

# WINCHESTER CODE

## CHAPTER 14

### MOTOR VEHICLES AND TRAFFIC

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### ARTICLE I. IN GENERAL

#### **SECTION 14-1. COMPLIANCE WITH CHAPTER; GENERAL PENALTY FOR VIOLATIONS.**

It shall be unlawful for any person to violate any of the provisions of this chapter. Unless otherwise stated, a violation of this chapter shall constitute a traffic infraction punishable by a fine of not more than two hundred and fifty dollars (\$250.00). (Code 1959, §15-24; Ord. of 6-28-77; Ord. No. 019-2002, 8-13-02; Ord. No. 008-2004, 3-9-04)

**Charter reference--**Regulation of traffic, §16.

**Cross references--**Permit for commercial haulers of garbage and refuse, §11-2; injuring, tampering with, etc., vehicles, §14-11.1; posting advertising matter on or in vehicles, §14-15; use of loudspeakers on vehicles, §14-17; open storage of inoperative vehicles in certain zoning districts, §14-25; planning, Ch. 19; railroads, Ch. 22; streets and sidewalks, Ch. 26; vehicles for hire, Ch. 31.

**State Law References--**General authority of city to regulate traffic, Code of Virginia, §§46.2-1300--46.2-1313; Similar provisions applicable to violation of state traffic laws, Code of Virginia, §46.2-113; city prohibited from imposing penalty for traffic violation which is greater than penalty imposed by state for similar offense, Code of Virginia, §46.2-1300.

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### **SECTION 14-2. ARREST PROCEDURE FOR VIOLATIONS OF CHAPTER --GENERALLY.**

- (a) Whenever any person is arrested for a violation of any provision of this chapter, except §14-28, the arresting officer shall, except as otherwise provided in §14-3, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing, to appear at a time and place to be specified in such summons or notice, such time to be at least five (5) days after such arrest, unless the person arrested shall demand an earlier hearing, and such person shall, if he so desires, have a right to an immediate hearing or a hearing within twenty-four (24) hours, at a convenient hour and before a court having jurisdiction. Such officer shall thereupon and upon the giving by such person of his written promise to appear at such time and place, forthwith release him from custody. This section shall not apply to any violation for which a citation is issued pursuant to the authority of §14-54 and following.
- (b) Any person refusing to give such written promise to appear shall be taken immediately by the arresting or other police officer before the nearest or most accessible judicial officer or other person qualified to admit to bail having jurisdiction under this chapter.
- (c) Any person who willfully violates his written promise to appear given in accordance with this section shall be guilty of a misdemeanor, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.
- (d) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and subject to removal therefrom upon complaint filed by any person in a court of competent jurisdiction. This section shall not be construed to limit the removal of a police officer for other misconduct in office. (Code 1959, §12-27; Ord. No. 002-91, 1-15-91).

**Cross reference**--Use of above section for arrests for littering, §11-3.

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-936.

### **SECTION 14-3. SAME--WHEN ARRESTED PERSON TO BE TAKEN BEFORE JUDICIAL OFFICER.**

If any person arrested for a violation of any provision of this chapter is believed by the arresting officer to be likely to disregard a summons issued under §14-2, the arresting officer shall take such person forthwith before the nearest or most accessible judicial officer or other person qualified to admit to bail, in lieu of issuing the summons required by §14-2, and such judicial officer or other person shall determine whether or not probable

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cause exists that such person is likely to disregard a summons, and may issue either a summons or warrant as he shall determine proper. (Code 1959, §15-28).

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-940.

### **SECTION 14-4. SAME--TRAFFIC INFRACTIONS TREATED AS MISDEMEANORS FOR ARREST PURPOSES.**

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

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-937.

### **SECTION 14-5. ADOPTION OF STATE LAW.**

- (a) Pursuant to the authority of § 46.2-1313 of the Code of Virginia, all of the provisions and requirements of the laws of the state contained in Title 46.2 of the Code of Virginia, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can have no application to or within the City, are hereby adopted and incorporated in this chapter by reference and made applicable within the City.

References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the City. Such provisions and requirements are hereby adopted and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the City to violate or fail, neglect or refuse to comply with any provision of Title 46.2 of the Code of Virginia, which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 of the Code of Virginia.

- (b) All definitions of words and phrases contained in the state law hereby adopted shall apply to such words and phrases, when used in this chapter, unless clearly indicated to the contrary. (Ord. No. 007-90, 2-13-90)

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### **SECTION 14-6. APPLICABILITY OF CHAPTER TO VEHICLES REGARDLESS OF OWNERSHIP.**

The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles regardless of ownership, subject to such specific exceptions as are set forth in this chapter. (Code 1959, §15-2).

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-801.

### **SECTION 14-7. APPLICATION OF CHAPTER TO PERSONS RIDING BICYCLES OR ANIMALS OR DRIVING ANIMALS.**

Every person riding a bicycle or an animal upon a roadway and every person driving any animal thereon shall be subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions which, by their very nature, can have no application. (Code 1959, §15-3)

**Cross reference**--Animals, Ch. 5.

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-800.

### **SECTION 14-8. ENFORCEMENT BY POLICE; OFFICERS TO BE PAID FIXED AND DETERMINED SALARIES.**

Every police officer shall enforce the provisions of this chapter; provided, that such officer shall be uniformed at the time of such enforcement or shall display his badge or other sign of authority; and, provided further, that all officers making arrests incident to the enforcement of this chapter shall be paid fixed and determined salaries for their services and shall have no interest in, nor be permitted by law to accept the benefit of, any fine or fee resulting from the arrest or conviction of an offender against any provision of this chapter. (Code 1959, §15-5; Ord. No. 2011-21, 10-11-11).

