter transmembrane pressures. Each cartridge will be pulled once staffing is available.

Draining of the North Lagoon went well. We had the level of the lagoon down to below six foot. However, the rains at the end of September created a need to again use the lagoon for storage. We will start the draining of the lagoon on October 3rd.

We had two major equipment failures in September. The pump in EQ tank #1 has failed. It has been pulled and shipped out for repair with our spare now installed. Also internal recycle pump #2 failed. It too has been pulled and shipped out for repair with the spare now installed.

Attached for review are the DMR data reports for the wastewater plant with data received to date, the water plant page 1 operations report for VDH, and the latest membrane condition report from Suez.

Flows and Chemical Dosages

No. Connections Served: 1690
 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		KMinO4		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
1	0.409		0.364	10.2	30	8.9	3	0.9	6.7	1.96	0.060	0.018	5	1.5			10.9	3.2				
2	0.351		0.300	11.0	20	6.9	2	0.8	3.6	1.22	0.053	0.018	5.5	1.9			20.3	6.9				
3	0.384		0.347	11.5	20	6.3	4	1.1	6.7	2.08	0.062	0.019	5.7	1.8			23.4	7.3				
4	0.4		0.356	11.5	25	3.2	3	1.0	3.6	1.08	0.066	0.020	5.7	1.7			15.6	4.7				
5	0.384		0.346	11.5	30	9.5	2	0.6	6.6	2.06	0.062	0.018	5.7	1.8			15.6	4.9				
6	0.415		0.369	12.5	30	8.8	4	1.0	7.1	2.05	0.062	0.018	6.2	1.8			15.0	4.3				
7	0.355		0.316	9.0	41	13.7	2	0.8	3.2	1.08	0.041	0.014	6.7	2.3			10.9	3.7				
8	0.38		0.337	11.5	46	14.4	3	1.0	7.0	2.21	0.061	0.019	8.6	2.7			6.3	2.0				
9	0.314		0.279	9.0	15	5.8	2	0.9	3.2	1.10	0.044	0.017	6.7	2.6			21.9	8.4				
10	0.391		0.355	12.0	51	15.5	3	1.0	3.6	1.10	0.040	0.012	9.0	2.8			23.4	7.2				
11	0.02		0.275	9.0	76	45.9	2	9.6	6.5	38.97	0.044	0.264	6.7	40.4			7.8	46.8				
12	0.457		0.413	13.5	66	17.3	3	0.8	3.7	0.96	0.071	0.019	10.1	2.6			23.4	6.1				
13	0.28		0.253	8.5	41	17.4	2	0.9	6.5	2.78	0.040	0.017	6.4	2.7			15.6	6.7				
14	0.42		0.374	12.5	51	14.5	0	0.0	3.6	1.03	0.066	0.019	9.4	2.7			15.6	4.5				
15	0.399		0.351	12.3	46	13.7	3	0.8	6.7	2.01	0.066	0.020	9.2	2.8			23.4	7.0				
16	0.264		0.229	8.0	30	13.8	1	0.4	3.4	1.54	0.040	0.018	6.0	2.7			164.1	74.5				
17	0.443		0.393	13.0	46	12.4	2	0.6	6.7	1.82	0.062	0.017	9.7	2.6			23.4	6.3				
18	0.336		0.295	10.0	35	12.7	3	1.1	3.5	1.25	0.049	0.017	7.5	2.7			15.6	5.6				
19	0.439		0.382	13.5	76	20.8	3	0.9	6.8	1.85	0.071	0.019	10.1	2.8			23.4	6.4				
20	0.348		0.277	10.5	51	17.5	2	0.8	3.6	1.24	0.066	0.020	9.2	2.8			15.6	5.4				
21	0.487		0.410	15.0	51	12.5	2	0.5	6.8	1.67	0.071	0.017	11.2	2.8			23.4	5.8				
22	0.391		0.340	10.0	10	3.1	5	1.5	6.7	2.07	0.062	0.019	7.5	2.3			20.3	6.2				
23	0.389		0.344	10.5	46	14.1	4	1.1	6.6	2.03	0.062	0.019	7.9	2.4			10.9	3.4				
24	0.372		0.334	10.5	35	11.4	2	0.6	3.6	1.15	0.057	0.018	7.9	2.5			15.6	5.0				
25	0.384		0.300	12.0	86	26.9	2	0.6	6.6	2.07	0.062	0.019	9.0	2.8			15.6	4.9				
26	0.443		0.385	14.0	46	12.4	2	0.5	3.6	0.97	0.062	0.017	10.5	2.8			23.4	6.3				
27	0.331		0.288	10.5	35	12.9	2	0.6	6.7	2.42	0.057	0.021	7.9	2.8			4.7	1.7				
28	0.404		0.358	11.3	46	13.5	2	0.5	3.5	1.05	0.057	0.017	8.4	2.5			20.3	6.0				
29	0.431		0.335	13.3	71	19.7	2	0.4	6.7	1.86	0.057	0.016	9.9	2.8			6.3	1.7				
30	0.463		0.366	14.0	142	36.8	2	0.5	6.9	1.78	0.075	0.019	10.5	2.7			4.7	1.2				
31																						
Total	11.284	0.000	10.071	341.5	1394	####	74	#DIV/0!	0.0	0.00	####	12.64	####	238	####	0.0	0.00	636.8	####	0.0	0.00	
Maximum	0.487	0.000	0.413	15.0	142	####	5	#DIV/0!	0.0	0.00	7.1	####	5.73	####	11	####	0.0	0.00	164.1	####	0.0	0.00
Minimum	0.020	0.000	0.229	8.0	10	####	0	#DIV/0!	0.0	0.00	3.2	####	0.04	####	5	####	0.0	0.00	4.7	####	0.0	0.00
Average	0.376	0.000	0.336	11.4	46	####	2	#DIV/0!	####	####	5.3	####	0.42	####	8	####	####	#DIV/0!	21.2	####	####	####

