

**TITLE 1  
TOWN OF DAYTON  
GENERAL CRIMINAL CODE**

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**CHAPTER 1**  
**Criminal Code**

**Part 1**  
**Introduction and General Provisions**

**§ 1-1. Authority.** This title is enacted pursuant to the authority vested in the town by §§ 15.2-101, 15.1-839 and 15.2-1102 of the Code of Virginia and §1 of the Charter of the Town of Dayton. Sections of this title may have additional authority as well. (Amended April 5, 1999).

**§ 1-2. Definitions.** The word "person" as used in this title includes all individuals, corporations, firms, associations, and bodies politic. Other terms used shall be construed as defined in the Code of Virginia, particularly §§ 1-13.1 through 1-13.34. The use of the masculine gender includes the feminine gender as well.

**§ 1-2.1. Uniformity of Interpretation Between This Title and the Laws of the Commonwealth of Virginia.** It is the purpose of this title that its provisions should adopt and make applicable to this municipality the laws of the Commonwealth of Virginia relating to the subjects for which provision is made herein, in order that uniformity of application and interpretation may be attained. No application or interpretation of this title, regardless of the wording of any section of this title, shall deviate from that uniformity of application and interpretation between comparable provisions of this title and the laws of the Commonwealth of Virginia, except where such deviation is required by differing governmental or administrative requirements.

**§ 1-3. General Penalty for Violation of This Chapter.** Any person who violates any section of this chapter for which a punishment is not specifically provided shall be guilty of a class 1 misdemeanor; provided however, no punishment shall exceed the punishment established for the same offense in the Code of Virginia. (See generally Code of Virginia, § 18.2-12).

**§ 1-4. Punishments for Classes of Misdemeanors.** The authorized punishments for conviction of a violation of any provision of the town code are:

- (a) For class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.
- (b) For class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than \$1,000, either or both.
- (c) For class 3 misdemeanors, a fine of not more than \$500.
- (d) For class 4 misdemeanors, a fine of not more than \$250.

(See Code of Virginia, § 18.2-11). (Amended April 5, 1999).

**§ 1-5. Injunctive Relief Against Continuing Violations of Ordinances.** The town, in addition to the penalty imposed for the violation of any ordinance, may seek to enjoin the continuing violation thereof by proceedings for an injunction brought in the Circuit Court of Rockingham County, Virginia. (See Code of Virginia, § 15.2-1432). (Amended April 5, 1999).

**§ 1-5.1. Courthouse Surcharge on Warrants and Summonses.** There is hereby imposed and levied by the Town, under the authority of and subject to § 14.1-133.2 of the Code of Virginia, an additional fee of Two Dollars (\$2.00) to be taxed as costs in any criminal or traffic warrant or summons involving an alleged violation of a town ordinance, in either the Circuit Court, General District court or the Juvenile and Domestic Relations Court. This additional

assessment shall be paid by the appropriate clerk to the Town Treasurer, and it shall be held by the Treasurer, for the maintenance, construction or renovation of a courthouse, jail or court-related facilities and to defray increases in costs of cooling, heating, electricity, and ordinary maintenance. The funds held by the Treasurer for the aforementioned purposes shall be expended upon terms to be specified by the council. (Added September 10, 1990).

## **Part 2 Minors**

**§ 1-6. Minors in Pool Rooms.** Any minor who frequents, plays in, or loiters in any public pool room or billiard room, or any proprietor or agent thereof who permits any minor to do the same in any such place within the town, shall be guilty of a class 3 misdemeanor. (See generally Code of Virginia, §§ 18.2-432 and 15.2-926).

**§ 1-7. Certain Sales to Minors.**

- (a) Any person who sells, barter, gives, furnishes, or causes to be sold, bartered, given, or furnished to any minor a rifle, shotgun, tear gas pin, pistol, dirk, switchblade knife, or bowie knife having good cause to believe him to be a minor shall be guilty of a class 1 misdemeanor. This sub-section shall not apply to any transfer of firearms made between family members or for the purpose of engaging in a sporting event or activity. (See generally Code of Virginia, § 18.2-309).
  
- (b) Any person who sells, barter, gives, furnishes, or causes to be sold, bartered, given, or furnished to any other person under sixteen (16) years of age cigarettes or tobacco in any form, having good cause to believe him to be under 16 years of age shall be guilty of a class 4 misdemeanor.

(Amended April 5, 1999).

**§ 1-8. Curfew.** Any minor upon the streets or in any other public place in the town after 11:00 p.m., unless accompanied by a parent or a legal guardian or other person of majority age lawfully in charge of such minor, shall be guilty of a class 4 misdemeanor. Any parent, guardian, or other person having custody of a minor who allows the minor to violate this section, shall also be guilty of a class 4 misdemeanor. Nothing in this section shall be construed to prohibit an unaccompanied minor from attending meetings held in connection with religious exercises, schools, scouting or other similar organizations, nor shall this section be applied if such minor is involved in an emergency, legitimate employment, or an errand for his parents, guardian or other person having custody of him. (See Code of Virginia, § 15.2-926).

## **Part 3 Miscellaneous Conduct**

**§ 1-9. Assault and Battery.** Any person who commits a simple assault or assault and battery shall be guilty of a class 1 misdemeanor. (See generally Code of Virginia, § 18.2-57).

**§ 1-10. Resisting an Officer, Employee, or Agent of the Town.** Any person who, by threats or force, attempts to intimidate or impede any officer or employee of the town in the discharge of his or her duty or any other person in the execution of work for the town, shall be guilty of a class 1 misdemeanor. (See generally Code of Virginia, §§ 15.2-1102 and 18.2-460).

**§ 1-11. Prisoner Fleeing Custody of Officer.** Any person lawfully confined in jail or lawfully in the custody of any court or officer thereof or of any law-enforcement officer on a charge or conviction of a criminal offense, who escapes therefrom, shall be guilty of a class 1 misdemeanor if such escape is by force or violence, (including setting

fire to the jail) and a class 2 misdemeanor if such escape is otherwise than by force or violence. (See generally Code of Virginia, §§ 18.2-478 and 18.2-479).

**§ 1-12. *Petit Larceny.*** Any person who

- (a) commits larceny from the person of another of money or other thing of value of less than \$5.00, or
- (b) commits simple larceny not from the person of another of goods or chattels of value of less than \$200.00,

shall be guilty of a class 1 misdemeanor. (See Code of Virginia, § 18.2-96).

**§ 1-13. *Shoplifting.*** Any person who, without authority, with the intention of converting goods or merchandise to his or another's use without having paid the full purchase price thereof, or of defrauding the owner of the value of goods or merchandise,

- (a) willfully conceals or takes possession of the goods or other merchandise of any store or mercantile establishment, or
- (b) alters price tags or markings or other price or marking on such goods or merchandise, or transfers goods from one container to another, or
- (c) counsels, assists, aids, or abets another in the performance of the above acts shall be guilty of a class 1 misdemeanor.

The willful concealment of goods or merchandise of any store or other mercantile establishment while still on the premises thereof shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise. (See Code of Virginia, §§ 18.2-103 and 18.2-104). (Amended April 5, 1999).

**§ 1-14. *Peeping or Spying into the Structure Occupied as a Dwelling.*** Any person who enters upon the property of another and secretly or furtively peeps through or attempts to so peep into, through, or spy through a window, door, or other aperture of any building, structure, or other enclosure of any nature occupied or intended for occupancy as a dwelling, being permanently situated or transportable, whether or not such occupancy be permanent or temporary, shall be guilty of a class 1 misdemeanor. (See Code of Virginia, § 18.2-130).

**§ 1-15. *Defrauding Garage Keepers.*** Any person who stores a motor vehicle with any person, firm, or corporation engaged in the business of conducting a garage for the:

- (a) Storage of motor vehicles;
- (b) Furnishing of supplies to motor vehicles; or
- (c) Alteration or repair of motor vehicles,

and obtains storage, supplies, alterations or repairs for such motor vehicle, without having an express agreement for credit, or procures storage, supplies, alterations or repairs on account of such motor vehicle so stored, without paying therefore, and with the intent to cheat or defraud the owner or keeper of such garage; or with such intent obtains credit at such garage for such storage, supplies, alterations or repairs through misrepresentation or false statement; or with such intent removes or causes to be removed any such motor vehicle from any such garage while there is a lien existing thereon for the proper charges due from him for storage, supplies, alterations or repairs shall be guilty of a class 2 misdemeanor. (See Code of Virginia, § 18.2-189).