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-102.

### **SECTION 14-9. AUTHORITY OF FIRE AND RESCUE DEPARTMENT OFFICIALS TO DIRECT TRAFFIC.**

Officers of the fire and rescue department may direct or assist the police in directing traffic at or in the immediate vicinity of a fire, and while so acting, shall have all the authority of peace officers. (Code 1959, §15-12; Ord. No. 2011-21, 10-11-11).

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### **SECTION 14-10. REPEALED.** (Ord. No. 19-2006, 5-3-06)

**Editor's Note** – Provisions of previous Section 14-10 have been re-enacted as Article IX, Sections 14-146 through 14-157.

### **SECTION 14-11. IDENTIFICATION OF VEHICLES IN FUNERAL PROCESSIONS; RIGHT-OF-WAY.**

- (a) All motor vehicles participating in a funeral procession, when proceeding to any place of burial, shall display illuminated headlamps thereon and such other identification as the City Manager may prescribe.
- (b) All motor vehicles so designated shall have the right-of-way over all other vehicles, except fire apparatus, ambulances and police vehicles, at any street or highway intersection within the City, and may proceed through a stop street or signalized intersection with proper caution and safety. (Code 1959, §15-14).

**State Law Reference**--Similar provisions and authority of city to provide for police escort for funeral processions, Code of Virginia, §46.2-828.

### **SECTION 14-12. BOARDING OR ALIGHTING FROM MOVING VEHICLES.**

No person shall board or alight from any vehicle while such vehicle is in motion. (Code 1959, §15-15).

### **SECTION 14-13. RIDING UPON PORTION OF VEHICLE NOT INTENDED FOR USE OF PASSENGERS.**

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise. (Code 1959, §15-16).

### **SECTION 14-14. DISPLAY OF VALID STATE LICENSE PLATES AND VALID STATE INSPECTION CERTIFICATE.**

It shall be unlawful for any person to operate or park any motor vehicle, trailer or semitrailer on any public street or public property unless the same shall display thereon valid state license plates and a valid state inspection certificate.

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Violations of this section shall be punishable by a fine of twenty-five dollars (\$25.00).  
(Ord. No. 016-94, 04-12-94)

**State Law Reference**--Code of Virginia, §§46.2-613, 46.2-1157, 46.2-1220.

### **SECTIONS 14-15. USE OF PHOTO-MONITORING SYSTEMS TO ENFORCE LAW AGAINST PASSING STOPPED SCHOOL BUSES, PENALTY.**

- (a) For purposes of this ordinance, “school division” means the Winchester City Public Schools. “Video-monitoring system” means a system with one or more camera sensors and computers installed and operated on a school bus that produces live digital and recorded video of motor vehicles being operated in violation of Code of Virginia, §46.2-859.
- (b) All such video-monitoring systems installed shall, at a minimum, produce a recorded image of the license plate and shall record the activation status of at least one warning device as prescribed in Code of Virginia, § 46.2-1090, and the time, date, and location of the vehicle when the image is recorded.
- (c) The operator of a vehicle shall be liable for a monetary civil penalty imposed in accordance with this ordinance, if such vehicle is found, as evidenced by information obtained from a video-monitoring system, to have failed to comply with Code of Virginia, § 46.2-859.
- (d) The school division may install and operate a video-monitoring system on any school bus operated by the division for the purpose of recording violations of Code of Virginia, § 46.2-859 and imposing monetary liability in accordance with Code of Virginia, § 46.2-844.B and the provisions in this ordinance.
- (e) The school division may also contract with a private vendor to install and operate such video-monitoring systems on behalf of the school division for the same purposes. Such agreement shall:
  - 1. Ensure adequate and proper retrieval, storage, and disposal of video-monitoring system recordings in accordance with this section;
  - 2. Specify the appropriate format, method and frequency of delivery of video recordings to designated and duly authorized law enforcement officers;
  - 3. Provide that the vendor shall on request of the City or the school division, submit a report to the City and the school division that includes, but is not limited to: (i) the total number of citations issued as a result of a violation

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detected and recorded by the monitoring system, and (ii) the total amount of funds collected.

- (f) Information collected by a video-monitoring system installed and operated pursuant to this section shall be limited exclusively to that information that is necessary for the enforcement of school bus stopping violations. Notwithstanding any other provision of law, all images or video or other personal information recorded by a video-monitoring system shall be used exclusively for enforcing school bus stopping violations pursuant to this ordinance, and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a school bus stopping violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of §§46.2-859 or 46.2-844 of the Code of Virginia, or is requested upon order from a court of competent jurisdiction.
- (g) Information collected under this ordinance pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of civil penalties. If an authorized law enforcement officer does not issue a summons or notice of violation within 10 business days of the date on which the violation of this section was recorded, all information collected pertaining to that suspected violation shall be purged.
- (h) The school division shall annually certify compliance with this ordinance, and shall make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee.
- (i) Violations of the foregoing sections shall carry a civil penalty of \$250 and shall be prosecuted in the same manner as prosecutions for traffic infractions. Such violations shall not be deemed a conviction as an operator and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall such violations be used for insurance purposes in the provision of motor vehicle insurance coverage.
- (j) Whenever a violation of Code of Virginia, § 46.2-859 is detected and recorded by a video-monitoring system operated in accordance with this ordinance, the vendor or school division shall promptly submit the recorded video to a law enforcement officer employed by the city and authorized to impose penalties pursuant to this ordinance for review. If, after such review, such law enforcement officer determines that there are reasonable grounds to believe that a violation of Code of Virginia, §46.2-859 has occurred, the officer may issue a summons or notice of violation by first-class mail to the address of the registered owner of the vehicle involved as shown on the records of the Department of Motor Vehicles.