SIGNED: (OPERATOR IN RESPONSIBLE CHARGE)

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

PRINTED NAME
 David A Tyrrell

Shenandoah River - Entire Month

TITLE: OPERATOR CLASSIFICATION
 DPOR CERTIFICATION NO.

Class 1
 1955002813

Berryville STP Monthly DMR Data

September 2018

Date	Effluent Flow		Eff pH	Eff Temp	Eff CBOD	Eff CBOD	Eff TSS	Eff TSS	Effluent DO River	Effluent DO WWTP	Eff NO2/NO3	Eff TKN	Eff TKN	Eff Total N	
	MGD		SU	Deg C	mg/l	KG/D	mg/l	KG/D	mg/l	mg/l	mg/l	mg/l	KG/D	KG/D	mg/l
9/1/2018	0.55		7.6	25.3					7.8	7.0					
9/2/2018	0.76		7.7	24.9					8.6	7.3					
9/3/2018	0.65		7.6	24.6					7.6	7.4					
9/4/2018	0.64		7.6	24.2	2.00	4.82			7.6	7.4	1.39	1.37	3.30	2.76	
9/5/2018	0.57		7.6	25.5	3.00	6.44			7.1	6.3					
9/6/2018	0.49		7.5	25.8	3.00	5.53			7.6	7.2	2.09	1.29	2.38	3.38	
9/7/2018	0.50		7.7	24.8					8.5	7.1					
9/8/2018	0.59		7.6	26.0					7.6	7.3					
9/9/2018	1.38		7.6	24.0					8.0	7.4					
9/10/2018	2.31		7.6	21.8					8.8	8.6					
9/11/2018	2.19		7.6	21.6	0.00	0.00	0.00	0.00	8.5	8.5	1.29	0.99	8.22	2.28	
9/12/2018	1.58		7.6	21.2	3.00	17.90			8.4	8.1					
9/13/2018	1.31		7.7	22.3	3.00	14.92			8.2	7.9	1.67	1.41	7.01	3.08	
9/14/2018	1.15		7.6	22.2					9.0	8.8					
9/15/2018	1.00		7.4	22.3					8.6	7.9					
9/16/2018	0.85		7.6	22.4					8.1	8.2					
9/17/2018	0.98		7.6	22.2					7.9	8.0					
9/18/2018	0.96		7.2	22.4	0.00	0.00			8.0	7.6	2.33	1.18	4.27	3.51	
9/19/2018	0.73		7.4	21.5					7.4	7.6					
9/20/2018	0.64		7.6	22.0					7.9	7.8					
9/21/2018	0.56		7.6	22.4					7.9	7.7					
9/22/2018	0.51		7.6	22.7					8.1	8.0					
9/23/2018	0.75		7.6	25.0					8.0	8.0					
9/24/2018	1.14		7.5	21.5					7.7	7.8					
9/25/2018	1.06		7.9	20.8					8.4	8.8					
9/26/2018	1.05		8.0	21.3					7.6	8.5					
9/27/2018	1.44		8.0	21.1					8.0	8.0					
9/28/2018	2.27		7.5	20.6					8.3	8.6					
9/29/2018	2.06		7.5	20.9					8.9	8.2					
9/30/2018	1.68		7.8	20.3					9.9	9.0					
Minimum	0.49		7.2	20.3	0.00	0.00	0.00	0.00	7.1	6.3	1.29	0.99	2.38	2.28	
Maximum	2.31		8.0	26.0	3.00	17.90	0.00	0.00	9.9	9.0	2.33	1.41	8.22	3.51	
Total	32.31		228.4	683.6	14.00	49.61	0.00	0.00	244.0	236.0	8.77	6.24	25.18	15.01	
Average	1.08		7.6	22.8	2.00	7.09	0.00	0.00	8.1	7.9	1.75	1.25	5.04	3.00	
Geo Mean	0.96		7.6	22.7	2.07	4.63	1.00	1.00	8.1	7.8	1.71	1.2	4.54	2.97	

