



Public Safety Committee

MEETING AGENDA

Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
AB Meeting Room

Regular Session

October 26, 2023

3:00 PM

Item

Page

1. **Call to Order**
2. **Approval of Agenda**
3. **Unfinished Business**
4. **New Business**
 Discussion - Ordinance Items
5. **Other**
6. **Closed Session**
7. **Adjourn**

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

The current ordinance is contained in chapter 10 of the Berryville Code and makes it unlawful to inhabit a travel trailer, motor home, boat and/or boat trailer, utility, or cargo trailer in excess of ten feet in length, truck camper, habitable bus, or recreational vehicle in a residentially zoned area. Therefore, habitation of such vehicles would be considered permissible in other zoning areas. This gap is an area for discussion in committee as habitation of such vehicles is not desirable from a public safety perspective.

Research

A review of other local ordinances pertaining to the habitation of recreational vehicles and similar conveyances revealed that many municipalities codified regulations pertaining to parking within code and habitation within zoning ordinances. Many of the reviewed ordinances contained language like the following:

Travel trailers, campers, motor homes, other recreation vehicles, tents, camp cabins and the like shall not be used for permanent or full-time dwellings in any district, whether or not connected to utilities, wells or septic systems.

A review of Berryville zoning ordinances found that parking and habitation of recreational vehicles was addressed in certain zoning districts, but not others. There is no mention of recreational vehicles in the following zoning districts:

C, Limited Industrial, Townhouse, Shopping Center, Apartment, OSR, DR-1, DR-2, DR-4, C-1, C-2, L-1, BC, B, BP, ITL, and OPR

The following by right language applies to R-1, R-2, and R-3 zoning:

Travel trailers, which shall not be stored within the front setback area, and which shall be prohibited from occupancy. (201.1 (i), 202.1 (o), 203.1 (l))

AR zoning section 605.11 (a) 3 states separate parking spaces shall be allocated and reserved for recreational vehicle parking and special guest parking. The number of parking spaces allocated for recreational vehicles shall be one (1) recreational vehicle space per six (6) dwelling units.

MR zoning section 606.9 (b) states that additional parking spaces shall be provided and designated for recreational vehicle parking and special guest parking. The number of parking spaces allocated for recreational vehicles shall be one (1) recreational vehicle space per twelve (12) dwelling units.

Discussion

- Where should an ordinance restricting habitation of recreational vehicles reside, town code or zoning ordinances;
- Language of similar ordinances which only prohibit “permanent or full-time dwelling” and leaves door open for temporary occupancy and how to define the difference; and
- Public safety risks associated with occupation of recreational vehicle.

Attachment A – Commercial motor vehicle parking sketch

Inoperable motor vehicles

The Code of Virginia enables localities to enact ordinances restricting the keeping of inoperable motor vehicles on property zoned for residential or commercial or agricultural purposes pursuant to §15.2-904. The Berryville Code has such an ordinance, and it is currently codified in two (2) locations with identical language. The first recommendation would be to repeal and reserve Sec. 13-30 and leave Sec. 10-79 to eliminate the duplication.

Discussion

The following items need to be discussed concerning perceived deficiencies:

- There are several zoning designations that are not specifically defined as residential or commercial;
- Can all town zoning fit into commercial or residential designations and would it be better to capture this within the ordinance or somewhere within zoning ordinances;
- There are no zoning designations that permit automobile wrecking yards, junkyards, or automobile graveyards by right or special use;
- Automobile dealers, salvage dealer or scrap processors are exempt from the legislation and specifically called out in the ordinance; and
- Automobile repair stations, body shops, and impound lots for towing companies all would need to be considered for potential impacts, however by ordinance they can keep an inoperable vehicle for fifty-nine (59) days before initiation of enforcement.

Attachment B – Code of Virginia §15.2-904. Authority to restrict keeping of inoperable motor vehicles.

Berryville Code – Chapter 2

Section 2-8 references entities of the official safety program for the Town of Berryville as a requirement for Line of Duty Act legislation within the Code of Virginia. The formal name for the town fire department was not utilized in the current ordinance and the ordinance has not been revised since the creation of the professional fire and EMS department for Clarke County.

Discussion

The following ordinance revision would capture corrections that should be made.

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.~~

The following entities and their membership are hereby declared to be an integral part of the official safety program of the town:

- i. John H. Enders Fire Company Inc.

- ii. The Berryville Police Department
- iii. Clarke County Department of Fire and EMS

(Ord. of 9-27-18)

Editor's note— The above section was adopted pursuant to the Line of Duty Act, § ~~9-400~~ 9.1-400, et seq. of the Code of Virginia.

Berryville Code – Chapter 5

While checking continuity on proposed revisions to Chapter 2, it was discovered that a section of Chapter 5 concerning appointive offices requires a revision.

Sec. 5.1. - Appointment.

The town council may appoint the following officers of the town as the town council 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.

(Ord. of 3-8-2019)

Berryville Code – Chapter 6

A few revisions to this chapter are necessary to keep the official name of our local fire department consistent throughout the code.

Attachment C – Chapter 6 revisions

Berryville Code – Sec. 10-9

During review of town code sections that reference fire departments, this section was reviewed and might benefit from a minor revision as follows:

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

~~Officers~~ Personnel of the fire department, at the direction of the incident fire officer in charge, may direct or assist the police in directing traffic at or in the immediate vicinity of a fire or emergency incident and, while so acting, shall have all the authority ~~of police officers granted in~~ Code of Virginia §27-15.1.