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- (k) Any person who receives a summons or notice of violation from a law enforcement officer pursuant to this ordinance may waive his right to appear and be formally tried for the offense pursuant to Code of Virginia, § 16.1-69.40:1.B. The waiver shall be effective when the person voluntarily pays \$250.00 to the city treasurer's office within 15 business days after receipt of the summons or notice of violation.
- (l) In any prosecution pursuant to this ordinance, proof that the vehicle described in such summons or notice was operated in violation of this ordinance, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.), shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation. A photographic or digital still or video image recorded by a video-monitoring system that clearly shows the license plate number of a vehicle violating Code of Virginia, § 46.2-859 shall be sufficient proof of the identity of such vehicle for purposes of this ordinance.
- (m) Notwithstanding the exception in Code of Virginia, § 46.2-1308, all fines imposed for violations of this ordinance, shall be paid into the city treasury. The city treasurer shall remit to the school division all fine amounts received in respect to the violations of this section after crediting the city's general fund with amount equal to the costs incurred in administering the video enforcement measures under this ordinance.
- (n) Prosecution under this ordinance, shall not be permitted where a prosecution or proceeding for the same act has otherwise been initiated under Code of Virginia, § 46.2-859.  
(Ordinance No. 2014-02, 2-11-14)

**14-16. RESERVED.**

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## ARTICLE II. MOTOR VEHICLE LICENSE

### SECTION 14-17. MOTOR VEHICLE LICENSES.

(a) Definitions.

For the purposes of this section, the following terms shall have the following meanings:

*Situs* a vehicle, as described herein, shall have situs in the City of Winchester if it is normally garaged, stored or parked within the City. If it cannot be determined where the vehicle is normally garaged, stored or parked, the situs shall be the domicile of its owner. In the event the owner of the vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the vehicle in his domicile.

*Vehicle* any motor vehicle, as defined by Virginia Code §46.2-100, as such section may be amended from time to time.

(b) The application for the license and for each annual renewal shall be made to the Commissioner by mail or in person, on forms provided by the Commissioner, and shall contain the same information as that appearing on the state automobile registration card.

(c) The license fee on vehicles shall be as follows:

1. Motor vehicles, including automobiles, less than 10,000 pounds: For Personal Property Tax Years prior to and including 2013: \$24.00; for Personal Property Tax Years commencing with 2014: \$25.00
2. Motor vehicles 10,000 pounds or more: \$36.00
3. Two or three wheel motor vehicles: \$12.00
4. Motor homes. Greater than 10,000 pounds; and buses used exclusively for transportation to and from religious school or church or other place of worship, for the purpose of divine worship, greater than 10,000 pounds: \$30.00
5. Antique motor vehicles registered, licensed, and used as such pursuant to Section 46.2-730 of the Code of Virginia, 1950, as amended: \$10.00

(d) Any license not purchased by the dates specified herein shall be increased by \$5.00. (enabling increase amount)

(e) Every vehicle displaying valid dealers' number plates shall be exempt from this license fee.

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- (f) Any person who fails to comply with this section shall be guilty of a Class 4 misdemeanor and each day's failure to do so shall be a separate offense.
- (g) Violation of this ordinance may, at the discretion of the officer, be processed in the same manner as provided in Sections 14-54, 14-55, and 14-56 of this Code, but such violation may not be, regardless of how they are initiated or processed, discharged by payment of a fine, alone, except upon presentation of satisfactory evidence that the required license has been obtained. When processed as provided in said Section 14-54, 14-55, and 14-56, the prepayment amount for such violations shall be Twenty-Five Dollars (\$25.00).

(Ord. No. 044-88, 11-15-88; Ord. No. 022-92, 11-10-92; Ord. No. 041-93, 11-09-93; Ord. No. 003-96, 04-09-96; Ord. No. 024-2000, 11-16-00; Ord. No. 013-2001, 04-10-2001; Ord. No. 2007-24, 07-10-07; Ord. No. 2011-21, 10-11-11; Ord. No. 2014-16, 6-10-14)

**State Law References**--Code of Virginia, §§46.2-694, 46.2-752, 46.2-755.

**SECTION 14-18. REPEALED.**  
(Ord. No. 2014-16, 6-10-14)

**SECTION 14-19. REPEALED.**  
(Ord. No. 2007-24, 07-10-07)

**SECTION 14-20. REPEALED.**  
(Ord. No. 2007-24, 07-10-07)

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### **SECTION 14-21. MOTOR VEHICLE LICENSES (ISSUED WITHOUT FEE).**

No City license fee shall be imposed for any one vehicle owned and used personally by any veteran who holds a current State Motor Vehicle Registration Card establishing that he had received a disabled veteran's exemption form from the Division of Motor Vehicles, and has been issued a disabled veteran's motor vehicle license plate. (Ord. No. 044-88, 11-15-88; Ord. No. 022-92, 11-10-92)