Berryville STP Monthly DMR Data

September 2018

Date	Eff. Total N KG/D	Eff. Total P mg/l	Eff. Total P KG/D	E-Coli No/100ml
9/1/2018				
9/2/2018				
9/3/2018				
9/4/2018	6.66	0.22	0.53	1
9/5/2018				
9/6/2018	6.24	0.24	0.44	
9/7/2018				
9/8/2018				
9/9/2018				
9/10/2018				
9/11/2018	18.95	0.02	0.17	1
9/12/2018				
9/13/2018	15.34	0.02	0.10	
9/14/2018				
9/15/2018				
9/16/2018				
9/17/2018				
9/18/2018	12.72	0.17	0.62	1
9/19/2018				
9/20/2018				
9/21/2018				
9/22/2018				
9/23/2018				
9/24/2018				
9/25/2018				
9/26/2018				
9/27/2018				
9/28/2018				
9/29/2018				
9/30/2018				
Minimum	6.24	0.02	0.10	1
Maximum	18.95	0.24	0.62	1
Total	59.92	0.67	1.86	3
Average	11.98	0.13	0.37	1
Geo Mean	10.90	0.08	0.30	1

Berryville STP Report

July 1 - July 31 2018

UF 1 KPI Summary

Parameter	Health	Std. Dev	Points	Avg	LL	LCL	UCL	HH	Max	Min
FluxBeforeBP	●	1.38	367	7.55	--	--	12.23	16.3	10.997	1.556
PermeateTurbidityAfterBP	●	0.01	388	0.133	0	--	0.9	1	0.206	0.125
TCPermeabilityBeforeBP	●	5.27	336	21.524	4	6	--	--	42.889	11.965
TMPBeforeBP	●	0.13	388	0.398	--	--	7	8	0.715	-0.202
TotalPermeateFlowDaily		66214.17	8	204716.12 5	--	--	--	--	291853.0	122368.0

UF 2 KPI Summary

Parameter	Health	Std. Dev	Points	Avg	LL	LCL	UCL	HH	Max	Min
FluxBeforeBP	●	1.4	370	7.659	--	--	12.23	16.3	11.185	0.0
PermeateTurbidityAfterBP	●	0.05	391	0.139	0	--	0.9	1	0.469	0.101
TCPermeabilityBeforeBP	●	0.96	351	9.343	4	6	--	--	12.991	0.0
TMPBeforeBP	●	0.19	391	0.894	--	--	7	8	1.347	0.422
TotalPermeateFlowDaily		64347.09	8	203767.87 5	--	--	--	--	293196.0	118158.0

