

**BERRYVILLE TOWN COUNCIL
MEETING AGENDA
Work Session
Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
Main Meeting Room
August 20, 2018
5:00 p.m.**

Item

Attachment

1. **Call to Order** – Patricia Dickinson, Mayor

2. **Approval of Agenda**

3. **Discussion** Amendments to Charter and Code Chapters 1-3 1

4. **Other**

5. **Closed Session** – No closed session scheduled

6. **Adjourn**

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

August 20 Drafts

Charter

8/17/2018

Mark-up

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:

[Description of current Town boundaries to be inserted]

§ 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 his term of office, the town council shall declare his 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 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 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 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 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.

(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 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.

§ 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 ~~his~~ the town manager's return to duty or the appointment of ~~his~~ 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. 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 appoint such deputies and assistants to appointive offices as the town council may deem necessary.

§ 5.3. Term of office.--Officers and deputy and assistant officers appointed by the town council shall be appointed for an indefinite term, unless otherwise provided by this charter or by ordinance of the town council.

§ 5.4. 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, ~~or wastewater treatment plant,~~ or stormwater system, 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.

Charter

8/17/2018

Clean

08/17/18

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:

[Description of current Town boundaries to be inserted]

§ 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 his term of office, the town council shall declare his 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 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 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 any of 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. 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 appoint such deputies and assistants to appointive offices as the town council may deem necessary.

§ 5.3. Term of office.--Officers and deputy and assistant officers appointed by the town council shall be appointed for an indefinite term, unless otherwise provided by this charter or by ordinance of the town council.

§ 5.4. 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, or stormwater system, 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.

Code – Chapter 2

8/17/2018

Mark-up

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. - 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.

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 or other officer or employee of the town in the performance of his 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 (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 COUNCIL¹¹

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 or council.

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

The Department shall be under the supervision and control of Assistant Town Manager for ~~Finance~~Administration/Treasurer.

Sec. 2-33. – Town Treasurer.

The Assistant Town Manager for ~~Finance~~Administration/Treasurer shall be the Town Treasurer.

Footnotes:

--- (2) ---

Charter reference— Appointment of town treasurer, § 5.1.

Sec. 2-33. – Town manager to serve as town 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. - 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) 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, § 7.2.

Sec. 2-35. - 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 or as may be directed by the town manager. (Code 1971, § 2-17)

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

Sec. 2-36. - 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. 2-37. - 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. 2-38. - 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. 2-39. - 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. 2-40. - 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. 2-41—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 or council.

(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 or council.

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 the rules and 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 or council.

(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 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. 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 or council.

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.

The Assistant Town Manager for Community Development/Operations shall be the zoning administrator.

Sec. 2-77.2. – Town manager to serve as Zoning Administrator.

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

ARTICLE VIII. - PLANNING COMMISSION⁽⁴⁾

Footnotes:

--- (4) ---

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 ~~fifteen~~nine (~~15~~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, ~~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— 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. - Terms of members; filling of vacancies.

- (a) The terms of the council 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.
- (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)

Code – Chapter 2

8/17/2018

Clean

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. - 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.

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 debate 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 or other officer or employee of the town in the performance of his 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 COUNCIL¹¹

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 or council.

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 serve as town 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. - 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 the penal sum of two hundred thousand dollars (\$200,000.00) 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. 2-35. - 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 or as may be directed by the town manager. (Code 1971, § 2-17)

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

Sec. 2-36. - 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. 2-37. - 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. 2-38. - 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. 2-39. - 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. 2-40. - 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. 2-41—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 or council.

(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 or council.

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 DEPARTMENT¹³

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 the rules and 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 or council.

(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. 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 or council.

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.

The Assistant Town Manager for Community Development/Operations shall be the zoning administrator.

Sec. 2-77.2. – Town manager to serve as Zoning Administrator.

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

ARTICLE VIII. - PLANNING COMMISSION⁽⁴⁾

Footnotes:

--- (4) ---

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 (½) 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)

Packet provided to
Town Council on
August 14

April 10 Staff Report

Amendment to Town Charter

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

Revised Charter Markup

07/12/18

Formatted: Justified, Indent: Left: -0.5"
Formatted: Font: 9 pt

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

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)

[Description of current Town boundaries to be inserted]

Formatted; Centered

§ 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 §§ 15.12-8371100 through 15.12-9151133, both inclusive, of Chapter 181 of Title 15.12 of the Code of Virginia, as in force on January 1, 19712019, 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-15.1Chapter 19 of Title 15.2, Title 25.1, and Chapter 10 of Title 33.2Chapter 1.1 and §§-33.1-121 through 33.1-132, Chapter 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 § 25.1-23300.

(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 §§ 33.12-1211019 to 33.12-132029, 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 §

~~25-23325.1-200~~ 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. 412; 1994, c. 324)

CHAPTER 3.