**§ 1-16. *Defrauding Certain Businesses.*** Any person who puts up at a hotel, motel, campground, or boarding house or gains entrance to an amusement park or obtains food from a restaurant or other eating house without paying

therefore, without having an express agreement for credit, and with the intent to cheat or defraud the owner or keeper of such business out of pay for the same; or with the intent to cheat or defraud such owner or keeper out of pay therefore, obtains credit by means of any false show of baggage or effects or any other misrepresentation or false statement; or with such intent, causes to be removed or removes any baggage or effects from such place of business while there is a lien existing thereon for the proper charges due such owner or keeper, shall be guilty of a class 1 misdemeanor. (See Code of Virginia, § 18.2-188). (Amended April 5, 1999).

**§ 1-17. Trespassing.** Any person who, without authority, goes upon or remains upon the lands, buildings, or premises of another, or any portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian or other person lawfully in charge thereof, or after having been forbidden to do so by a sign or signs posted by such persons or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises, or a portion or area thereof, at a place or places where it or they may be reasonably seen or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to §§ 16.1-253, 16.1-253.1, 16.1-278.2, 16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15 or 16.1-279.1 of the Code of Virginia or ex parte order issued pursuant to § 20-103 of the Code of Virginia, and after having been served with such an order, shall be guilty of a class 1 misdemeanor. (See Code of Virginia § 18.2-119). (Amended April 5, 1999).

**§ 1-18. False Entries or Destruction of Records by Officers.** (Repealed April 5, 1999).

**§ 1-19. Theft or Destruction of Public Records by Other Than Officer.** If any person steals, fraudulently secretes, or destroys a public record or part thereof, including a microphotographic copy thereof, he shall be guilty of a class 1 misdemeanor. (See Code of Virginia, § 18.2-107). (Amended April 5, 1999).

**§ 1-20. Destroying or Damaging Property.** Any person who unlawfully takes, carries away, defaces, disfigures, cuts, marks, breaks, or otherwise injures or destroys, in whole or in part, any property not his own (whether it be real or personal, public or private) shall be guilty of a class 1 misdemeanor provided, this section shall not apply to injuries to or the destruction of living plants. (See Code of Virginia, §§ 18.2-137, 18.2-138 and 18.2-138.1).

**§ 1-21. Destruction of Trees, Shrubs, etc.** It shall be unlawful for any person to pick, pull, pull up, tear, tear up, dig, dig up, cut, break, injure, burn, or destroy, in whole or in part, any tree, shrub, vine, plant, flower, or turf found growing or being upon the land of another, or upon any land reserved, set aside, or maintained by the town as a public park or square, or as a refuge or sanctuary for wild animals, birds, or fish without having previously obtained the permission in writing of such other or his agent or the superintendent of the town or other delegated official to do so unless the same be done under the personal direction of such owner, his agent, tenant, or lessee, or the superintendent of the town or such other delegated official.

Any person violating this section shall be guilty of a class 3 misdemeanor; provided that the approval of the owner, his agent, tenant, or lessee, or the superintendent or custodian of such park or sanctuary afterwards given in writing or in open court shall be a bar to further prosecution or suit. (See Code of Virginia, §§ 18.2-138.1, 18.2-139, 18.2-140). (Amended April 5, 1999).

**§ 1-22. Drinking in Public.** Any person who takes a drink or tenders a drink, whether accepted or not, of any alcoholic beverage, as defined in § 4.1-100 of the Code of Virginia in a public place, as defined in such Code in § 4.1-100, within the town, other than in an establishment licensed for on-premises consumption by the Virginia Alcoholic Beverage Control Commission, shall be guilty of a class 4 misdemeanor. (See Code of Virginia, § 4.1-308). (Amended April 5, 1999).

**§ 1-23. Wells and Pits.** Any person owning or occupying land on which there is a well or pit having a diameter greater than six (6) inches and a depth of more than ten (10) feet that is left uncovered in such a manner as to be dangerous to human beings, animals, or fowl shall be guilty of a class 3 misdemeanor. Any such condition existing on abandoned property shall be abated by the town Superintendent or other officer to whom such duty is delegated

with all reasonable costs thereof charged and collected against such property in the same manner as local real estate taxes. Every day of continuance of such condition shall constitute a separate offense. (See Code of Virginia, §§ 15.2-1115 and 18.2-318).

**§ 1-24. Abandoned Refrigerators and Containers.** Any person, firm, or corporation who discards, abandons, leaves or allows to remain in any place any icebox, refrigerator, or other container with an airtight interior storage area of more than two cubic feet of clear space without first removing the doors or hinges, shall be guilty of a class 3 misdemeanor; however, this section does not apply to any icebox, refrigerator, or other container being used for the purpose for which it was originally designed, being used for display purposes by any retail or wholesale merchant, or having been crated, strapped, or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment therein. (See Code of Virginia, § 18.2-319). (Amended April 5, 1999).

**§ 1-25. Littering Streets, Roads, Alleys or Other Public Property.** Any person who throws or deposits or causes to be thrown or deposited upon any public property, including a public street, road, or alley within the town any bottles, glass, nails, tacks, wire, cans, garbage, refuse (as defined in § 7-2 of this code) or other unsightly or dangerous material, shall be guilty of a class 1 misdemeanor unless such person shall immediately remove or cause to be removed all such materials. Any person removing a wrecked or damaged vehicle from any public property, or public street, road, or alley within the town shall remove any glass or other injurious material deposited upon such public way by such vehicle. (See Code of Virginia, §§ 33.1-346 and 33.1-346.1). (Amended April 5, 1999).

**§ 1-26. False Reports to Police Officers.** Any person who knowingly gives a false report as to the commission of any crime to any law-enforcement official with the intent to mislead, without just cause and with intent to interfere with the operations of any law enforcement official, to call or summon any law enforcement official by telephone or other means, including engagement or activation of an automatic emergency alarm shall be guilty of a class 1 misdemeanor. (See Code of Virginia, § 18.2-461). (Amended April 5, 1999).

**§ 1-27. False Fire Alarms.** Any person who, without just cause therefor, calls or summons, by telephone or otherwise, any ambulance or fire-fighting apparatus, or any person who maliciously activates a manual or automatic fire alarm in any building used for public assembly or other public use, including, but not limited to, schools, theaters, stores, office buildings, shopping centers, malls, coliseums and arenas, regardless of whether fire apparatus responds or not, shall be guilty of a class 1 misdemeanor. (See Code of Virginia, § 18.2-212). (Amended April 5, 1999).

**§ 1-28. Unfriendly Fires.** Any person who sets or procures another to set fire to any woods, brush, leaves, grass, straw or any other inflammable substance capable of spreading fire and who allows the fire to escape to lands not his own, whereby the property of another is damaged or jeopardized shall be liable for the full amount of expenses incurred in fighting such fire. If such fire is set intentionally, such person shall be guilty of a class 1 misdemeanor. If such fire is set carelessly or negligently, such person shall be guilty of a class 4 misdemeanor. (See Code of Virginia, §§ 15.2-1118, 18.2-87, and 18.2-88). (Amended April 5, 1999).

**§1-29. Interference with Fire Apparatus and Sewer Lines.** Any person who interferes or tampers with fire-fighting equipment within the town (including, but not limited to willfully diverting or wasting a public water supply or tampering with a fire hydrant) shall be guilty of a class 2 misdemeanor. Any person who willfully and maliciously diverts any public waste water or sewer line shall also be guilty of a class 2 misdemeanor. (See Code of Virginia, § 18.2-162.1). (Amended April 5, 1999).

**§ 1-30. Interference with Public Services or Utilities.** Any person who intentionally interferes or tampers in any authority which is used to furnish oil, telegraph, telephone, electric, gas, sewer, waste water or water service to the public, shall be guilty of a class 3 misdemeanor. (See Code of Virginia, §§ 18.2-162 and 18.2-164). (Amended April 5, 1999).

**§ 1-31. Pulling Down Fences or Leaving Gates Open.** Any person, who without permission of the owner, pulls down the fence of another and leaves the same down, or, without permission, opens and leaves open the gate of another, or any gate across a public road established by order of court or if any person other than the owner or

owners of the lands through which a line of railroad runs, who opens and leaves open a gate at a public or private crossing of the railroad right-of-way, shall be guilty of a class 4 misdemeanor. (See Code of Virginia, § 18.2-143). (Amended April 5, 1999).