(Ord. of 1-9-18(2))

Berryville Code – Sec. 13-32

This section pertains to the excessive growth of grass and weeds on a property. The process of enforcement of this section involves several departments and is rather labor intensive.

Discussion

- Incorporation of wildlife habitats, pollinator gardens, and natural states as a growing trend;
- How to differentiate the previous from general lack of maintenance;
- Recommendations of agencies such as Virginia Cooperative Extension;
- Considerations for larger parcels that may want to hay;
- Cutting 100' band along adjacent property borders for larger undeveloped lots; and
- Number of departments involved in enforcement of ordinance.

Attachment D – Code of Virginia §15.2-901 – Locality may provide for removal or disposal of trash and clutter, cutting of grass, weeds

Attachment E – Deputy Town Manager Petti Report

Code Enforcement of Nuisance Ordinances

The enforcement of nuisance ordinances has increasingly become a responsibility of the police department, specifically a responsibility of the chief of police. The chief often handles these complaints because it often requires additional research of property ownership, coordination with other agency departments, and tracking compliance within periods specified by ordinance.

These types of complaints include:

- Removal of excessive growth and grass;
- Inoperable motor vehicles;
- Removal of trash and refuse from property;
- Commercial motor vehicle violations;
- Vegetation obstructing sidewalks and intersection visibility;
- Clearing snow and ice from sidewalks;
- Maintenance of Dog Run; and
- Posting of address on property.

Discussion

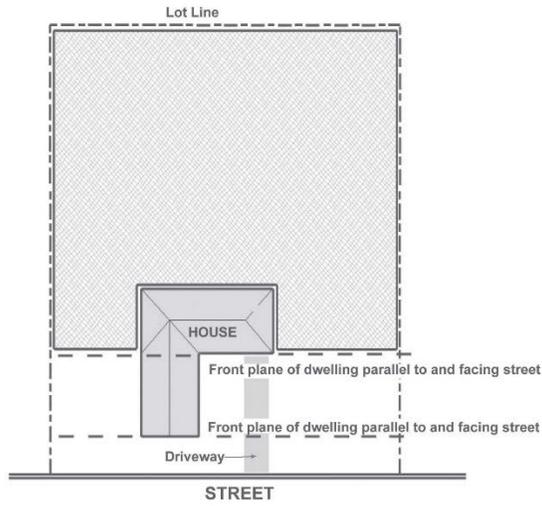
A review of operations revealed that most other jurisdictions in the area assign responsibility for the enforcement of these types of ordinances to a planning and zoning department or similar agency within their organization. They also utilize a code enforcement officer to respond, mediate, and abate these types of concerns.

Items for the committee to consider:

- Is the police department the appropriate department in the town organization to handle these types of complaints;
- The feasibility of creating a position responsible for handling nuisance complaints; and
- If a code enforcement position was created
 - Where would the position belong in the organization
 - Would the position be full-time or part-time
 - What other responsibilities or tasks would be assigned to this position

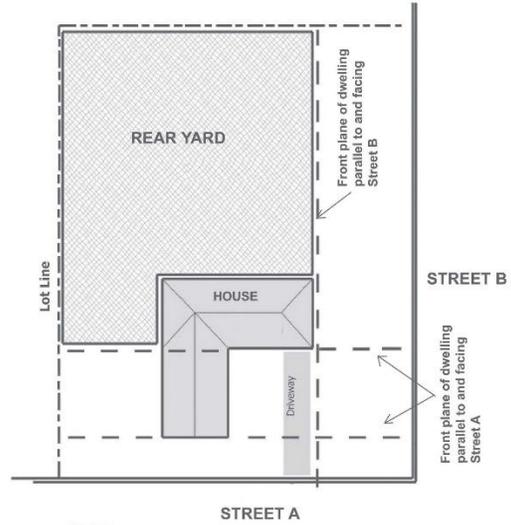
ATTACHMENT A

L-SHAPED DWELLING ON A SINGLE STREET



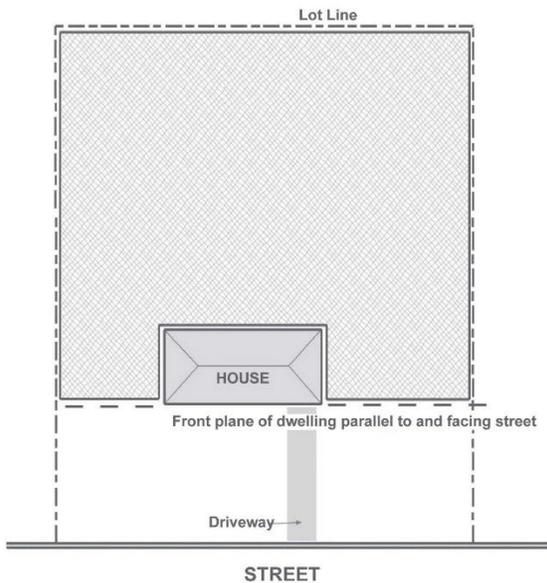
KEY
 [Cross-hatch pattern] Recreational Vehicle / Equipment Allowed in this area