MAYOR, ~~RECORDSERVICE~~ MAYOR, AND COUNCIL.

§ 3.1. Composition of council; qualifications of mayor, ~~reecordservice~~ mayor, and councilmen. ~~members~~ :-

The town of Berryville shall be governed by a town council composed of the mayor, the ~~reecordservice~~ mayor, and four councilmen. ~~members~~. The mayor, ~~reecordservice~~ mayor, and councilmen ~~members~~ shall be residents and qualified voters of the town. The mayor and ~~reecordservice~~ mayor shall be elected from the

Formatted: Indent: Left: 0.58", Right: 0"

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. (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, recorder/vice mayor, and councilmen. – members – Elections for mayor, recorder/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 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 recorder/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, recorder/vice mayor, and council members shall begin on the first day of July next following their election. (1971, c. 112)

§ 3.45. Oath of office. – The mayor, recorder/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, recorder/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 term of office, the town council shall declare his office vacant, and shall order a new election for mayor, ~~reeordervice mayor~~, or councilman member as the case may be. (1971, c. 112)

§ 3.78. Powers and duties of mayor.--- The 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 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, c. 112)

§ 3.89. Powers and duties of ~~reeordervice mayor~~; ~~reeordervice mayor~~ to act as mayor during absence; disability, etc., of mayor.--- 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 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 recorder 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
4/5/1954 §~~

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

§ 3.910. Absence or disability of mayor and ~~reorder~~vice mayor.--If both the mayor and ~~reorder~~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 ~~reorder~~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. (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)

§ 3.112. 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, ~~recorder~~ vice mayor, and council ~~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 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 return to duty or the appointment of his 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. 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

4/5/1994

council. (1971, c. 112)

§ 5.2. Deputies and assistants.--The town council may appoint such deputies and assistants to appointive offices as the town council may deem necessary. (1971, c. 112)

§ 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 an indefinite term, 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)

CHAPTER.

7-6

FINANCIAL PROVISIONS.

§ 76.1. 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)

§ 76.2. 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 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.
4/5/1994

(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, or wastewater treatment plant, 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, c. 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, c. 112; 1994, c. 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, c. 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, c. 112)~~

~~§ 87.42. 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, c. 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 employment 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, c. 112)~~

~~§ 8.7. 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)~~

~~§ 8.8. 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)

Revised Code

Chapter 1 Markup

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, § ~~15.1-37.3, 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 46-4-49, 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 "his 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, § 4-13.9-1-217.

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; ⁽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, § 1-16.1-239.

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, § 1-17.1-240.

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 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.

Revised Code

Chapter 2 Markup

Formatted: Indent: Left: -0.75"
Formatted: Font: 9 pt

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. - 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 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.

Formatted: Indent: Left: 0", First line: 0"

(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 or other officer or employee of the town in the performance of his 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.

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. (i) recorder until July 1, 2022 or (ii) 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]

Formatted: Normal, Centered, Line spacing: single

~~(Code 1971, § 2-3)~~

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

Secs. ~~2-109—2-18~~: - Reserved.

ARTICLE II, --THE COUNCIL¹¹

Footnotes:

-- (1) --

Charter reference-- Council generally, §§ 3-4 -- 3-16, 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.

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—2-24, 28. - Reserved.

ARTICLE III. - TOWN TREASURER AND ADMINISTRATION DEPARTMENT

Sec. 2-29. - Established.

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

Sec. 2-30. - Responsibilities.

Formatted: Default Paragraph Font, Font: Not Superscript/ Subscript

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 or council.

Section 2-31. — Assistant Town Manager for Finance/Treasurer.

The Department shall be under the supervision and control of Assistant Town Manager for Finance/Treasurer.

Sec. 2-33. — Town Treasurer.

The Assistant Town Manager for Finance/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)

Formatted: Normal, Line spacing: single

Sec. 2-33. — Town manager to serve as town 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.

Formatted: Normal

Formatted: Normal, Line spacing: single

Sec. 2-34. - Bond.

Before entering upon the duties of his 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) conditioned upon the faithful performance of the duties of his office, for the proper collection of and accounting for all money which shall come into his hands or which it shall be his duty to collect and for the payment of all money by him, 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. 2-35. - 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 the council, town manager. (Code 1971, § 2-17)

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

Sec. 2-36. - 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. 2-37. - General method of keeping books and records.

The treasurer shall keep his 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. 2-38. - 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 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. 2-39. - 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 such persons as the council may direct.

(Code 1971, § 2-21)

Sec. 2-40. - 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(c).

~~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. 2-421—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 or council.

Formatted: Normal

(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 of~~ ~~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 — 2-64. - 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 or council.