**State Law Reference**--Code of Virginia, §46.2-755.

### **SECTION 14-22. EXEMPTIONS.**

No motor vehicle license fee shall be imposed on any motor vehicle, trailer, or semitrailer when:

- (a) A similar fee is imposed by the county, city or town wherein the vehicle is normally garaged, stored or parked;
- (b) The vehicle is owned by a nonresident of the City and is used exclusively for pleasure or personal transportation and not for hire or for the conduct of any business or occupation other than that set forth in subdivision (c) of this section;
- (c) The vehicle is (i) owned by a nonresident of the City and (ii) used for transporting into and within the City, for sale in person or by his employees, wood, meats, poultry, fruits, flowers, vegetables, milk, butter, cream, or eggs produced or grown by him, and not purchased by him for sale;
- (d) The motor vehicle, trailer, or semitrailer is owned by an officer or employee of the Commonwealth who is a nonresident of the City and who uses the vehicle in the performance of his duties for the Commonwealth under an agreement for such use;
- (e) The motor vehicle, trailer, or semitrailer is kept by a dealer or manufacturer for sale or for sales demonstration;
- (f) The motor vehicle, trailer, or semitrailer is operated by a common carrier of persons or property operating between cities and towns in the Commonwealth and not in intracity transportation or between cities and towns on the one hand and points and places outside cities and towns on the other and not in intracity transportation. (Ord. No. 022-92, 11-10-92)

**State Law Reference**--Code of Virginia, §46.2-755.

### **SECTION 14-23. REPEALED.**(Ord. No. 2007-24, 07-10-07)

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### SECTION 14-24. RESERVED.

### ARTICLE III. OPERATION OF VEHICLES GENERALLY

### SECTION 14-25. STOP AND YIELD INTERSECTIONS.

The City Manager or his designee shall designate intersections at which vehicles shall come to a full stop or yield the right-of-way and cause such intersections to be marked by appropriate signs or signals. The duty of drivers approaching such signs or signals shall be as prescribed by the State law adopted by Section 14-5. (Code 1959, §§15-94, 15-95; Ord. of 7-13-76; Ord. No. 2011-21, 10-11-11).

**State Law Reference**--Authority for above section, Code of Virginia, §46.2-1301.

### SECTION 14-26. ONE-WAY STREETS.

- (a) The following streets are hereby established and designated as one way streets and, except as otherwise herein provided, it shall be unlawful for any vehicles to be driven or moved on such streets in a direction other than as herein set forth:
1. *Baker Street*, from West Lane to Kent Street, westbound.
  2. *Boscawen Street*, between Indian Alley and Cameron Street, eastbound.
  3. *Cameron Street*, from Oates Avenue to North Loudoun Street, northbound.
  - 4-a. *Charles Street*, from Smithfield Avenue to Fairview Avenue, eastbound.
  - 4-b. *Church Alley*, between Braddock Street and Indian Alley, westbound.
  - 4-c. *Gerrard Street*, between Kent Street and Millwood Avenue, westbound.
  5. *Gibbens Street*, from Loudoun Street to Cameron Street, eastbound.
  6. *Handley Avenue*, from Handley Boulevard to Briarmont Street, northbound.
  - 6-a. *Highland Avenue*, from Liberty Street to National Avenue, southbound.
  - 6-b. *Fairfax Lane*, from Fairmont Avenue to North Braddock Street; eastbound; and from North Cameron Street to East Lane, eastbound.
  - 6-c. *Fairfax Alley*, between North Cameron and North Kent Streets, westbound
  - 6-d. *Fairview Avenue*, from National Avenue to Virginia Avenue, northbound.
  - 6-e. *Franklin Street*, from Pine Street to Elm Street, eastbound.
  7. *Indian Alley*, from Cork Street to Fairfax Lane, northbound.
  - 7-a. *Joist Hite Place*, from Academy Street to Lee Street, eastbound.
  8. *Latane Street*, from Cork Street to Joist Hite Place, northbound.
  - 8-a. *Lee Street*, from Joist Hite Place to Cork Street, southbound.
  - 8-b. *Loudoun Street*, from Piccadilly Street to Cork Street, southbound.
  9. *Morgan Street*, from Amherst Street to Piccadilly Street, northbound.
  - 9-a. *Opequon Avenue*, between Cork and Leicester Street, southbound.
  10. *Piccadilly Street*, from Morgan Street to Fairmont Avenue, eastbound.
  11. *Shawnee Avenue*, from Cork Street to Leicester Street, southbound.

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12. *Shenandoah Avenue*, between Pall Mall Street and Cork Street, northbound.
13. *Shirley Street*, from Joist Hite Place to Cork Street, southbound.
14. *Southwerk Street*, from Valley Avenue to South Loudoun Street, eastbound.
15. *Valley Avenue*, from Braddock Street to Gerrard Street, eastbound.