DWELLING ON A CORNER



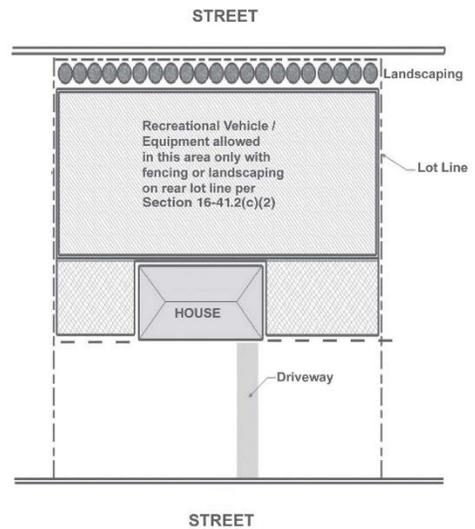
KEY
 [Cross-hatch pattern] Recreational Vehicle / Equipment Allowed in this area

DWELLING FRONTING ON A SINGLE STREET



KEY
 [Cross-hatch pattern] Recreational Vehicle / Equipment Allowed in this area

DWELLING LOCATED ON A THROUGH-LOT



KEY
 [Cross-hatch pattern] Recreational Vehicle / Equipment Allowed in this area
 [Dotted pattern] Recreational Vehicle / Equipment allowed in this area only with fencing or landscaping on rear lot line per Section 16-41.2(c)(2)

ATTACHMENT B

Code of Virginia

Title 15.2. Counties, Cities and Towns Subtitle II. Powers of Local Government

Chapter 9. General Powers of Local Governments Article 1. Public Health and Safety; Nuisances

§ 15.2-904. Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty

A. Any locality may, by ordinance, provide that it shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer or semitrailer, as such are defined in § 46.2-100, which is inoperable. Any locality in addition may, by ordinance, limit the number of inoperable motor vehicles which any person may keep outside of a fully enclosed building or structure, but which are shielded or screened from view by covers. As used in this section, an "inoperable motor vehicle" may, at the election of the locality, mean any one or more of the following: (i) any motor vehicle which is not in operating condition;

(ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

B. Any locality may, by ordinance, further provide that: (i) the owners of property zoned for residential, commercial or agricultural purposes shall, at such time or times as the locality prescribes, remove therefrom any such inoperable motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure; (ii) such locality through its own agents or employees may remove any such inoperable motor vehicles, trailers or semitrailers, whenever the owner of the premises, after reasonable notice, has failed to do so; (iii) in the event such locality, through its own agents or employees, removes any such motor vehicles, trailers or semitrailers, after having given such reasonable notice, such locality may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle; (iv) the cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the locality as taxes are collected; and (v) every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the locality. Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, which may be imposed in accordance with the provisions of § 15.2-2209.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall

be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

E. As used in this section, notwithstanding any other provision of law, general or special, "shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located.

1966, c. 390, § 15.1-11.1; 1970, c. 196; 1972, c. 572; 1973, c. 395; 1982, c. 368; 1985, c. 289; 1986, c. 245; 1989, c. 404; 1997, c. 587; 2003, c. 829; 2004, cc. 513, 934; 2005, cc. 465, 775.

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

ATTACHMENT C

Chapter 6 - FIRE PREVENTION AND PROTECTION^[1]

Footnotes:

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Editor's note— By resolution adopted February 1, 1949, and recorded in Minute Book 4, p. 18, the council recognized the formation, under the statutory procedure, of a volunteer fire company known as the "John H. Enders Fire Company." Such resolution also adopted and approved the provisions of chapter 125, Michie's Virginia Code of 1942, relative to "Fires in Cities and Towns." See now title 27 of the Code of Virginia.

Cross reference— John H. Enders Fire Company, Inc., designated as part of town's official safety program, § 2-8; building regulations, Ch. 5; authority of fire department officers to direct traffic in vicinity of fire, § 10-9; calling fire-fighting apparatus without cause or malicious activation of fire alarm in public building, § 13-8.

State Law reference— Fire protection, Code of Virginia, title 27; ~~authority of town to make regulations for purpose of guarding against danger from accidents by fire, § 15.1-15.~~

Sec. 6-1. - Open burning, generally

- (a) *Purpose.* The purpose of this section is to protect public health, safety, and welfare by regulating open burning within the Town of Berryville to achieve and maintain, to the greatest extent practicable, a level of air quality that will provide comfort and convenience while promoting economic and social development. This ordinance is intended to supplement the applicable regulations promulgated by the State Air Pollution Control Board and other applicable regulations and laws.
- (b) *Definitions.* For the purpose of this section and subsequent amendments or any orders issued by the town, the words or phrases shall have the meaning given them in this section.
- (1) *Clean burning waste* means waste that is not prohibited to be burned under this ordinance and that consists only of (i) one hundred (100) percent wood waste, (ii) one hundred (100) percent clean lumber or clean wood, (iii) one hundred (100) yard waste, or (iv) one hundred (100) mixture of only any combination of wood waste, clean lumber, clean wood, or yard waste.
 - (2) *Clean lumber* means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.
 - (3) *Clean wood* means uncontaminated natural or untreated wood. Clean wood includes, but is not limited to, by-products of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings, or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders, or resins; or painted, stained, or coated.
 - (4) *Construction waste* means solid waste that is produced or generated during construction remodeling, or repair of pavements, houses, commercial buildings and other structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials must be in accordance with the regulations of the Virginia Waste Management Board.
 - (5) *Debris waste* means wastes resulting from land clearing operations. Debris wastes include but are not limited to stumps, wood, brush, leaves, soil and road spoils.