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 DEPARTMENT¹³

Footnotes:

— (3) —

State Law reference— Authority of council to preserve peace and good order, Code of Virginia, § 46-4-337; 15.2-1700; 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.

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.

Formatted: Normal

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 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.

Formatted: Normal, Line spacing: single

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 the rules and regulations.

Formatted: Normal

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 or council.

(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 § 9-470 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)

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. 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 or council.

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.

The Assistant Town Manager for Community Development/Operations shall be the zoning administrator.

Sec. 2-77.2. – Town manager to serve as Zoning Administrator.

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

ARTICLE VIII. - PLANNING COMMISSION⁴⁴

Footnotes:

-- (4) --

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, § ~~45-1-427.4~~ 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) 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, § ~~45-1-437~~ 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 has been elected or appointed, unless the council, at the first regular meeting of any year, appoints others to serve as their 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)

Revised Code

Chapter 3 Markup

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)

~~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)~~

Keith Dalton

From: Patricia Dickinson (Mayor)
Sent: Wednesday, August 08, 2018 11:16 AM
To: Keith Dalton
Subject: RE: Draft Charter and Draft Code Chapters 1-3

Comments on charter changes:

In conversations with mayors of neighboring towns and those I met at the VML Mayors conference, I have learned that Berryville is unique in that we have a 6 member town council. Most towns, cities, and counties have an odd numbered town council comprised of an even number of council members and a mayor. This allows the mayor to stay outside of the voting process except when there is a tied vote. To achieve this objective requires that the total number of town council members be changed. I propose the following two scenarios which would impact several sections in the charter including 1.3, 3.1, 3.2, 3.3, and 3.14.

Scenario One:

The Mayor would be the only at large town council member. The town council members would elect a vice mayor from among the sitting council members at the beginning of each calendar year (this is the process used by Purcellville, Middletown and the CC Board of Supervisors just to name a few). If we adopt this model, I suggest that the town be segmented into six wards resulting in six council members. This proposal would require a transition plan. The transition plan would have to allow current council members to serve out their term in office. I have some thoughts on how this might be possible but would need input from the Registrar of Voting and legal counsel.

Scenario Two:

This scenario is similar to the first but retains the role of an elected Vice Mayor. The Mayor and Vice Mayor would be elected at large but the town would be comprised of five wards. Again, the transition plan would have to be discussed.

I suggest the Charter not specify the number of town council members, only that there must be at least 4 council members. This gives us flexibility as the town expands.

Section 4.5 and 4.7 are not gender neutral

Town Code, Chapter 2

2-6: This does not address wire transfers and electronic payments. I think it should, but would defer to the B&F committee.

2-39: I believe any member of council must be allowed to inspect the treasurer's book and records.

2-69: Is it necessary to limit the number of auxiliary police officers in the code?

2-79: Remove the sentence "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." This should be a policy decision made by the sitting council. This would require 2-81 A also be removed.

4.1 Require that the town manager live within the town limits.

Patricia Dickinson
Mayor, Berryville Virginia
101 Chalmers Court, Suite A
Berryville, VA 22611
540 955 1099

Keith Dalton

From: Erecka Gibson
Sent: Tuesday, July 24, 2018 2:06 PM
To: Keith Dalton
Subject: RE: Draft Charter and Draft Code Chapters 1-3

Keith:

Below are comments/edits.

Charter

Section 3.8 – First and second sentence are repetitive in that both state “and shall have the same right to speak and vote therein as other members of the town council.” I think the intention is to merge/delete one of these.

Section 4.2 – Replace or delete “him”

Section 4.5 – Second sentence replace “his”

Section 4.7 – Replace “his”

Code Chapter 2

Article III., Section 2-31. – Assistant Town Manager for Finance/Treasurer. In the Charter Chapter 5, the title is listed as Assistant town manager for administration/treasurer. We should be consistent. It should be either Administration or Finance in both the Charter and Code.

Section 2.34 – update words “his” and “him”

Section 2.39 – The revised sentence does not make sense to me. “...to inspection such persons...”?

Thanks,
Erecka

Erecka L. Gibson
Town Council Member, Ward 3
101 Chalmers Court Suite A
Berryville, Virginia 22611

From: Keith Dalton
Sent: Friday, July 13, 2018 12:34 PM
To: Keith Dalton
Cc: Robert Mitchell; Christy Dunkle; Desi Moreland; Rick Boor; Neal White; Dave Tyrrell; Mia L. Jackson; Karen Johnson
Subject: Draft Charter and Draft Code Chapters 1-3

TC:

Bob and I have gone through the Charter and Chapters 1-3 of the Berryville Code. Suggested amendments are shown on the attached documents. Please note that these changes are suggested by staff and legal counsel for discussion purposes. Only those changes that the Town Council approves will be forwarded to the General Assembly (in the case of the Charter).