UF 3 KPI Summary

Parameter	Health	Std. Dev	Points	Avg	LL	LCL	UCL	HH	Max	Min
FluxBeforeBP	●	1.44	367	7.567	--	--	12.23	16.3	12.068	4.39
PermeateTurbidityAfterBP	●	0.01	390	0.133	0	--	0.9	1	0.185	0.125
TCPermeabilityBeforeBP	●	0.49	344	8.587	4	6	--	--	11.453	7.376
TMPBeforeBP	●	0.18	390	0.951	--	--	7	8	1.6	0.534
TotalPermeateFlowDaily		61019.2	8	204228.12 5	--	--	--	--	287320.0	130878.0

UF 4 KPI Summary

Parameter	Health	Std. Dev	Points	Avg	LL	LCL	UCL	HH	Max	Min
FluxBeforeBP	●	1.27	363	7.554	--	--	12.23	16.3	11.367	4.389
PermeateTurbidityAfterBP	●	0.01	389	0.182	0	--	0.9	1	0.218	0.151
TCPermeabilityBeforeBP	●	4.95	339	23.117	4	6	--	--	49.76	10.969
TMPBeforeBP	●	0.08	389	0.362	--	--	7	8	0.632	0.012
TotalPermeateFlowDaily		58779.39	8	204368.12 5	--	--	--	--	289699.0	141791.0

UF Plant KPI Summary

Parameter	Health	Std. Dev	Points	Avg	LL	LCL	UCL	HH	Max	Min
PermeateTemperature	●	1.24	648	63.097	32	--	100	110	65.061	61.047
TotalPermeateFlowDaily	●	249167.96	8	817080.25	--	--	1100000	2100000	1162068.0	513195.0

UF 1 KPI Summary

Parameter	LL	LCL	UCL	HH	Sep 20	Sep 21	Sep 22	Sep 23	Sep 24	Sep 25	Sep 26	Sep 27
FluxBeforeBP	--	--	12.23	16.3	7.431	6.672	5.802	7.255	8.762	8.134	7.91	--
PermeateTurbidityAfterBP	0	--	0.9	1	0.131	0.134	0.137	0.134	0.13	0.131	0.136	0.136
TCPermeabilityBeforeBP	4	6	--	--	21.353	23.116	22.966	22.642	20.354	20.098	20.307	--
TMPBeforeBP	--	--	7	8	0.392	0.316	0.267	0.369	0.48	0.462	0.43	0.418
TotalPermeateFlowDaily	--	--	--	--	158745.0	148374.0	122368.0	191480.0	291853.0	273439.0	276954.0	--

UF 2 KPI Summary

Parameter	LL	LCL	UCL	HH	Sep 20	Sep 21	Sep 22	Sep 23	Sep 24	Sep 25	Sep 26	Sep 27
FluxBeforeBP	--	--	12.23	16.3	7.465	6.552	6.177	7.281	8.913	8.35	8.099	--
PermeateTurbidityAfterBP	0	--	0.9	1	0.211	0.156	0.163	0.131	0.114	0.11	0.117	0.123
TCPermeabilityBeforeBP	4	6	--	--	9.268	9.384	9.855	9.558	9.131	9.161	9.138	--
TMPBeforeBP	--	--	7	8	0.861	0.734	0.663	0.819	1.068	1.004	0.967	0.968
TotalPermeateFlowDaily	--	--	--	--	162099.0	138477.0	118158.0	192274.0	293196.0	265547.0	264200.0	--

UF 3 KPI Summary

Parameter	LL	LCL	UCL	HH	Sep 20	Sep 21	Sep 22	Sep 23	Sep 24	Sep 25	Sep 26	Sep 27
FluxBeforeBP	--	--	12.23	16.3	7.106	6.815	6.176	7.064	8.773	8.297	8.152	--
PermeateTurbidityAfterBP	0	--	0.9	1	0.128	0.133	0.135	0.135	0.131	0.133	0.136	0.138
TCPermeabilityBeforeBP	4	6	--	--	8.237	8.448	8.5	8.747	8.682	8.867	8.635	--
TMPBeforeBP	--	--	7	8	0.916	0.85	0.764	0.866	1.104	1.03	1.034	0.958
TotalPermeateFlowDaily	--	--	--	--	166558.0	133989.0	130878.0	190669.0	287320.0	268926.0	258974.0	--