- (6) *Demolition waste* means that solid waste which is produced by the destruction of structures, or their foundations, or both, and includes the same materials as construction waste.
- (7) *Garbage* means readily putrescible discarded materials composed of animal, vegetable, or other organic matter.
- (8) *Hazardous waste* means a "hazardous waste" as described in 9VAC 20-60, Hazardous Waste Management Regulations.
- (9) *Household waste* means any waste material, including garbage, trash, and refuse derived from households. For purposes of this regulation, households include single and multiple residences, hotels and motels, campgrounds, picnic grounds, and day-use recreation areas. Household wastes do not include sanitary waste in septic tanks (septage) which is regulated by state agencies.
- (10) *Industrial waste* means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include but is not limited to waste resulting from the following processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.
- (11) *Junk* means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.
- (12) *Junkyard* means an establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary landfills.
- (13) *Open burning* means the combustion of solid waste without:
 - a. Control of combustion air to maintain adequate temperature for efficient combustion;
 - b. Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
 - c. Control of the combustion products' emission.
- (14) *Open pit incinerator* means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion byproducts emitted into the atmosphere. The term also includes trench burners, air curtain incinerators and over draft incinerators.
- (15) *Refuse* means all solid waste products having the characteristics of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or containment or other discarded materials.
- (16) *Salvage operation* means any operation consisting of a business, trade, or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.
- (17) *Smoke* means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash, and other material in concentrations sufficient to form a visible plume.
- (18) *Special incinerator device* means an open pit incinerator, conical, or teepee burner, or any other device specifically designed to provide good combustion performance.

- (19) *Wood waste* means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:
- a. Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.
 - b. Construction, renovation, or demolition wastes.
 - c. Clean lumber.
- (20) *Yard waste* means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include (i) construction, renovation, and demolition wastes or (ii) clean wood.
- (c) *Prohibitions on open burning.* No owner, tenant, or other person shall cause, suffer, allow or permit open burning within the corporate limits of the Town of Berryville, except as provided in this section.
- (1) No owner, tenant, or other person shall cause or permit open burning or the use of a special incineration device for the destruction of rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.
 - (2) No owner, tenant, or other person shall cause or permit open burning or the use of a special incineration device for the destruction of hazardous waste or containers for such materials.
 - (3) No owner, tenant, or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the destruction of commercial/industrial waste.
 - (4) Open burning or the use of special incineration devices permitted under the provisions of this section does not exempt or excuse any owner, tenant, or other person from the consequences, liability, damages or injuries that may result from such conduct; nor does it excuse or exempt any owner, tenant, or other person from complying with other applicable laws, ordinances, regulations and orders of governmental entities having jurisdiction, even though the open burning is conducted in compliance with this ordinance. In this regard special attention should be directed to § 10.1-1142 of the Forest Fire Law of Virginia, the regulations of the Virginia Waste Management Board, and the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution.
 - (5) Upon declaration of an alert, warning, or emergency stage of an air pollution episode as described in 9 VAC 5 Chapter 70 (9VAC 5-70) or when deemed advisable by the State Air Pollution Control Board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner, tenant, or other person shall cause or permit open burning or use of a special incineration device; and any in process burning or use of special incineration devices shall be immediately terminated in the designated air quality control region.
- (d) *Exemptions.* Open fire may be set when approved by the town manager and the chief of the John H. Enders Fire ~~Department Company Inc.~~ or chief of Clarke County Department of Fire and EMS for one or more of the following reasons:
- (1) For the prevention of a hazard, that cannot be abated by other means.
 - (2) For instruction of firefighters.
 - (3) For protection of public health.
 - (4) For recognized practices of agriculture, including the burning of fence rows, diseased trees, brush or weeds on properties that are included in farming land use.
 - (5) For recognized practices of reforestation, when such burnings are undertaken in compliance with existing forestry practices.

(e) *Permissible open burning.*

- (1) Open fires of clean wood, lumber, and wood waste may be used for cooking food for human consumption, recreational purposes, ceremonial purposes and the operation of craft exhibits, and pageants of historical significance. Those who plan to use open fires at ceremonies, craft exhibits, and pageants of historical significance should notify the town manager of the event date, time, and purpose.
 - (2) Salamanders or other devices providing good combustion may be used for heating by construction or other workers. Workers may also burn clean burning waste, not to include construction or demolition waste, in a metal barrel for warmth provided the barrel has a mesh screen of not greater than three-quarters ($\frac{3}{4}$) inches so affixed and maintained so as to prevent the exit of sparks; provided that no fire shall be built within twenty (20) feet of any building, fence, or other structure, nor left unattended. Burning for warmth of construction workers may only be done provided no smoke violation or other nuisance is created.
 - (3) Since the public collection of yard and household waste is available through agents of the Town of Berryville, the open burning of grass, leaves, landscape debris waste, commercial waste, household waste, and other yard waste is not permitted. If any person wishes to burn wood waste, yard waste, or debris waste which the Town of Berryville and its agents decline to collect, then that person must obtain a permit from the town manager before they conduct such burning. Permits will only be issued once the site has been inspected by an agent of the Town of Berryville for potential impact on adjacent properties.
- (f) *Violations.* Any person who violates or fails to comply with any of the mandatory provisions of this section shall be charged with a class 1 misdemeanor (see § 15.2-1429 of the Code of Virginia) as provided by law. Enforcement of this section shall be by the town police department.
- (1) Any Berryville Police Department officer who is summonsed to the scene of an open burn in violation of this section shall instruct the owner or other person to extinguish the fire. If necessary, the fire department with jurisdiction may be called upon to assist with extinguishment.
 - (2) Each separate incident may be considered a new violation.