**§ 1-32. Masquerading.** Any person over the age of 14 who publicly wears a mask or uses other means of disguise to conceal his or her identity at any time within the town, shall be guilty of a class 4 misdemeanor. However, this section does not apply to persons representing legitimate, charitable, social or patriotic organizations or to persons engaged in public entertainment.

**§ 1-33. Disorderly Conduct in Public Places.** A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance, or alarm or recklessly creating a risk thereof, he:

- (a) in any streets, highways, public buildings, or while in or on a public conveyance, or public place engage in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; or
- (b) willfully or being intoxicated, whether willfully or not, whether such intoxication results from self-administered alcohol, or other drugs of whatever nature, disrupts any meeting of the governing body of any political subdivision of the Commonwealth, or a division or agency thereof, or any school, literary society or place of worship, if the disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed; or
- (c) willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drugs of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

However, the conduct prohibited under sub-sections (a), (b), or (c) of this section shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this title.

The person in charge of such place or meeting may eject therefrom any person who violates any provisions of the section with the aid, if necessary, of any persons called upon for such purpose. Such violators shall be guilty of a class 1 misdemeanor. (See Code of Virginia, §§ 15.2-925 and 18.2-415). (Amended April 5, 1999).

**§ 1-34. Loitering or Loafing.** Any person loitering or standing on any street, sidewalk, curb or upon or around any public place whether on public or private property who fails to move on after being requested to do so by a policeman, shall be guilty of a class 4 misdemeanor and shall cease to occupy such position on the street, sidewalk, or curb. (See Code of Virginia, § 15.2-926). (Amended April 5, 1999).

**§ 1-35. Unauthorized Fill Material.** Any person who uses materials such as tree stumps, brush, prunings, lumber, undecomposed organic matter, scrap metal, paper, or any other trash, garbage or undecomposed waste material for fill material in any place other than an officially designated sanitary fill, shall be guilty of a class 4 misdemeanor, shall be liable for the removal and disposal of the prohibited fill material, and shall be liable for proper refilling or the costs thereof which shall be charged and collected in the same manner as local real estate tax. The intent of this section is to prevent the improper use of such material in fills which may subsequently rot, decay, rust, or otherwise decompose and result in abnormal settling or cave-ins and prevent the timely use of lands thus filled, or result in an eventual hazard to health, life, limb, or property. (See Code of Virginia, §§ 15.2-927, 15.2-1113 and 15.2-1115).

**§ 1-36. Hand Bills.** Any person who:

- (a) distributes or causes to be distributed any hand bills in such a manner so as to interfere with the safe and orderly flow of traffic on any sidewalk or street;

- (b) places or causes to be placed any hand bill in or upon any automobile or other vehicle unless the owner thereof demonstrates his willingness to accept it;
- (c) distributes or causes to be distributed any hand bill in or upon any private premises which are then uninhabited and vacant;
- (d) distributes or causes to be distributed any hand bill, in or upon private premises which are inhabited in a manner other than by handing it directly to the owner, occupant, or other person then present in or upon such private premises; provided hand bills may be placed securely thereon so as to prevent being blown about such inhabited premises or elsewhere unless requested by anyone upon such premises not to do so or unless a sign is posted conspicuously upon such premises in any manner indicating the occupants do not desire to have hand bills left upon such premises;
- (e) affixes in any way a hand bill, poster, or advertisement to any public property, real or personal, including telegraph, telephone, electric transmissions poles and trees, except as may be authorized by law; or
- (f) throws, places, or distributes or causes to be thrown, placed, or distributed any commercial hand bill in or upon any place within the town, shall be guilty of a class 4 misdemeanor.

Non commercial hand bills may be distributed in any public place to those persons willing to accept them.

**§ 1-37. Establishing Police Lines, Perimeters, or Barricades.** Whenever fires, accidents, wrecks, explosions, crimes, riots or other emergency situations where life, limb or property may be endangered, may cause persons to collect on the public streets, alleys, highways, parking lots or other public areas, the chief law enforcement officer of the town (or that officer's authorized representative who is responsible for the security of the scene) may establish such areas, zones or perimeters by the placement of police lines or barricades as are reasonably necessary to:

- (1) preserve the integrity of evidence at such scene,
- (2) facilitate the movement of vehicular and pedestrian traffic into, out of, and around the scene,
- (3) permit firefighters, police officers, and emergency service personnel to perform necessary operations unimpeded, and
- (4) protect persons and property.

Any police line or barricade erected for these purposes shall be clearly identified by wording such as "Police Line - DO NOT CROSS" or other similar wording. If material or equipment is not available for identifying the prohibited area, then a verbal warning by identifiable law-enforcement officials positioned to indicate a location of a police line or barricade shall be given to any person or persons attempting to cross police lines or barricades without proper authorization.

Such scene may be secured no longer than is reasonably necessary to effect the above-described purposes. Nothing in this section shall limit or otherwise affect the authority of, or be construed to deny access to such scene by, any person charged by law with the responsibility of rendering assistance at or investigating any such fires, accidents, wrecks, explosions, crimes, or riots.

Personnel from information services such as press, radio, and television, when gathering news, shall be exempt from the provisions of this section except that it shall be unlawful for such persons to obstruct the police, firemen, and rescue workers in the performance of their duties at such scene. Such personnel shall proceed at their own risk. (See Code of Virginia, § 15.2-1714). (Amended April 5, 1999).

**§ 1-38. Removal, Repair, etc. of Buildings and Other Structures.**

- (a) The owners of property located within this town shall, at such time or times as the Town Council may prescribe, remove, repair, or secure any building, wall, or any other structure which might endanger the public health or safety of other residents of the town;
- (b) The Town Council, through its own agents or employees may remove, repair, or secure any building, wall, tree or any other structure which might endanger the public health or safety of other residents of the town if the owner and lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure the building, wall, or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by the locality to remove, repair or secure any building, wall or other structure for at least thirty days following the latter of the return of the receipt or newspaper publication.
- (c) In the event the Town Council, through its own agents or employees, removes, repairs, or secures any building, wall or any other structure after complying with the notice provisions of this section, the costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes and levies are collected;
- (d) Every change authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid, shall constitute a lien against such property, ranking on a parity with liens for unpaid taxes and enforceable in the same manner as provided in Article 3 (§ 58.1-3940 et seq. and § 58.1-3965 et seq.) of chapter 39 of Title 58.1 of the Code of Virginia.

(See Code of Virginia, § 15.2-906). (Amended April 5, 1999).

**§ 1-39. Fee for Passing Bad Check to Town.** Any person, firm, or corporation uttering, publishing, or passing any check or draft for payment of taxes or any other sums due to this town, which is subsequently returned for insufficient funds, or because there is no bank account or the account has been closed shall, in addition to any other penalties provided by law, pay a fee to the town of \$20.00. (See Code of Virginia, § 15.2-106).

**§ 1-40. Penalty and Interest for Failure to Pay Accounts When Due.** Any person failing to pay an account due the town on its due date (other than taxes which are provided for in Title 58.1) shall incur a penalty thereon of 10% or \$10.00, whichever is greater, which shall be added to the amount of the account due from such person. No penalty shall be imposed for failure to pay any account if the Town Treasurer determines that such failure was not in any way the fault of the debtor. Interest at the rate of 10% annually from the first day following the day such account is due, may be collected upon the principal and penalty of all such accounts. (See Code of Virginia, § 15.2-105). (Amended April 5, 1999).

**§ 1-41. Indecent Exposure.** Every person who intentionally makes an obscene display or exposure of his person or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a class 1 misdemeanor. No person shall be deemed to be in violation of this section for breast feeding a child in any public place or any place where others are present. (See Code of Virginia, § 18.2-387). (Amended April 5, 1999).

**§ 1-42. Profanity, Swearing and Intoxication in Public, etc.** Any person who profanely curses or swears or is intoxicated in public, whether such intoxication results from alcohol, narcotic drugs or other intoxicant or drugs of whatever nature shall be deemed guilty of a class 4 misdemeanor. If there is located within the area of this town or Rockingham County or the City of Harrisonburg, a court-approved detoxification center, a law-enforcement officer

may authorize the transportation, by police or otherwise of public inebriates, to such detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center. (See Code of Virginia, § 18.2-388). (Amended April 5, 1999).

**§ 1-43. Expectorating in Public Places.** No person shall spit, expectorate, or deposit any sputum, saliva, mucus, or any form of saliva or sputum upon the floor, stairways, or upon any part of any public building or place where the public assembles, or upon the floor of any part of any public conveyance or upon any sidewalk abutting on any public street, alley, or lane of this town. Any person violating any provision of this section shall be guilty of a class 4 misdemeanor. (See Code of Virginia, § 18.2-322).