(Ord. No. 003-83, 2-08-83; Ord. No. 017-84, 9-11-84; Ord. No. 027-2002, 10-8-02; Ord. No. 006-2003, 01-14-03; Ord. No. 017-2003, 05-13-03; Ord. No. 2008-49, 12-9-08; Ord. No. 2009-31, 10-13-09; Ord. No. 2013-20, 7-16-13; Ord. No. 2016-12, 4-26-16)

- (b) The public works director is authorized and directed to provide such signs on the one-way streets designated in this section as will apprise an ordinarily observant person of such one-way streets. This section shall become effective as to any such one-way street when signs have been provided therefor as set out herein.  
(Ord. No. 041-93, 11-09-93)
- (c) When it can be demonstrated to the satisfaction of the Chief of Police or his duly authorized representative that the strict enforcement of this section will cause an unreasonable hardship on some particular person relative to the loading or unloading of trucks or other vehicles on one-way streets, then in such event the Chief of Police, or his duly authorized representative, is authorized to issue a special permit to such person permitting a variance from the provisions of this section. Any such special permit shall be in writing and shall specify the nature of such variance and the place and period of time when such variance shall be permitted. Such permit shall only be issued when it can be demonstrated to the Chief of Police, or his duly authorized representative, that the granting of such permit will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience to the person who seeks such permit. (Code 1959, §§15-92, 15-93; Ord. of 7-13-76; Ord. of 10-11-77).

**Cross reference--**One-way traffic on Loudoun Street Mall, §26-33.

### **SECTION 14-27. SPECIAL SPEED LIMITS ON CERTAIN STREETS.**

- (a) Upon the following streets and highways within the City, between the points hereinafter indicated, the indicated maximum speed limit is hereby established, and no person shall drive a vehicle between such points in excess of such maximum speed limit:
  1. Ten (10) miles per hour on the following streets and highways:
    - a. *Loudoun Street* from Piccadilly Street to Cork Street.
  2. Fifteen (15) miles per hour on the following streets and highways:
    - a. All streets and highways within the Jim Barnett Recreation Park Area.

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- b. *Jolley Lane*, from East Lane to Lincoln Street.
  - c. *Glaize Avenue* from South Loudoun to its endpoint.
3. Twenty-five (25) miles per hour on the following streets and highways:
- a. *Amherst Street*, from Wood Avenue to Boscawen Street.
  - b. *Berryville Avenue*, from Dunlap Street to National Avenue.
  - c. *Braddock Street*, from Piccadilly to Gerrard Street.
  - d. *Cameron Street*, from Millwood Avenue to the north corporate limits of the City.
  - e. *Cork Street*, from the east corporate limits of the City to East Lane.
  - f. *Fox Drive*, from the corporate limits of the City to its intersection with Amherst Street.
  - g. *Fairmont Avenue*, from the north corporate limits of the City to Piccadilly Street.
  - h. *Featherbed Lane*, from Pleasant Valley Road to its intersection with Loudoun Street.
  - i. *Jubal Early Drive*, the portion west of Valley Avenue to its intersection with Meadow Branch Avenue.
  - j. *Loudoun Street*, from its intersection with North Cameron Street to Montague Avenue.
  - k. *Merrimans Lane*, from Amherst Street to the City limits.
  - l. *Millwood Avenue*, from the CSX Railroad crossing to Cameron Street.
  - m. *Papermill Road*, from Pleasant Valley Road to the east corporate limits of the City.
  - n. *Valley Avenue*, from Gerrard Street to Jubal Early Drive.
4. Thirty-five (35) miles per hour on the following streets and highways:
- a. *Amherst Street*, from Wood Avenue to the west corporate limits of the City.
  - b. *Apple Blossom Drive*, from Millwood Avenue to the entrance of Apple Blossom Mall.
  - c. *Battaile Drive*, from the western intersection with Shawnee Drive to the eastern intersection with Shawnee Drive.
  - d. *Berryville Avenue*, from Dunlap Street to the east corporate limits of the City.
  - e. *Cedar Creek Grade*, from Valley Avenue to the west corporate limits of the City.
  - f. *Jubal Early Drive*, from Millwood Avenue to Pleasant Valley Road.
  - g. *Jubal Early Drive*, from South Loudoun Street to Valley Avenue.
  - h. *Millwood Avenue*, from the CSX Railroad tracks to the east corporate limits of the City.

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- i. *Middle Road*, from Valley Avenue to the west corporate limits of the City.
  - j. *Papermill Road*, from its intersection with Weems Lane to Pleasant Valley Road.
  - k. *Pleasant Valley Road*, from Millwood Avenue to Papermill Road.
  - l. *Shawnee Drive*, from Papermill Road to the south corporate limits of the City.
  - m. *Valley Avenue*, from Jubal Early Drive to the south corporate limits of the City.
  - n. *Weems Lane*, from Papermill Road to Valley Avenue.
5. Forty (40) miles per hour on the following streets and highways:
- a. *Jubal Early Drive*, from Pleasant Valley Road to South Loudoun Street.
  - b. *Pleasant Valley Road*, from Berryville Ave. to Millwood Avenue.
- (b) The foregoing special speed limitations for the areas hereinbefore set out have been fixed by the council by reason of congestion, curves, right angle turns, or other dangerous points on the streets and highways within such areas, or by reason of the lack of such conditions on the streets and highways within such areas, as the case may be, and the council hereby declares that the foregoing special speed limits for such areas are based upon engineering and traffic investigation of such areas.
- (c) The public works director is hereby authorized and directed to cause such signs to be erected on streets and highways otherwise marked so as to clearly indicate the speed limits fixed in subsection (a) of this section. After such signs have been erected, or the streets otherwise marked, it shall be unlawful for any person to exceed the limits set out herein.
- (d) In every charge of violation of any provision of this section, the complaint, and also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven and the speed limits applicable within the district or at the location. (Code 1959, §§15-30, 15-63; Ords. of 3-09-71; 4-11-72; 9-01-72; 2-11-75; 3-09-76; Ord. No. 010-84, 5-15-84; Ord. No. 008-86, 6-10-86; Ord. No. 009-90, 3-13-90; Ord. No. 051-91, 12-10-91; Ord. No. 009-92, 6-09-92; Ord. No. 006-93, 2-09-93; Ord. No. 041-93, 11-09-93; Ord. No. 034-96, 12-10-96; Ord. No. 002-97, 01-14-97; Ord. No. 018-2003, 5-13-03; Ord. No. 036-2003, 11-11-03; Ord. No. 001-2004, 1-13-04; Ord. No. 041-2004, 9-14-04; Ord. No. 003-2006, 1-10-06; Ord. No. 14-2006, 4-11-06; Ord. No. 2011-31, 8-9-11; Ord. No. 2011-21, 10-11-11; Ord. No. 2013-20, 7-16-13)