(Ord. of 4-10-07)

State Law reference— ~~Authority for towns to regulate the making of fires, § 15.2-1118; regulating the burning of woods brush, etc., penalties; § 10.1-114; state air pollution control board, 9VAC 5-40-5641.~~

Sec. 6-2. - Key box requirement.

- (a) A key box shall be installed on property when required by the building official pursuant to the Virginia Statewide Fire Prevention Code.
- (b) Such key box shall meet the requirements of the Virginia Statewide Fire Prevention Code, and shall be installed in a location approved by the building official.
- (c) Such key box shall be maintained as required by the Virginia Statewide Fire Prevention Code with current keys when a lock is changed or rekeyed.
- (d) A violation of the provisions of the Virginia Statewide Fire Prevention Code regarding key boxes shall be subject to a civil penalty of not more than one hundred dollars (\$100.00) for an initial violation and not more than three hundred fifty dollars (\$350.00) for each additional violation. Each day during which the violation is found to have existed shall constitute a separate offense; provided, however, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of four thousand dollars (\$4,000.00).

(Ord. of 2-12-2013)

State Law reference— Code of Virginia, § 36-106; Section 506, Virginia Statewide Building Code.

ATTACHMENT D

Code of Virginia

Title 15.2. Counties, Cities and Towns Subtitle II. Powers of Local Government

Chapter 9. General Powers of Local Governments Article 1. Public Health and Safety; Nuisances

§ 15.2-901. Locality may provide for removal or disposal of trash and clutter, cutting of grass, weeds, and running bamboo; penalty in certain counties; penalty

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other substances that might endanger the health or safety of other residents of such locality, or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other like substances that might endanger the health of other residents of the locality removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. For purposes of this section, "clutter" includes mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate.

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

3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe, or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial, or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation. However, in any locality located in Planning District 6 or in Planning District 22, no such ordinance shall be applicable to land zoned for agricultural use unless such lot is one acre or less in area and used for a residential purpose. In any locality within Planning District 23, such ordinance may also include provisions for cutting overgrown shrubs, trees, and other such vegetation.

4. The owners of any land, regardless of zoning classification, used for the interment of human remains shall cut the grass, weeds, and other foreign growth, including running bamboo as defined in § 15.2-901.1, on such property or any part thereof at such time or times as the governing body shall prescribe, or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds, or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance shall be applicable to land owned by an individual, family, property owners' association as defined in § 55.1-1800, or church.

B. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local real estate taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

Code 1950, § 15-14; 1962, cc. 400, 623, § 15.1-11; 1964, c. 31; 1968, c. 423; 1974, c. 655; 1978, c. 533; 1983, cc. 192, 390; 1990, c. 177; 1992, c. 649; 1994, c. 167; 1997, c. 587; 1999, c. 174; 2000, c. 740; 2001, c. 750; 2003, c. 829; 2006, c. 275; 2009, c. 446; 2010, cc. 161, 403, 641; 2011, cc. 542, 695; 2012, cc. 311, 403, 430, 431; 2013, cc. 189, 490, 508; 2014, cc. 383, 384, 385; 2017, cc. 118, 213, 392, 610; 2020, cc. 13, 136, 399, 597; 2021, Sp. Sess. I, c. 125; 2023, c. 724.

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

ATTACHMENT E

Item Title: Property Maintenance Standards

Prepared By: Jean Petti

Background/History General Information:

Two to three complaints have been received about properties within the Town which have an “unkempt” appearance due to tall vegetation. Property owners have countered that they are attempting to support pollinators. Staff has also noted several properties that may pose a trip/fall risk or expose first responders to unknown hazards (holes, hidden fencing/ equipment/foundation walls, etc.).

In light of drought conditions, fire concerns were raised. Pest incursions to neighboring properties were also mentioned as a risk of inadequately managed pollinator beds/wildlife habitats.

Findings/Current Activity:

Mrs. Petti sought guidance from Amy Martin and Steven Living with Virginia’s Department of Wildlife Resources and Elizabeth Elliott with USDA. No model ordinances were available and these contacts were unaware of any extant in Virginia.

Attachments

Excerpt from T. of Berr. Code,
Excerpt from C. of Win. Code,
Excerpt from T. of Wood. Code
Woodstock Bee City USA Resolution
Excerpt from C. of Harr. Code
C. of Harr. Press Release- Pollinator City

Recommendation: If amendments to code are adopted, these should address setbacks from streets, sidewalks, and neighbors' property lines, as well as potential limits to the overall height or square footage of habitat areas. This discussion should note that most flowers/shrubs are more than 12” tall when mature. Pest habitat language may need to consider ‘host’ trees and shrubs, fruit/seed attractants, and overwintering of pollinators.