**§ 1-43.1. Urination and Defecation in Public.**

- (a) No person shall urinate or defecate in any public building (except in an appropriate toilet facility); or upon any street, sidewalk, alley or other public property; or in any other place where such person is visible to public view.
- (b) Any person violating this section shall be guilty of a class 4 misdemeanor and shall be punished in accordance with § 1-4.

(Enacted April 5, 1999).

**§ 1-44. Illegal Gambling.** Any person making, placing, receiving or permitting any bet or wager within the town of money or other thing of value made in exchange for a chance to win a prize, stake or other consideration dependent upon the result of any game, contest or other event the outcome of which is uncertain or a matter of chance, shall be guilty of a class 3 misdemeanor.

This section does not apply to any volunteer fire department, rescue squad, corporation, trust, church, association, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary, community service, educational purposes, or any post or association of war veterans or auxiliary units which shall engage in such activities in no part of the gross receipts of which shall inure to the benefit of any member thereof.

Nothing in this section shall be construed to make it unlawful to participate in a game of chance conducted in a private residence provided such residence is not commonly used for such games of chance, and there is no operator as defined in § 18.2-325(3) of the Code of Virginia, nor shall anything in this section be construed to prevent any contest of speed or skill between men, animals, fowl or vehicles where the participants (or their owners) may receive prizes depending upon whether they win or lose. (See Code of Virginia, §§ 18.2-326, 18.2-333 and 18.2-334).

**§ 1-45. Illegal Gambling Devices.** Any person maintaining or permitting the use of a gambling device within the town shall be guilty of a class 3 misdemeanor. A gambling device is any machine, apparatus, implement, instrument, contrivance, board or other thing (including, but not limited to those dependent upon the insertion of a coin or other object for their operation) which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that depending on elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled. However, the return to the user of nothing more than additional chances or the right to use the machine is not something of value, and machines that only sell different items of merchandise of equivalent value are not gambling devices. (See Code of Virginia, §§ 18.2-325 and 18.2-326).

**§ 1-46. Injuring Vehicles.** Any person who shall individually or in association with one or more others willfully break, injure, tamper with, or remove any part or parts of any motor vehicle, trailer, or semi-trailer for the purpose of injuring, defacing or destroying such motor vehicle, trailer or semi-trailer, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such motor vehicle, trailer or semi-trailer, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such motor vehicle, trailer or semi-trailer, shall be guilty of a class 1 misdemeanor. (See Code of Virginia, § 18.2-146).

**§ 1-47. Entering or Setting Vehicles in Motion.** Any person who shall, without the consent of the owner or person in charge of a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, climb into or upon such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with intent to commit any crime, malicious mischief, or injury thereto, or who, while a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other device, brakes or mechanism thereof or to set into motion such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with the intent to commit any crime, malicious mischief, or injury thereto, shall be guilty of a class 1 misdemeanor, except that the foregoing provision shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty. (See Code of Virginia, § 18.2-147).

**Part 4  
Nuisances**

**§ 1-48. Abatement or Removal of Nuisances.**

- (a) The term “nuisance” is defined herein as the doing of any act, omission to perform any duty, or the permitting of any condition or thing to exist that endangers life or health, obstructs or interferes with the reasonable or comfortable use of property, or tends to depreciate the value of the property of others. Whenever the term nuisance is used in this Part, it shall be deemed to mean a public nuisance.
- (b) The Town Council, acting either as a body or through the Town Superintendent or other delegated officer, may compel the abatement or removal of all nuisances.
- (c) The following activities or conditions are hereby declared to be nuisances. This enumeration shall not be construed to be limiting or restrictive, and is in addition to other acts and conditions which are nuisances, including those acts and conditions which are defined as nuisances in other portions of this Code or state law.
  - (1) *Dangerous structures.* All dwellings, accessory structures, or other structures of whatever character which are unsafe, dangerous, unhealthy, or injurious to the public. Examples of dangerous structures include, but are not limited to, structures with exposed or faulty electrical wiring, broken windows, visible rotting or molding wood or other materials, and structures which are likely to collapse or fall over.
  - (2) *Obstructions on streets or sidewalks.* All obstructions on any street or sidewalk, including but not limited to snow, plant matter, metal, lumber, timber, refuse, trash, furniture, mattresses, lawn equipment, tools, motor vehicles, or tires.
  - (3) *Conditions which pose a danger to transportation.* Any condition or action which interferes with, obstructs or tends to obstruct, or renders dangerous passage on any public or private street. Such conditions shall include but not be limited to obstructions to line of sight and obstruction of roadside signs.
  - (4) *Stagnant water; discharges into public streets.* All ponds or pools of stagnant water, and all foul or dirty water or liquid. “Stagnant water” shall mean any water that is absent of flow or filtration by

natural or mechanical means. Stagnant water discharged into any public place or property is also a nuisance.

- (5) *Septic tanks, privies, etc.* All septic tanks, privies, cesspools and privy vaults of a type prohibited by state law or by rules and regulations promulgated by authority of state law, or which are maintained in any manner contrary to state law or rules and regulations promulgated by authority of state law or which otherwise constitute a menace to the health of, or are offensive to, persons in the neighborhood thereof.
  - (6) *Rats and other vermin.* Any condition which provides harborage for rats, mice, snakes, and other vermin.
  - (7) *Grass, weeds, and plants.* Grass, weeds, brush, or other plants which have reached a stage of growth so as to provide cover or harborage or potential cover or harborage for rats or vermin, or to cause a blighting problem, or adversely affect the public health and safety. Grass and weeds are further subject to the provisions of I-48.1.
  - (8) *Vacant buildings.* Any vacant or abandoned buildings that are not sealed so as to prevent the entry of persons or rats and other vermin.
  - (9) *Trash, garbage, refuse, and other substances.* Outside storage on any property of junk, trash, rubbish, garbage, refuse, litter, waste materials, tires, motor vehicle parts, wheels, metal scraps, plumbing fixtures, broken appliances or machines, and other objects or substances which might constitute a fire hazard or endanger the public health or safety. Trash or garbage which is placed within a trash can or bin shall not be deemed to be stored outside.
  - (10) *Outside storage of abandoned or unused objects.* Outside storage on a Residential Property of any offensive, unwholesome, unsanitary, or unhealthy item or substance, including but not limited to abandoned, unused, or discarded objects such as household furniture, appliances, equipment, mattresses, tools, lumber, building materials, and other objects that may cause a blighting problem. For the purpose of this subsection, the term "Residential Property" shall mean a property zoned R-1, R-2, or R-3, or a property zoned A-1 or A-2 on which the principal use is a residence. Nothing contained herein shall prohibit storage of materials used in conjunction with a construction project for which a building permit has been issued and which, in the opinion of the Town Superintendent, is being diligently pursued.
  - (11) *Artificial light.* Artificial light which creates an unreasonable burden on adjoining property.
  - (12) *Dangerous grades.* Any portion of a lot adjacent to a street or alley where the difference in the level between the lot and the street or alley constitutes a danger to life or limb, and which is not fenced so as to prevent harm.
- (d) Whenever a nuisance is found to exist within the town, the Town Superintendent or other delegated officer shall provide written notice to the owner or occupants of the property on which the nuisance exists. Mailing of the notice to the owner or occupant at the address upon which the nuisance is occurring or the address of the owner according to the real property records of the town shall constitute compliance with the requirements of this ordinance. The written notice shall state:
- (1) The location of the nuisance;

- (2) A description of what constitutes the nuisance;
  - (3) A statement of acts necessary to abate or remove the nuisance;
  - (4) A deadline reasonable under the circumstances by which the nuisance shall be abated or removed;  
and
  - (5) A statement that if the nuisance is not abated or removed by the deadline, the town may abate or remove the nuisance, charging the cost thereof to such owner or occupant and collecting such costs in the same manner as the real estate tax.
- (e) If a nuisance has not been abated or removed by the deadline as set forth in the written notice, or if in the opinion of the Town Superintendent or other delegated officer that the nuisance constitutes an imminent, substantial, or compelling threat to the public health or safety, the town may abate or remove the nuisance without providing written notice. The town may charge the cost of any abatement or removal of a nuisance to the owner, occupant, or both. The costs shall be collected in the same manner as the local real estate tax. Enforcement of this Section shall not exclude the town's right to proceed under other civil remedies.
- (f) The owner or occupant of the property on which the nuisance exists may request a hearing by submitting a written request to the Town Superintendent or other delegated officer at least 48 hours before the deadline for abatement or removal of the nuisance. The Town Superintendent or other delegated officer shall promptly hold a hearing and provide notice of such hearing to the owner or occupants of the property on which the nuisance exists. If, after considering the evidence, the Town Superintendent or other delegated officer finds by a preponderance of the evidence that the nuisance does not exist, he or she may dismiss the notice.
- (g) The maintenance of nuisances is unlawful. Each business day a nuisance continues after the date set by the Town Superintendent for its abatement constitutes a separate offense or violation. In addition to liability for the town's costs of abatement, persons who fail to comply with a notice issued pursuant to this Section requiring them to abate a nuisance shall be subject to civil penalties as follows:
- (1) \$50 for the first violation or violations arising from the same set of operative facts; or
  - (2) \$200 for subsequent violations not arising from the same set of operative facts within 12 months of a first violation.