**State Law Reference**--Authority of city to alter speed limits established by state law, Code of Virginia, §46.2-1300.

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### **SECTION 14-28. DRIVING WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS; ADOPTION OF STATE LAW.**

Article 2 (Section 18.2-266, *et seq.*) of Chapter 7 of Title 18.2, Code of Virginia, is hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the City to violate or fail, neglect, or refuse to comply with any section of the Code of Virginia, as adopted by this section.

**State Law References**--General authority of city to prohibit operation of vehicles while under the influence of alcohol or drugs, Code of Virginia, §15.1-132; authority to adopt state law on the subject, Code of Virginia, §46.2-1313.

### **SECTION 14-28.1. REIMBURSEMENT OF EXPENSES INCURRED IN RESPONDING TO DUI INCIDENTS AND OTHER TRAFFIC INCIDENTS**

- (A) Pursuant to Section 15.2-1716 of the Code of Virginia, 1950, as amended, a person convicted of violating any of the following provisions shall be liable for restitution at the time of sentencing or in a separate civil action to the City of Winchester or to any responding volunteer fire and rescue squad, or both, for reasonable expenses incurred by the City of Winchester for responding law enforcement, firefighting, rescue, and emergency services, including by the Winchester Sheriff's Office, or by any volunteer fire or rescue squad, or by any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation:
- (1) The provisions of Virginia §§18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02, or a similar ordinance, when such operation of a motor vehicle, engine, train, or watercraft while so impaired is the proximate cause of the accident or incident;
  - (2) The provisions of Article 7 (Virginia Code §46.2-852, *et seq.*) of Chapter 8 of Title 46.2 relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;
  - (3) The provisions of Article 1 (Virginia Code §46.2-300, *et seq.*) of Chapter 3 of Title 46.2 relating to driving without a license or driving with a suspended or revoked license; and
  - (4) The provisions of Virginia Code §46.2-894 relating to improperly leaving the scene of an accident.
- (B) Personal liability under this section for reasonable expenses of an appropriate emergency response shall not exceed \$1,000 in the aggregate for a particular accident or incident occurring in the City of Winchester. In determining the "reasonable expenses", the City of Winchester may bill a flat fee of \$250 or a minute-by-minute accounting of the actual costs incurred. As used in this section,

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“appropriate emergency response” includes all the costs of providing law-enforcement, fire-fighting, rescue, and emergency medical services. The court may order as restitution the reasonable expenses incurred by the City of Winchester for responding law enforcement, fire-fighting, rescue, and emergency medical services.

- (C) The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the City of Winchester, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident not involving impaired driving, operation of a vehicle, or other conduct as set forth herein.

(Ord. No. 012-2002, 05-14-02; Ord. No. 031-2006, 10-10-06)

**State Law Reference** – Authority for above section, Code of Virginia, §15.2-1716

### **SECTION 14-29. LIMITATION ON BACKING.**

The operator of a vehicle in the City shall not back such vehicle unless such movement can be made with safety and without interfering with other traffic. (Code 1959, §15-40).

### **SECTION 14-30. BLOCKING INTERSECTIONS.**

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing any traffic control signal indication to proceed. (Code 1959, §15-41).

### **SECTION 14-31. THROUGH TRUCKS OVER 36 FEET LONG AND THROUGH SEMITRAILERS PROHIBITED ON CITY STREETS; EXCEPTIONS.**

Trucks over thirty six (36) feet in length and Semitrailers, as defined in Va Code §46.2-100, are prohibited from using all City streets or portions of City streets except for the purpose of arriving to or departing from a truck terminal within the City limits, receiving loads within the City limits, or making deliveries within the City limits. This prohibition shall not apply upon City roadways designated by FHWA as part of the National Network as defined in 23 CFR 658 Appendix A.

(Code 1959, §15-96; Ord. No. 003-79, 1-9-79; Ord. No. 013-82, 8-10-82; Ord. No. 2009-90, 3-13-90; Ord. No. 041-93, 11-09-93; Ord. No. 2010-66, 12-14-10)

**State Law Reference**--Authority to designate truck routes, Code of Virginia, §46.2-1304.

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### SECTION 14-31.1. LOCAL TRUCKS AND SEMITRAILERS TO USE DESIGNATED CITY STREETS

All Trucks and Semitrailers, as defined in Va Code§ 46.2-100 not otherwise prohibited per §14-31 shall proceed along the truck routes listed below until the closest intersection of the street(s) upon which they are conducting business:

1. *Amherst Street*, from Boscawen Street to the west corporate limits of the City.
2. *Apple Blossom Drive*, from Millwood Avenue to Jubal Early Drive.
3. *Battaile Drive*
4. *Berryville Avenue*
5. *Boscawen Street*, from Amherst Street to Kent Street.
6. *Braddock Street*, from Piccadilly Street to Valley Avenue.
7. *Cameron Street*, from Gerrard Street to North Loudoun Street.
8. *Cedar Creek Grade*
9. *Commercial Street*
10. *East Lane*, from Piccadilly Street to National Avenue.
11. *Fairmont Avenue*, from the north corporate limits of the City to Wyck Street.
12. *Fort Collier Road*
13. *Gerrard Street*, from Braddock Street to Cameron Street.
14. *Jubal Early Drive*, from Millwood Avenue to Valley Avenue.
15. *Middle Road*
16. *Millwood Avenue*
17. *National Avenue*, from East Lane to Berryville Avenue.
18. *North Loudoun Street*, from the north corporate limits of the City to Wyck Street.
19. *Papermill Road*
20. *Piccadilly Street*, from Braddock Street to East Lane.
21. *Pleasant Valley Road*, from Berryville Avenue to Papermill Road.
22. *South Loudoun Street* from Commerce Street to Weems Lane.
23. *Shawnee Drive*
24. *Valley Avenue*
25. *Weems Lane*
26. *Wyck Street*

(Ord. No. 041-93, 11-09-93; Ord. No. 2010-66, 12-14-10)

### SECTION 14-32. SNOW EMERGENCY ROUTES DESIGNATED.

The following streets within the City are to be designated as snow emergency routes and posted according to state standards at intervals of not less than one thousand, five hundred (1,500) feet as specified in the Virginia Manual on Uniform Traffic Control Devices for Streets and Highways:

1. *Amherst Street*, from Boscawen Street to Route 37 (U. S. Route 50).
2. *Boscawen Street*, from Braddock to Amherst Street (U. S. Route 50).

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3. *Braddock Street*, from Boscawen Street to Valley Avenue (U.S. Routes 50 and 11).
4. *Valley Avenue*, from Loudoun Street to corporate limits (U.S. Route 11).
5. *Gerrard Street*, from Braddock Street to Cameron Street (U.S. Routes 50 and 11).
6. *Millwood Avenue*, from Cameron Street to Frontage Road (U.S. Routes 17 and 50).
7. *Cameron Street*, from Gerrard Street to Loudoun Street (U.S. Route 11).
8. *Loudoun Street*, from Cameron Street to corporate limits (U.S. Route 11).
9. *Fairmont Avenue*, from Piccadilly Street to corporate limits (U.S. Route 522).
10. *Piccadilly Street*, from Fairmont Avenue to East Lane (U.S. Routes 50, 7, and 522).
11. *East Lane*, from Piccadilly Street to National Avenue (U.S. Route 7).
12. *National Avenue*, from East Lane to Berryville Avenue (U.S. Route 7).
13. *Berryville Avenue*, from National Avenue to Ross Street (U.S. Route 7).
14. *Stewart Street*, from Gerrard Street to Boscawen Street.
15. *Washington Street*, from Gerrard Street to Fairfax Lane.
16. *Cork Street*, from Washington Street to Academy Lane.
17. *Clifford Street*, from Washington Street to Handley Avenue. (Ord. of 6-14-78)

### **SECTION 14-33. OPERATION OF MOTOR VEHICLES DURING SNOW EMERGENCY; CLEARING OF STREETS; DURATION OF EMERGENCY.**

- (a) Whenever the City Manager declares snow plan B or C effective, it shall be unlawful for any person to operate a motor vehicle, which is not equipped with effective tire chains or effective snow treads, on any of the streets or alleys within the City.
- (b) When snow plan B is declared, the public works department shall use the best possible equipment and methods to clear the streets and highways in the City, beginning with the snow emergency routes in the order listed in snow plan B.
- (c) Snow emergency procedures shall remain in effect until all snow emergency routes have been declared clear by the City Manager, not to exceed twenty-four (24) hours from the last snow.
- (d) During the period from the time snow plan B is declared until the time snow emergency routes are declared clear, it shall be unlawful for any person to park or abandon a vehicle on any snow emergency route designated by this article, or to obstruct or impede traffic on any snow emergency route designated by this article, when such vehicle is not equipped with effective snow tires or chains.
- (e) Notwithstanding any other provision of this Code, upon information that a vehicle is parked, stalled, stuck or abandoned on any snow emergency route designated by

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this article, during the time snow plan B or C is in effect, the Chief of Police shall authorize immediate removal and storage of the vehicle.

- (f) The cost of removing and storing any vehicles towed or otherwise removed under subsection (e) of this section shall be charged to the owner and shall be due and payable prior to the release of any such vehicle to the owner.
- (g) Any person convicted of violating any provision of this section shall be fined not more than twenty-five dollars (\$25.00) for each offense. (Code 1959, §22-21.2; Ord. of 6-14-78)

**State Law Reference**--Regulation of operation of vehicles in snow, sleet, etc.; Code of Virginia, §46.2-1302.

**SECTION 14-34. REPEALED.**  
(Ord. No. 036-99, 12-14-99)

**SECTIONS 14-35 - 14-44. RESERVED.**

## **ARTICLE IV. STOPPING, STANDING AND PARKING**

### **DIVISION 1. GENERALLY**

**SECTION 14-45. GENERAL AUTHORITY OF CHIEF OF POLICE  
RELATIVE TO PARKING.**

The Chief of Police is hereby authorized and directed to determine and define street areas within which the volume of vehicular traffic is such as to require restrictions upon the parking of vehicles; to classify vehicles with reference to parking; to designate the time, place and manner in which such vehicles may be allowed to park upon the streets; and to make such rules and regulations, not inconsistent with any provision of this article or other ordinance, as traffic conditions may require in various areas and under the varying conditions which may prevail at different times. It shall be the duty of the public works director, upon the promulgation of such regulations and before the same shall become effective, to give such public notice thereof, by establishing and posting signs or otherwise, as may be reasonably adequate to make clear to the operators of vehicles in "no parking" or "restricted parking" areas the existence, nature and requirements of such regulations. From and after the effective date of such regulations, it shall be unlawful for any person to stop or park any vehicle in any restricted or prohibited area otherwise than