A mulched and/or mown setback of 100’ is a common requirement in neighboring localities. However, this would prevent the establishment of privacy hedges and/or ornamentals. Those seeking to support pollinators could potentially be required to plant natives, remove invasives, and provide for continuous blooming throughout the pollinator season (roughly April 1-October 31) so species drawn to the planting will be able to accomplish their full life cycle without having to seek alternative habitat.

Additionally, should pollinator gardens/managed grasslands be permitted in commercial/industrial and/or vacant lot areas? i.e. haying operations.

Staff seeks direction regarding enforcement action for lack-of-maintenance properties without negatively impacting those who are developing/maintaining planned habitats.

Sec. 30-49. Definitions.

For the purpose of this article, the following words shall have the meanings respectively ascribed to them by this section:

Growing Season means the time period beginning April 20th and ending October 29th. Source: Vegetable Planting Guide and Recommended Planting Dates, Virginia Cooperative Extension Publication 426-331.

Owners means persons holding title to any land or lot in the City; lessees, tenants and principal occupants of any land or lot in the City or agents of persons holding title to such lands or lots, and agents of persons having care, custody, control or management of the land or lot; and fiduciaries holding title to or having the care, custody, control or management of land or lots in the City for others.

Weeds means wild or uncontrolled growth or vegetation of every kind standing on land, other than trees, ornamental shrubbery, flowers and garden vegetables. (Code 1959, § 1-5; Ord. No. 049-95, 10-17-95; Ord. No. 2013-38, 12-10-13)

Sec. 30-50. Duty of property owners to cut.

- (a) Owners of property within the City shall not allow grass, weeds and other foreign growth thereon to exceed ten inches in height. All grass, weeds and foreign growth on a 100 feet by 100 feet or smaller lot or acreage must be cut. In case of a larger lot or acreage, all grass, weeds and foreign growth thereon must be cut a distance of 100 feet from all adjoining property lines.
- (b) Any owner who violates any provision of this section shall be subject to a civil penalty of \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be \$200.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000.00 in a 12-month period.
- (c) Violations of any provision of this section shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, with a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation. (Code 1959, § 11-5; Ord. No. 022-94, 7-12-94; Ord. No. 13-2006, 4-11-06)

Sec. 30-51. Notice to cut.

Where grass, weeds or other foreign growth in excess of ten inches in height are found upon property, the code enforcement officer, as defined in section 11-2 shall immediately notify the owner of such property to cut such grass, weeds, or other foreign growth down to a height not to exceed three inches. One written notification per growing season to the owner shall be considered reasonable notice for this article provided it is made by the same procedure as set forth in Section 11-37 of this Code. (Code 1959, § 11-5; Ord. No. 048-88, 11-15-88; Ord. No. 029-91; 6-11-91; Ord. No. 022-94, 7-12-94; Ord. No. 028-97, 10-14-97; Ord. No. 2013-38, 12-10-13)

Sec. 30-52. Cutting by the City.

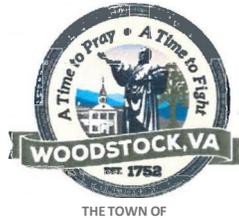
- (a) If grass, weeds, or other foreign growth have not been cut within ten days from the date the notice provided for in Section 30-51 is sent, the code enforcement officer, as defined in section 11-2 shall cause the cutting by the City's forces or the City's agent of such grass, weeds or other foreign growth forthwith.
- (b) Where grass, weeds or other foreign growth have been cut by order of the code enforcement officer pursuant to the provisions of this section, the cost of such cutting and a \$50.00 fee to offset the administrative expenses shall be billed to the owner of the property. If such bill is not paid, it shall be added to the City real estate tax bill on such property and shall be a lien on such property to the same extent and effect as such real estate tax is. (Code 1959, § 11-5; Ord. No. 048-88, 11-15-88; Ord. No. 029-91, 6-11-91; Ord. No. 022-94, 7-12-94; Ord. No. 028-97, 10-14-97; Ord. No. 2013-38, 12-10-13)

State law reference(s)—Authority of city to require cutting or removal of weeds and other foreign growth, Code of Virginia, §§ 15.2-0-1, 15.2-1115, § 15.2-1429 (penalty).

Sec. 34-41. Where prohibited generally.

- (a) The owners of property therein shall, at such time or times as the town may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the town; or may, whenever the town deems it necessary, after seven days, have such trash, garbage, refuse, litter and other like substances which might endanger the health of other residents of the town, removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes are collected. Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law.
- (b) It shall be unlawful for the owner of any land or lot within the town to permit grass, weeds, brush and other foreign growth standing more than ten inches in height to remain upon so much of the property as lies within 100 feet of any dwelling house or commercial building.

(Code 1968, § 19-16; Ord. of 11-6-2007)



WOODSTOCK

A RESOLUTION of Woodstock, Virginia

Designating the Town of Woodstock as a BEE CITY USA® affiliate.