In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a twelve-month period.

Adopted: October 10, 2016

***§ 1-48.1. Cutting of grass and weeds.***

- (a) The owners of vacant property, whether developed or undeveloped, shall cut all grass, weeds and/or other foreign growth on the property whenever any significant portion of the grass, weeds and/or other foreign growth on the property exceed eight inches in height from their base to their most extended growth.
- (b) Upon the failure of the property owner to cut the grass, weeds, and/or other foreign growth as specified in paragraph (a) of this section, the town (through its agents or employees) may cut all of

the grass, weeds, and/or other foreign growth on the property at the owner's expense, after written notice as provided in this paragraph. The notice shall contain the provisions of this section; it shall be mailed to the owner at the address shown in the town's tax records, and it shall state that the town will cut the grass, weeds, and/or foreign growth unless the property owner does so within seven days from the date the notice is mailed.

- (c) If the town (through its agents or employees) cuts the grass, weeds, and/or other foreign growth, costs and expenses in doing so shall be charged to the property owner. The costs and expenses shall be collected by the town in the same manner as are real property taxes, and they shall constitute a lien on the property.
- (d) No agricultural operation shall violate this section if such operations are conducted in accordance with the existing best management practices and comply with existing laws and regulations of the Commonwealth. The term "agricultural operation" as used in this sub-section is as defined in Code of Virginia § 3.1-22.29 (b).
- e) For purposes of this section, "vacant" shall mean unoccupied.
- (f) Notwithstanding § 1-3 of this title, violations of this section shall not constitute a criminal offense. However, conduct which violates this section may also violate other provisions of law which constitute criminal offenses, and those other provisions shall be unaffected by this paragraph. (See Code of Virginia §15.2-1115).

(Enacted April 5 1999).

**§ 1-48.2. Slaughtering Animals.**

- (a) No Person shall slaughter Animals in a manner which can be seen, heard, or smelled from adjacent properties.
- (b) For purposes of this section,
  - (1) "Animal" means a mammal or fowl;
  - (2) "Slaughter" means to intentionally kill an Animal, other than by hunting or euthanasia;
  - (3) "Person" means any natural person, corporation, partnership, firm, or other entity.
- (c) Nothing in this section shall apply to
  - (1) Bona fide farms,
  - (2) Educational institutions,
  - (3) Poultry processing plants, or
  - (4) Medical or veterinary professionals.
- (d) Nothing expressed or implied in this section authorizes the Slaughter of Animals in any manner contrary to any other ordinance, statute, regulation, or common law principle.
- (e) Violation of this section shall constitute a class 3 misdemeanor.

(Enacted October 4, 1999.)

**§ 1-48.3. Deceased Animals; Animal Parts.**

- (a) No Person shall cause or allow any deceased Animals or Animal parts to be placed or stored outdoors. No Person shall cause or allow any Animal blood to be spilled or stored outdoors.
- (b) The definitions of § 1-48.2 shall apply to this section as well.
- (c) Nothing in this section shall apply to
  - (1) Bona fide farms,
  - (2) Poultry processing plants, or
  - (3) Medical or veterinary professionals.
  - (4) Commercial meat-cutters or vendors, or
  - (5) Taxidermists.
- (d) Nothing expressed or implied in this section authorizes the disposal of deceased Animals, Animal parts, or Animal blood in any manner contrary to any other ordinance, statute, regulation, or common law principle.

(Enacted October 4, 1999.)

**§ 1-49. Removal and Disposition of Unattended Vehicles; Taking Abandoned Vehicles into Custody:** Any motor vehicle, trailer, semi-trailer or parts thereof which are (1) left unattended on a public highway or other public property and constitute a traffic hazard, or (2) illegally parked or (3) left unattended for more than 10 days either on public property or private property without the permission of the owner, lessee, or occupant or (4) immobilized on a public highway by weather conditions or other emergency situations, may be removed for safekeeping by the Town Police to a designated storage area; provided, however, no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee, or occupant thereof.

Such vehicle shall be presumed to be abandoned if

- (a) it lacks either
  - (1) a current license plate, or
  - (2) a current Town sticker, or
  - (3) a valid state inspection sticker; and
- (b) it has been in a specific location for four (4) days without being moved.

The person at whose request such vehicle is removed from privately owned property shall indemnify the Town against loss or expense incurred by reason of such removal, storage, or sale thereof and costs incurred in locating the owner. No motor vehicle, trailer, semi-trailer, or parts thereof will be removed from private property without the written request of the owner, lessee, or occupant of the premises.

Each removal shall be reported immediately to the office of the Town Superintendent who shall in turn cause written notice to be given to the owner of such vehicle as promptly as possible. The owner shall pay the Town all reasonable charges incidental to such removal and storage prior to re-obtaining possession of such vehicle. Should such owner fail or refuse to pay the cost or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record in the office of the Department of Motor Vehicles in Virginia against the motor vehicle, trailer, semi-trailer or parts thereof, the vehicle shall be treated as an abandoned vehicle under state law.

The Town may take into custody and dispose of abandoned vehicles, as defined by, and as provided for under, state law. The Town may employ its own personnel, equipment, and facilities, or hire persons, equipment, and facilities, or firms or corporations that may be independent contractors for removing, preserving, storing, and selling at public auction abandoned motor vehicles. (See Code of Virginia §§ 46.2-1200, 46.2-1201, and 46.2-1213).

This section shall not operate to deprive anyone of any lawful recourse against abandoned or improperly parked cars or their owners.

(Amended April 5, 1999; amended April 12, 2010).

**§ 1-50. Restriction of Keeping of Inoperative Motor Vehicles, etc.; Removal of Such Vehicles.**

(a) **Definitions.** For purposes of this section, the following definitions shall apply:

- (1) "Inoperable Motor Vehicle" shall mean any motor vehicle (a) which is not in operating condition, or (b) which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle, or (c) for which there are displayed neither valid license plates nor a valid inspection decal.
- (2) "Motor Vehicle" shall carry the meaning prescribed in section 46.2-100 of the Code of Virginia.
- (3) "Police Chief" means the Dayton Police Chief as well as subordinates and independent contractors acting under his direction and authority.
- (4) "Reasonable Notice" means a written notice either (i) mailed first class to a party's last known address at least seven days prior to an event or (ii) hand-delivered to a party at least five days prior to an event.
- (5) "Semi-Trailer" shall carry the meaning prescribed in section 46.2-100 of the Code of Virginia.
- (6) "Shielded or Screened From View" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is location.
- (7) "Trailer" shall carry the meaning prescribed in Section 46.2-100 of the Code of Virginia.

(b) **Basic Prohibition.** It shall be unlawful for any Person to keep, except within a fully enclosed building or structure on any property any Inoperable Motor Vehicle, Trailer, or Semi-Trailer.

(c) **Remediation by Town.** The owners of property shall, at such time or times as the Police Chief may prescribe by Reasonable Notice, remove therefrom by any such Inoperable Motor Vehicles, Trailers, or Semi-Trailers that are not kept within a fully enclosed building or structure. The Police Chief may then remove the offending vehicles if the owner fails to do so in accordance with the notice. In the event the Police Chief removes any such vehicles, the Town may then dispose of such vehicles after giving additional Reasonable Notice to the owner of the vehicle. The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the Town however taxes and levies are collected; and every cost authorized by this section with which the owner of the premises shall have been assessed, shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs shall have been made to the Town.