UF 4 KPI Summary

Parameter	LL	LCL	UCL	HH	Sep 20	Sep 21	Sep 22	Sep 23	Sep 24	Sep 25	Sep 26	Sep 27
FluxBeforeBP	--	--	12.23	16.3	7.435	6.872	6.306	7.118	8.723	7.986	7.878	--
PermeateTurbidityAfterBP	0	--	0.9	1	0.188	0.189	0.19	0.189	0.185	0.181	0.165	0.155
TCPermeabilityBeforeBP	4	6	--	--	22.758	25.404	21.505	23.629	22.833	22.94	22.584	--
TMPBeforeBP	--	--	7	8	0.354	0.305	0.313	0.33	0.42	0.385	0.391	0.37
TotalPermeateFlowDaily	--	--	--	--	164570.0	147867.0	141791.0	190732.0	289699.0	265806.0	261510.0	--

UF Plant KPI Summary

Parameter	LL	LCL	UCL	HH	Sep 20	Sep 21	Sep 22	Sep 23	Sep 24	Sep 25	Sep 26	Sep 27
PermeateTemperature	32	--	100	110	63.72	64.362	64.646	63.364	61.831	61.305	61.811	62.074
TotalPermeateFlowDaily	--	--	1100000	2100000	651972.0	568707.0	513195.0	765155.0	1162068.0	1073718.0	1061638.0	--

UF 1 KPI Summary

Parameter	Health	%In	Std. Dev	Points	Avg
FluxBeforeBP		83 %	2.81	1589	9.246
PermeateTurbidityAfterBP		100 %	0.03	1589	0.218
TCPermeabilityBeforeBP		100 %	5.61	1574	29.185
TMPBeforeBP		100 %	0.16	1589	0.396
TotalPermeateFlowDaily		100 %	166969.23	32	204388.281

UF 2 KPI Summary

Parameter	Health	%In	Std. Dev	Points	Avg
FluxBeforeBP		81 %	2.74	1625	9.338
PermeateTurbidityAfterBP		99 %	0.15	1625	0.252
TCPermeabilityBeforeBP		100 %	6.11	1623	22.243
TMPBeforeBP		100 %	0.27	1625	0.56
TotalPermeateFlowDaily		100 %	166903.49	32	210127.594

UF 3 KPI Summary

Parameter	Health	%In	Std. Dev	Points	Avg
FluxBeforeBP		91 %	2.71	1522	8.944
PermeateTurbidityAfterBP		100 %	0.04	1522	0.223
TCPermeabilityBeforeBP		29 %	6.57	1521	7.594
TMPBeforeBP		99 %	1.47	1522	2.27
TotalPermeateFlowDaily		100 %	161289.53	32	186948.281

UF 4 KPI Summary

Parameter	Health	%In	Std. Dev	Points	Avg
FluxBeforeBP		86 %	2.65	1524	9.24
PermeateTurbidityAfterBP		100 %	0.02	1524	0.158
TCPermeabilityBeforeBP		100 %	4.67	1516	27.667
TMPBeforeBP		100 %	0.15	1524	0.406
TotalPermeateFlowDaily		100 %	173164.69	32	196422.531

UF Plant KPI Summary

Parameter	Health	%In	Std. Dev	Points	Avg
PermeateTemperature		100 %	2.79	2976	56.357

Parameter	Health	%In	Std. Dev	Points	Avg
TotalPermeateFlowDaily		78 %	654015.0	32	797886.688

Attachment 13

Report of the Department of Public Works October 2, 2018

The first phase of the Public Works Building improvement projects is nearly completed. A contractor is installing the bay heaters at present. They should be completed with the installation and the required inspections by October 3rd.

W L Construction has finished this year's milling and paving contract. The only item left to finish is reestablishing of the double yellow lines on South Church Street. Weather permitting they should have all the line painting completed by October 10th.

Public Works will soon begin our yearly maintenance and repair of our snow removal equipment. We will install all our plows and salt boxes and operate all equipment to insure they are in good working order prior to our first winter Event.

Staff will be meeting with AM Liner East this week to finalize preparations for the East Main Street sewer rehab project. I have received the final bid for the point repairs that need to be made prior to the lining of the main. I hope to have all the bidding and contract information to Desi and Heather early next week.