WHEREAS, the mission of BEE CITY USA is to galvanize communities to sustain pollinators, responsible for the reproduction of almost 90% of the world's flowering plant species, by providing them with healthy habitat, rich in a variety of native plants and free to nearly-free of pesticides; and

WHEREAS, thanks to the more than 3,600 species of native bees in the United States, along with introduced honey bees, we have very diverse dietary choices rich in fruits, nuts, and vegetables; and

WHEREAS, bees and other pollinators have experienced population declines due to a combination of habitat loss, poor nutrition, pesticides (including insecticides, fungicides, and herbicides), parasites, diseases, and climate change; and

WHEREAS, pollinator-friendly communities can benefit local and regional economies through healthier ecosystems, increased vegetable and fruit crop yields, and increased demand for pollinator-friendly plant materials from local growers; and

WHEREAS, ideal pollinator-friendly habitat (A) is comprised of mostly native wildflowers, grasses, vines, shrubs, and trees blooming in succession throughout the growing season to provide diverse and abundant nectar and pollen, since many wild pollinators prefer or depend on the native plants with which they co-adapted; (B) is free to nearly-free of pesticides, as many pesticides can harm pollinators and/or their habitat; (C) comprises undisturbed spaces (leaf and brush piles, unmown fields or field margins, fallen trees and other dead wood) for nesting and overwintering; and (D) provides connectivity between habitat areas to support pollinator movement and resilience; and

WHEREAS, Integrated Pest Management (IPM) is a long-term approach to maintaining healthy landscapes and facilities that minimize risks to people and the environment by identifying and removing the causes of pest problems rather than only attacking the symptoms (the pests); employing pests' natural enemies along with cultural, mechanical, and physical controls when prevention is not enough; and using pesticides only when no other method is feasible or effective; and

WHEREAS, supporting pollinators fosters broad-based community engagement in environmental awareness and sustainability; and

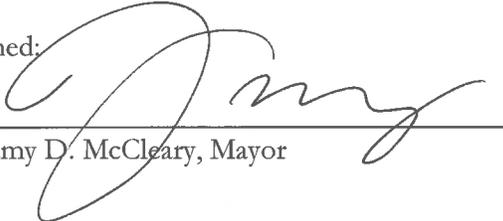
WHEREAS, the Town of Woodstock should be certified a BEE CITY USA community because for 15 years we've been committed to Tree City USA, increasing our urban tree canopy and introducing increased habitat for pollinator species; and

NOW, THEREFORE, in order to enhance understanding among local government staff and the public about the vital role that pollinators play and what each of us can do to sustain them, the Town of Woodstock chooses to support and encourage healthy pollinator habitat creation and enhancement, resolving as follows:

1. The Town of Woodstock is hereby designated as the BEE CITY USA sponsor.
2. The Town Manager, or his/her agent, is designated as the BEE CITY USA Liaison.
3. Facilitation of Woodstock's BEE CITY USA program is assigned to the Woodstock Tree Board.
4. The Woodstock Tree Board is authorized to and shall:
 - a. **Celebration:** Host at least one educational event or pollinator habitat planting or restoration each year to showcase the Town of Woodstock's commitment to raising awareness of pollinator conservation and expanding pollinator health and habitat.
 - b. **Publicity & Information:** Install and maintain at least one authorized BEE CITY USA street sign in a prominent location, and create and maintain a webpage on the Town of Woodstock website which includes, at minimum, a copy of this resolution and links to the national BEE CITY USA website; contact information for your BEE CITY USA Liaison and Committee; reports of the pollinator-friendly activities the community has accomplished the previous year(s); and your recommended native plant species list and integrated pest management plan (explained below).
 - c. **Habitat:** Develop and implement a program to create or expand pollinator-friendly habitat on public and private land, which includes, but is not limited to, identifying and inventorying Town of Woodstock's real property that can be enhanced with pollinator-friendly plantings; creating a recommended locally native plant list to include wildflowers, grasses, vines, shrubs, and trees and a list of local suppliers for those species; and, tracking (by square footage and/or acreage) annual area of pollinator habitat created or enhanced.
 - d. **Pollinator-Friendly Pest Management:** Create and adopt an integrated pest management (IPM) plan designed to prevent pest problems, reduce pesticide use, and expand the use of non-chemical pest management methods.
 - e. **Policy & Plans:** Establish, through the Town of Woodstock a policy in the Environment Chapter of the *Town of Woodstock Comprehensive Plan* to acknowledge and commit to the BEE CITY USA designation and review other relevant documents to consider improvements to pest management policies and practices as they relate to pollinator conservation, identify appropriate locations for pollinator-friendly plantings, and consider other appropriate measures.
 - f. **Renewal:** After completing the first calendar year as a BEE CITY USA affiliate, each February, apply for renewal of Town of Woodstock's BEE CITY USA designation following the format provided by BEE CITY USA, including a report of the previous year's BEE CITY USA activities, and paying the renewal fee based on the Town of Woodstock's population.

Adopted this 6th day of October, 2020.

Signed:



Jeremy D. McCleary, Mayor

Attest:



Town Clerk

Sec. 16-6-58. Weeds, etc., on lots.