(d) **Exception for Vehicles Shielded or Screened From View.** Notwithstanding the provisions of paragraphs (b) and (c), on any lot there may exist a single Inoperable Motor Vehicle, Trailer, or Semi-Trailer, which is

not enclosed in a building or structure but is either Shielded or Screened From View, or covered by a commercial cover designed for such vehicle or trailer, which cover shall be in good condition.

(e) **Scope of Section; exceptions.**

- (1) This section shall apply to all property in Town which is zoned for residential, commercial, or agricultural purposes.
- (2) The provisions of this section shall not apply to a licensed business, which on June 26, 1970, was regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor.
- (3) If an owner of an Inoperable Motor Vehicle, Trailer, or Semi-Trailer demonstrates that he is actively restoring or repairing the vehicle, and if it is either Shielded Or Screened From View, or covered by a commercial cover designed for such vehicle or trailer, which cover shall be in good condition, he may retain that vehicle, and one other Inoperable Motor Vehicle also Shielded Or Screened From View and being used for restoration or repair on the property. This paragraph (e)(3) can only be used to allow a single vehicle being repaired or restored and a single vehicle being used for repair or restoration.

(f) **Civil Penalties.** The violation of this section shall not constitute a criminal offense but shall give rise to civil penalties. The civil penalty for any violation of this section shall be \$200 for an initial violation with respect to a given Inoperable Motor Vehicle, Trailer, or Semi-Trailer (inclusively, an "Offending Vehicle"), and \$500 for each subsequent violation. Each day in which the violation continues shall constitute a separate offense, but the offender may not be charged more than once in any 10-day period for the same Offending Vehicle. Further, the maximum penalty for any single Offending Vehicle shall be \$5,000.

Nevertheless, if (i) there have been no previous citations issued in the preceding 12 months for the subject property, (ii) the Police Chief verifies that the violation has been rectified, and (iii) the violator pays the civil penalty to the Town Treasurer within three days of the issuance of the citation, then the civil penalty shall be \$25 instead of \$200.

For ease of reference, the foregoing is summarized in the following table, which is qualified by reference to the narrative above:

Violations	Penalty
Initial violation if no previous citation in preceding 12 months; violation has been rectified; and payment is made within three days of citation.	\$25
Initial violation if above conditions are not met.	\$200
Subsequent violations (may only be charged once in any 10-day period for the same Offending Vehicle)	\$500 (\$5,000 maximum)

(See Code of Virginia, § 15.2-904). (Amended April 5, 1999; amended February 15, 2010).

**§ 1-50.1. Automobile Graveyards.**

- (a) No person, firm, corporation, or other entity shall operate or maintain an automobile graveyard in the town unless it is completely screened from public view at all times by a fence, structure, trees, or shrubbery. Any fence, structure, trees, or shrubbery used to screen an automobile graveyard shall be at least 50" high. (See Code of Virginia, §15.2-903).
- (b) For the purposes of this section, the term "automobile graveyard" shall mean any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found. (See Code of Virginia, §33.1-348).

- (c) This section shall not be construed as authorization for the establishment or maintenance of any automobile graveyard.

(Enacted April 5, 1999).

**§ 1-51. Public Dance Halls.** Any person who, without a permit, operates a public dance hall within the town shall be guilty of a class 3 misdemeanor. Such permit may be obtained from the Town Council or an official designated by it upon satisfactory evidence that the applicant is a proper person to receive the same. The Town Council may revoke such permit at any time for good cause. Such permit shall prohibit minors from entering or remaining in such dance halls while dancing is conducted, unless accompanied by a parent or legal guardian, brother or sister of majority age, or upon written permission of such parent or legal guardian. Dance halls shall close from 12:00 midnight to 6:00 a.m. Monday through Friday and from 12:00 midnight Saturday to 6:00 a.m. Monday. Any person violating the provisions of such permit shall be guilty of a class 3 misdemeanor and subject to permit revocation by Town Council.

A "dance hall" is any place open to the general public where dancing is permitted; however, this section does not apply to dances held for benevolent or charitable purposes or where the same are conducted under the auspices of religious, civil, military or educational organizations. (See Code of Virginia, § 18.2-433).

**§ 1-52. Declaration of policy.** At certain levels, noise can be detrimental to the health, welfare, safety, and quality of life of inhabitants of the town, and in the public interest noise should be restricted. It is the policy of the town to reduce, and eliminate where possible, excessive noise and related adverse conditions in the community, and to prohibit unnecessary, excessive, harmful, and annoying noises from all sources subject to its police power.

**§ 1-52.1. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning:

"Daytime hours" means 7:00 a.m. through 9:00 p.m. each day of the week.

"Excessive noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans. Specific examples of prohibited excessive noise are set forth in § 1-52.3 of this chapter.

"Motor vehicle" means a vehicle defined as a motor vehicle by Section 46.2-100, Code of Virginia (1950), as amended.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, other than farm tractors and mopeds.

"Nighttime hours" means 9:00 p.m. through 7:00 a.m. each day of the week.

"Owner" means the person owning, controlling, or possessing land, premises, or personality.

"Person" means any individual, partnership, corporation, association, society, club, group of people acting in concert, or organization. This term shall not include the federal, state, county, town, or local government, or any agency or institution thereof.

"Public property" means any real property owned or controlled by the town or any other governmental entity or institution.

"Plainly audible" means any sound that can be heard clearly by a person using his or her unaided hearing facilities. When music is involved, the detection of rhythmic bass tones shall be considered plainly audible sound.

“Public right-of-way” means any street, avenue, boulevard, highway, sidewalk, or alley.

“Residential” refers to single-unit, two-unit, and multi-unit dwellings, and residential areas of planned residential zoning district classifications, as set out in the Town of Dayton zoning ordinance, as amended.

“Sound” means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at a finite speed. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

“Sound amplifying equipment” means any machine or device for the amplification of the human voice, music, or any other sound. This term shall not include warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

“Town” means the Town of Dayton, Virginia.

“Town Manager” means the town superintendent or the chief of police, or their respective designees.

**§ 1-52.2. Violations.** Any person violating any of the provisions of this chapter shall be deemed guilty of a Class 4 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) for each offense. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

The person operating or controlling a source of excessive noise shall be guilty of any violation of the provisions this chapter. If the person operating or controlling the source of excessive noise cannot be determined, any owner, tenant, resident or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the source of excessive noise.

**§ 1-52.3. Prohibited Conduct.** Subject to the exceptions provided in § 1-52.4, any of the following acts, or the causing or permitting thereof, is declared to be excessive noise, constituting a Class 4 misdemeanor and a public nuisance:

- (1) **Animals.** The owning, keeping, or possessing of any animal or animals which frequently or habitually howl, bark, squawk or make such other noise in such a manner as to permit sound to be plainly audible within fifty feet from the animal or through partitions common to two dwelling units within a building. This section shall not apply to any bona fide agricultural activity.
- (2) **Commercial vehicle and trash collection vehicle operation.** The operation of a commercial vehicle or trash collection vehicle during nighttime hours in such a manner as to be plainly audible at any residence one hundred or more feet away.
- (3) **Construction.** The erection, including excavation, demolition, alteration, or repair of any building or improvement during nighttime hours, except in the case of emergency under a permit granted by the town manager. In considering the granting, conditioning, or denial of the permit, the town manager shall be guided by the following standards: (i) nature of the emergency; (ii) proposed extended hours of operation; (iii) duration of period of requested extended hours; (iv) character of the area surrounding the construction site; and (v) the number of residential units which would be impacted by the extended hours of construction.
- (4) **Explosives, fireworks and similar devices.** Using or firing any explosives, fireworks or similar devices which create impulsive sound in such a manner as to permit sound to be plainly audible at a distance of

fifty feet from the source of the sound or through partitions common to two dwelling units within a building, or on any public right-of-way or public property.

- (5) Horns, whistles, etc. Sounding or permitting the sounding of any horn, whistle or other auditory sounding device on or in any motor vehicle on any public right-of-way or public property, except as a warning of danger.
- (6) Loading and unloading. Operating, loading or unloading any vehicle, including but not limited to trucks, or the opening and destruction of bales, boxes, crates and containers outdoors within one hundred or less feet of an occupied dwelling during nighttime hours.
- (7) Loudspeakers, public address systems and sound trucks. Using, operating or permitting the operation of any loudspeaker, public address system, mobile sound vehicle or similar device amplifying sound for any purpose during nighttime hours in such a manner as to permit sound to be plainly audible at fifty feet from the source of the sound or in a manner that permits sound to be heard through partitions common to two dwelling units within a building.
- (8) Pneumatic hammer, chain saw, etc. The operation during nighttime hours of any chain saw, pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance whose use is attended by sounds that are plainly audible within fifty feet of the device or through partitions common to two dwelling units within a building.
- (9) Radios, television sets, computers, musical instruments, and similar devices. Operating, playing or permitting the operation or playing of any radio, television, computer, record, tape or compact disc player, drum, music instrument, or similar device in such a manner as to permit sound to be plainly audible at fifty feet from the building in which it is located or in a manner that permits sound to be heard through partitions common to two dwelling units within a building.
- (10) Schools, public buildings, places of worship, hospitals, and clinics. The creation of any noise on the grounds of any school, court, public building, place of worship, hospital, or clinic in a manner that is plainly audible within such school, court, public building, place of worship, hospital, or clinic and interferes with the operation of the institution.
- (11) Vehicles.
  - (a) Operation of a motor vehicle or motorcycle within the town while not equipped with a muffler that is compliant with Section 46.2-1047, Code of Virginia (1950), as amended.
  - (b) Operation of a motor vehicle or motorcycle within the town equipped with an intake or exhaust system that permits the escape of noise in excess of that permitted by the standard factory equipment intake or exhaust system of motor vehicles or motorcycles of standard make.
  - (c) The spinning, squealing of tires or unnecessary revving of the motor of any motor vehicle or motorcycle when starting from a stopped position, when shifting gears, when moving, or when coming to a stop or slowing the speed of the motor vehicle.
  - (d) Operation of sound amplifying equipment in a motor vehicle at a volume sufficient to be plainly audible at a distance of seventy-five feet or more from the vehicle.
- (12) Yelling, shouting, etc. Yelling, shouting, whistling, or singing during nighttime hours in such a manner as to permit sound to be plainly audible within fifty feet of the source of the sound or through partitions common to two dwelling units within a building.

**§ 1-52.4. Exceptions.**

§§ 1-52.2 and 1-52.3 shall have no application to any sound generated by any of the following:

- (1) Activities on or in municipal, county, state, United States, or school athletic facilities, or on or in publicly owned property and facilities.
- (2) Agricultural activities.
- (3) Fire alarms and burglar alarms, including false alarms occurring less than once per owner per sixty days, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises served by any such alarm to turn off the alarm.
- (4) Household tools and other lawn care equipment with manufacturer's recommended mufflers installed that are operated during daytime hours.
- (5) Lawful discharge of firearms.
- (6) Locomotives and other railroad equipment, and aircraft.
- (7) Military activities of the Commonwealth of Virginia or of the United States of America.
- (8) Noises resulting from events sanctioned by the town council taking place during daytime hours.
- (9) Parades, fireworks displays, and other such public special events or public activities that are otherwise lawful.
- (10) Public speaking and public assembly activities conducted on any public right-of-way or public property in accordance with applicable law.
- (11) Radios, sirens, horns, and bells on police, fire, or other emergency response vehicles.
- (12) Religious services, religious events, or religious activities or expressions, including but not limited to music, singing, bells, chimes, and organs which are a part of such service, event, activity, or expression.
- (13) School band performances or practices, athletic contests or practices, and other school-related activities conducted on the grounds of public or private schools.
- (14) Sound which is necessary for the protection or preservation of property or the health, safety, life, or limb of any person.
- (15) The striking of clocks.
- (16) The use of a loudspeaker for making auction sales when used in the vicinity of the property being sold provided such use is limited strictly to the selling at auction of such property and occurs during daytime hours.

(Enacted July 8, 2013.)

**§ 1-53. Marshy Ground and Stagnant Water.** Any person owning real estate within the town upon which a drain or running water exists, must keep such real estate clean, free, and unobstructed from filth, garbage, vegetation, or other nuisance. Any person owning real estate within the town upon which exists a marshy place or stagnant water must drain or fill the same within thirty (30) days from receipt of written notice from the Town Council. If it is

impractical to drain or fill such marshy place, effective petroleum treatment is required. If, after such reasonable notice, the owner or occupant of any such real estate fails to abate such nuisance, the town may do so and charge and collect the cost thereof in the same manner as local real estate tax. (See Code of Virginia, § 15.2-1115).

**§ 1-53.1. *Allowing Junk and Certain Other Materials to Accumulate or Remain on Property.*** It is hereby determined to be a nuisance and deleterious to the public welfare to allow to accumulate or to leave or allow to remain on lots or parcels of land within the town, junk, trash, rubbish, refuse, garbage, waste materials, tires, parts of motor vehicles, construction materials, wheels, metal, plumbing fixtures or debris. Provided, this section shall not apply to uses specifically permitted by zoning or special use permits.

Such nuisances may be abated or removed by the Town Council, the Town Superintendent or any other delegated officer or employee. Written notice of the nuisance with an order for its abatement or removal shall be given to the owner or occupant of the property on which the nuisance exists. If the nuisance has not been abated or removed within 30 days of the notice the town may go upon the property and abate or remove it charging the cost to the owner, occupant, or both. The costs shall be collected in the same manner as the local real estate tax. Mailing of the notice to the owner at the address shown on the town's records and to the occupant at the street address shall constitute compliance with the requirements of this ordinance. Enforcement of this ordinance shall not exclude the town's right to proceed under other civil or criminal remedies. (See Code of Virginia § 15.2-1115). (Enacted April 5, 1999).

#### ***Part 5 Summons***

**§ 1-54. *Summons.***

- (a) Whenever any person is detained by or is in the custody of an arresting officer for violation of a town ordinance punishable as a misdemeanor or traffic infraction, such officer shall, except as otherwise provided in this section, take the name and address of such person and the license number of his or her motor vehicle, if any, and issue a summons or otherwise notify him or her in writing to appear at a time and place to be specified in such summons or notice, such time to be at least five (5) days after such arrest. Such officer shall release such person from custody upon the giving by such person of a written promise to appear at such time and place. Any person refusing to give such promise to appear shall be taken immediately by the arresting officer before the nearest or most accessible magistrate. Any person who willfully violates such written promise to appear, given in accordance with this section, shall be guilty of a class 1 misdemeanor.
  
- (b) Notwithstanding the provisions of paragraph (a), as to
  - (1) any person charged with an offense causing or contributing to an accident resulting in the injury or death of any person,
  - (2) any person charged with reckless driving or driving under the influence of intoxicants,
  - (3) any person whom the arresting officer has good cause to believe has committed a felony, or
  - (4) any person whom the officer has reason to believe may disregard a summons issued hereunder,

the arresting officer may, in his discretion, take such person forthwith before the nearest or most accessible magistrate.

(See Code of Virginia, §§ 19.2-74 and 19.2-82).

**§ 1-54.1. Assessment for electronic summons system.** There is hereby imposed and assessed by the town, in accordance with Section 17.1-279.1 of the Code of Virginia, 1950, as amended, an additional sum of five dollars (\$5.00) as part of the costs in each criminal and traffic case prosecuted on a town warrant or summons in either the circuit court, general district court, or juvenile and domestic relations district court. The assessment shall be collected by the clerk of the court in which the warrant or summons is filed and remitted to the town treasurer. Such funds shall be held by the town and used to defray the hardware, software and other equipment costs associated with implementation and maintenance of the electronic summons system. (Enacted July 1, 2019.)

#### **Part 6** **Weapons and Explosives**

**§ 1-55. Discharging Firearms.** If any person willfully discharges a firearm in any street or in any place of public business or public gathering within the town, he shall be guilty of a class 1 misdemeanor; provided, this section shall not apply to any law enforcement officer in the performance of his official duties nor to any other person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property or is otherwise specifically authorized by law. (See Code of Virginia, § 18.2-280). (Amended April 5, 1999).

**§ 1-56. Airguns, Slingshots, and Other Instruments for Projecting Missiles.** Any person using, within the town, any instrument for projecting missiles, including, but not limited to airguns, BB guns, slingshots, grit shooters, and bows and arrows shall be guilty of a class 4 misdemeanor; provided, this section shall not apply to archery ranges of colleges or schools. (See Code of Virginia, § 15.2-916).