- (a) For the purposes of this section, whenever grass, weeds, or foreign growth exceeds twelve (12) inches in height, it shall be presumed to threaten the health, safety, and general welfare of residents of the city.
- (b) *Interpretation.*
 - (1) "Grass, weeds, or foreign growth" shall not be interpreted to include planned, intentional and maintained areas of ornamental grasses, ground covers, ferns, fruits, vegetables, herbs, spices, flowers, wildflowers, or trees.
- (c) *Generally.* It shall be unlawful for the owner of real property situated in to city to allow grass, weeds, or foreign growth to exceed twelve (12) inches in height between April first and November first of each year.
- (d) *Exceptions.*
 - (1) This section shall not apply to:
 - (i) Nonconforming farm land, not to include business gardens, on which crops are being grown or land used to pasture livestock.
 - (ii) Undeveloped public alleys and streets.
 - (iii) Areas which the city has qualified as an approved and maintained stormwater best management practice for stormwater regulatory compliance and/or stormwater utility fee credit purposes.
 - (iv) Areas with a steep land slope of greater than fifteen (15) percent.
 - (2) For undeveloped property, excluding common area parcels as a part of a development, having no principal or accessory structure or existing use, this section shall apply only to those portions of the property within five (5) feet of a property line abutting a developed street and extending to the curb line or a property with a principal or accessory structure or existing use.
- (e) *Notice of Violation.* Upon determination that a violation of this section exists, the city manager or designated agent shall serve written notice on the owner of the property and post notice in a conspicuous location on the property. Such notice shall:
 - (1) Instruct the owner to bring the property into compliance with this section within five (5) days of receipt of such notice;
 - (2) State that failure to bring the property into compliance within five (5) days of receipt may result in penalties;
 - (3) State that if the property is not brought into compliance with this section within five (5) days of receipt, the city may take corrective action to bring the property into compliance, and that the costs of corrective action shall be charged to the property owner.
 - (4) State that one written notice per growing season to the owner of record shall be considered reasonable notice and no further notice is necessary to take corrective action or issue penalties for any future violations.
- (f) *Penalties.*
 - (1) If an owner fails to bring his property into compliance within the period specified in the notice of violation, the owner shall be subject to a civil penalty of fifty dollars (\$50.00) and an additional notice of violation may be issued. Civil penalties shall be paid within thirty (30) days of receipt of the notice of penalty.
 - (2) In lieu of issuing more than one notice of violation to the same owner for the same property, the city manager or the designated agent may have such grass, weeds, or foreign growth cut by the city's employees or agents. All costs and expenses associated with such cutting shall be chargeable to and paid by the owner of such property, to be collected as taxes are collected.

(Code 1972 § 19-55; Ord. of 4-9-85; Ord. of 8-12-86; Ord. of 7-24-12; Ord. of 3-26-13(6); Ord. of 3-26-13(8); Ord. of 3-10-15(3) ; Ord. of 3-27-18)

For Immediate Release –

Contact: Brittany Clem-Hott, Outreach & Communications Specialist
540-434-5928 x2215

brittany.clem-hott@harrisonburgva.gov

Harrisonburg's Pollinator Program becomes a national example

HARRISONBURG, Va. – Harrisonburg now plays a key role in helping other communities build momentum behind their own community pollinator program efforts.

Experiences and information gleaned from the Harrisonburg Pollinator Program is being included in the newly released *Parks and Pollinators: Taking Action and Advancing Sustainability* resource from the National Recreation and Park Association (NRPA). The efforts of Harrisonburg Public Works to protect pollinators while advancing key sustainability plans and practices have proven to strengthen the Harrisonburg community - building awareness of this work requires collaboration among City departments, local organizations, educational institutions, and community members.

Harrisonburg's Pollinator Program started gaining momentum in 2018 when the City began planting pollinator spaces, leading to the establishment of a pollinator corridor. Pollinator spaces began to take shape from smaller manicured garden beds to larger meadows, to street medians that help decrease mowing costs and safety concerns. The idea

Parks and Pollinators: Taking Action and Advancing Sustainability



Resource includes experiences from Harrisonburg.

for the program was prompted by NRPA's Three Pillars – Health and Wellness, Equity at the Center, and Conservation.

The NRPA publication highlights various Harrisonburg Pollinator Program efforts including:

- Spotswood Elementary's "outdoor classroom" that includes pollinator habitat
- Harrisonburg High School's participation in the pollinator corridor
- "Harrisonburg, Virginia Develops a Pollinator Corridor" article
- Photos representing various program outreach and participation with local students
- Harrisonburg's participation in NRPA's annual BioBlitz program partnering with local schools
- "Building Resiliency in Harrisonburg, Virginia" Case Study

“We are honored Harrisonburg’s Pollinator Program is included in this nationally utilized resource,” Public Works Green Space Manager (and contributing author of the NRPA publication) Jeremy Harold said. “How passionate the Harrisonburg community is about participating in pollinator program efforts is truly what has built the program to be what it is today.”

More information about the Harrisonburg Pollinator Program may be found online at www.harrisonburgva.gov/pollinators, with gardens being found at many places in the community – including Westover, Hillandale and Purcell parks. Public Works looks forward to a ribbon-cutting celebration early spring for newly installed greenhouses that will allow for expansion of the program.



(Above) The pollinator habitat at Spotswood Elementary provides a new outdoor classroom for students.

For volunteering and program participation information, please email Jeremy.Harold@harrisonburgva.gov.

*The **City of Harrisonburg** is centrally located in the Shenandoah Valley of Virginia. It is home to approximately 55,700 people. More information about the City of Harrisonburg is available online at www.HarrisonburgVA.gov.*

You can also follow
Harrisonburg Public Works on
[Facebook](#).

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