**§ 1-57. Fireworks.** Any person who transports, manufactures, sells, or offers for sale, a firecracker, torpedo, skyrocket, or other substance or thing of whatever form or construction commonly known as fireworks, without a permit, shall be guilty of a class 1 misdemeanor, except that any person who purchases, stores, transports, ignites, or explodes such items as a part of a personal or family celebration, shall be guilty of a class 3 misdemeanor. This section shall not apply to members of the armed forces acting within the scope of their duties, to persons using such materials for emergency signaling, or to persons involved in the operation of a railroad. This section shall not apply to the use or sale of sparklers, fountains, pharaoh's serpents, caps for pistols, or to pinwheels or whirligigs so long as such fireworks are ignited or exploded on private property with consent of the owner thereof. The Town Superintendent or other delegated officer shall have authority to issue permits for lawful fireworks exhibitions to be held by benevolent or fraternal groups, clubs, associations or organizations. (See Code of Virginia, §§ 15.2-1113, 15.2-2029 and 59.1-142 et seq.).

#### **CHAPTER 2** **Fire Prevention**

**§ 1-58. Accumulation of Combustible Materials.** No person shall permit any waste, paper, straw, litter, weeds, or any other combustible material to accumulate on property owned or occupied by him in such a manner as to create an unreasonable risk of fire. (See Code of Virginia, §§ 15.2-1113 and 15.2-1115).

**§ 1-59. Defective Chimneys, Etc.** No person shall permit a chimney, roof, or stove pipe to be in such condition as to create an unreasonable risk of fire. (See Code of Virginia, §§ 15.2-1113 and 15.2-1115).

**§ 1-60. Carrying of Open Flames.** No person shall ignite any open flame in or carry open flame into a building where combustible materials are stored openly. (See Code of Virginia, § 15.2-1118).

**§ 1-61. Open Fires.** No open fires shall be kindled within 50 feet of any building; nor shall any open fire be left unattended. This section shall not be construed as authorization for the starting of any fire. (See Code of Virginia, § 15.2-1118). (Amended December 9, 2013.)

**§ 1-62. Fires in Containers.** No fire in an approved container may be kindled or maintained within 25 feet of any structure or property line. This section shall not be construed as authorization for the starting of any fire. (See Code of Virginia, § 15.2-1118).

**§ 1-63. Deposit of Materials Likely to Cause Fires.** No person shall deposit hot ashes, smoldering coals, any flammable petroleum based material, or any other material likely to create or support a spontaneous ignition near any combustible material so as to create an unreasonable risk of fire. (See Code of Virginia, §§ 15.2-1113 and 15.2-1115).

**§ 1-64. Flammable Decorations.** Cotton batting, straw, dry vines, leaves, trees, celluloid, paper, or other readily flammable materials shall not be used for decorative purposes in show windows, stores, or any place of assembly unless such materials shall have first been treated and rendered flame-proof; provided, however, that nothing in this section shall be held to prohibit the display of saleable goods permitted and offered for sale in stores. Electric light bulbs in stores and in any place of assembly shall not be decorated with paper or other combustible materials unless such papers or materials shall first have been rendered flame-proof. (See Code of Virginia, §§ 15.2-1113 and 15.2-1115).

**§ 1-65. Penalties.** Any violation of this chapter shall constitute a class 2 misdemeanor and be punished in accordance with Section 4 of this title.

### **CHAPTER 3** **Animals**

**§ 1-66. Cruelty to Animals.** Any person who

- (a) (1) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with a bona fide scientific or medical experiment on any animal; or
- (2) cruelly or unnecessarily beats, maims or willfully deprives any animal of necessary substance, food, drink, or shelter; or
- (3) causes any of the above things, or being the owner of such animal permits such acts to be done by another, or
- (b) willfully instigates, engages in, or in any way furthers any act of cruelty to any animal; or
- (c) carries or causes to be carried in or upon any vehicle any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering

shall be guilty of a class 1 misdemeanor.

Any person who shall abandon any dog, cat, or other domesticated animal in any public place or on the property of another shall be guilty of a class 3 misdemeanor.

Nothing in this section shall be construed to prohibit the dehorning of cattle. (See Code of Virginia, § 3.1-796.122).

**§ 1-67. Fighting Cocks, Dogs or Other Animals.** Any person engaged in the fighting of cocks, dogs, or other animals, for money, prize, or anything of value, upon the result of which any money or other thing of value is bet or

wagered or to which an admission fee is charged, directly or indirectly, for any championship, shall be guilty of a class 3 misdemeanor. Attendance at the fighting of cocks, dogs or other animals where an admission fee is charged, directly or indirectly, shall also constitute a class 3 misdemeanor. (See Code of Virginia, §§ 3.1-796.124 and 3.1-796.125). (Amended April 5, 1999).

**§ 1-68. *Running at Large.***

- (a) No person shall permit any fowl or dog to be at large within the corporate limits of the town. For the purposes of this section, an animal may be deemed to be at large whenever it is off the property of its owner or custodian, and not under its owner's or custodian's immediate control.
- (b) Any owner or custodian violating paragraph (a) of this section shall be guilty of a class 3 misdemeanor and punished in accordance with § 1-4 of the town code.

(See Code of Virginia, § 3.1-796.93).

**§ 1-69. *Enforcement by County Animal Warden.*** The animal warden of Rockingham County is authorized to enforce all dog laws applicable within the town. (See Code of Virginia, § 3.1-796.104).

**CHAPTER 4**

**Fowl, chickens and other domestic birds**

**§ 1-70. *Legislative Intent.*** It is the purpose of this Chapter to regulate all fowl, chickens and other domestic birds within the corporate limits of the Town of Dayton to prevent the transmission of disease to the poultry industry and others, and to ensure that such uses do not disturb adjoining property owners.

**§ 1-71. *Definitions.*** Fowl is defined as any of various domestic birds by way of example but not limited to: chickens, roosters, ducks, geese, turkeys, guinea fowl, emus, rheas, ostriches, pigeons and pheasants.

**§ 1-72. *Domesticated Fowl Unlawful Except as Specifically Provided.*** It shall be unlawful for any person to keep, permit or allow any domesticated Fowl within the corporate limits of the Town, or to allow any domesticated Fowl to run at large within the corporate limits of the Town, except as specifically permitted below, and except as permitted by Chapter 11.1 of the A-1 Agricultural District and as permitted with special use permit in Chapter 12.1 of the A-2 Agricultural District. This Chapter shall not apply to indoor birds, such as, but not limited to, parrots or parakeets, or to the lawful transportation of Fowl through the corporate limits of the Town.

**§ 1-73. *Chickens Allowed with Permit Only and In Compliance with All Town Conditions.*** It shall only be lawful for a person to keep, permit or allow chickens within the corporate limits of the Town on residential property only, under the following terms and conditions:

- (1) No more than four chicken hens shall be allowed for each single-family dwelling. No chickens shall be allowed on townhouse, duplex, apartment or manufactured housing park properties. Chickens allowed under this section shall only be raised for domestic purposes and no commercial use such as selling eggs or selling chickens for meat shall be allowed. All such chickens shall be purchased from a licensed facility and proof thereof shall be provided to the Town upon request.
- (2) Each single-family dwelling shall contain at a minimum one-quarter acre of land.
- (3) No roosters shall be allowed.
- (4) There shall be no outside slaughtering of birds.

- (5) All chicken hens must be kept at all times in an enclosed secure movable or stationary pen that contains at a minimum four square feet per bird. Adequate shelter in a covered area shall be required.
- (6) All enclosed pens must be situated at least twenty-five feet from adjoining property lines and at least two hundred feet from any poultry processing and or related facilities and shall not be located in a storm drainage area that would allow fecal matter to enter any Town storm drainage system or stream.
- (7) All enclosed pens must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors. Once a permit is obtained pursuant to this section, the permittee agrees to semi-annual inspections by the Town, its agent, or the Virginia Department of Agriculture and Consumer Services veterinarians.
- (8) All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
- (9) Chicken litter and waste shall not be deposited in any trash container that is collected by any public or private waste collector and shall be disposed of by composting either on site or at the county landfill in accordance with the applicable permit. Also any dead bird shall not be deposited in any trash container that is collected by any public or private waste collector but shall be taken to the county landfill.
- (10) Persons wishing to keep chicken hens pursuant to this subsection must file an application with the Town, which application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Once the site and enclosures have been inspected and approved by the Town Zoning Administrator, a permit shall be issued by the Town Zoning Administrator, which permit shall be valid for one year. Each existing permit must be renewed annually by filing a renewal application with the Town and by having the Town Zoning Administrator make another inspection of the site.

**§ 1-74. Violations.** Any person found guilty of violating this Chapter shall be guilty of a Class 3 misdemeanor and subsequent violations of this Chapter by the same person shall constitute a Class 2 misdemeanor.