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in accordance with such regulations and the signs or other markings so posted. (Code 1959, §15-97; Ord. of 7-13-76; Ord. No. 041-93, 11-09-93)

**State Law Reference**--Authority for above section, Code of Virginia, §46.2-1220.

**Editor's Note**--Provisions of previous Section 14-34 has been re-enacted as Section 26-33.

### **SECTION 14-46. PARKING PROHIBITED IN SPECIFIED PLACES.**

- (a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:
1. On a sidewalk.
  2. In front of a public or private driveway.
  3. Within an intersection.
  4. Within fifteen (15) feet of a fire hydrant.
  5. On a crosswalk.
  6. Within twenty (20) feet of a crosswalk at an intersection.
  7. Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.
  8. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.
  9. Within fifty (50) feet of the nearest rail of a railroad grade crossing.
  10. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of the entrance, when properly sign posted.
  11. Alongside or opposite any street excavation or obstruction, when such parking would obstruct traffic.
  12. On the roadway side of any vehicle parked at the edge or curb of a street.

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13. Upon any bridge or other elevated structure upon a street or highway or within a tunnel.
14. At any place where official signs prohibit parking, or at any place where the side of the street or adjacent curb is painted solid yellow.
15. In any fire lane or traffic lane, where indicated by markers or signs.
  - (b) No person other than a police officer shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful.
  - (c) Any vehicle parking within fifteen (15) feet of a fire hydrant or in a fire lane, in violation of subsection (a)(4) or (a)(15) of this section, may be removed by or under the direction of the police department, where such removal is indicated by "tow-away zone" signs. (Code 1959, §§15-32, 15-99; Ord. of 4-12-77; Ord. No. 023-91, 5-14-91)

**Cross references**--Stopping or parking conveyance carrying live animals prohibited during certain hours, §5-5; open storage of inoperative vehicles in certain zoning districts, §14-25; parking of house trailers and mobile homes, §14-26; standing of vehicles on railroad tracks, §22-3.

**State Law References**--General authority of city to regulate parking, Code of Virginia, §46.2-1220; Parking in prohibited places, Code of Virginia, §46.2-1239. *See* 46.2-1237 authorizing City to prohibit parking in handicapped spaces

### **SECTION 14-47. PARKING OF TRUCKS IN RESIDENTIAL SECTIONS OR IN FRONT OF CHURCHES.**

- (a) It shall be unlawful for any person to park any truck or trailer, defined below on any street in a residential district or on any street in front of any church or place of worship. (Ord. No. 041-93, 11-09-93)

For the purposes of this section.

1. The term truck shall mean any truck as defined in Virginia Code §46.2-100;
  2. The term trailer shall mean any trailer or semitrailer as defined in Virginia Code §46.2-100, having a total length of twelve (12) feet or more, including tongue and hitch. (Ord. No. 001-97, 1-14-97)
- (b) The provisions of this section shall not apply to trucks while making deliveries or pickups of materials and commodities. (Code 1959, §15-103)

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**Cross reference--**Standing of vehicles on railroad tracks, §22-3.

**State Law Reference--**Authority to regulate parking, Code of Virginia, §46.2-1220.

### **SECTION 14-48. PARKING FOR SALE OF AGRICULTURAL PRODUCTS.**

The Chief of Police shall have the power to designate streets, parts of streets or other areas where vehicles may be parked for the sale of agricultural products. It shall be unlawful for any person to park any vehicle for the sale of agricultural products except in those areas or those streets or parts of streets so designated by the Chief of Police. (Code 1959, §15-101)

### **SECTION 14-49. LIGHTS ON PARKED VEHICLES.**

No lights need be displayed on any vehicle parked in accordance with the provisions of this article. (Code 1959, §15-110).

**State Law Reference--**Authority for above section, Code of Virginia, §46.2-1037.

### **SECTION 14-50. PARKING, STOPPING, OR STANDING ON PRIVATE PROPERTY; PARKING IN "HANDICAPPED ONLY" SPACE**

- (a) No person shall stand or park a vehicle on any private lot or lot area without the express or implied consent of the owner thereof. Whenever signs or markings have been erected on any lot or lot area contiguous or adjacent to a street, thoroughfare, or alley indicating that no vehicles are permitted to stand thereon, it shall be unlawful for any person to drive a vehicle across any curb or lot line or over any driveway from a street or alley into such lot or lot area for the purpose of standing or parking such vehicle, or for any person to stop, stand, or park any vehicle in such lot or lot area.
- (b) No person shall stand or park a vehicle in any parking space posted for "Handicapped Parking Only" or like designation unless such vehicle bears (i) State license plates with "handicapped" designation; or (ii) State decal or placard designating handicapped use. Police officers may issue a summons for vehicles parked in spaces reserved for use by the handicapped and not identified as prescribed herein without the necessity of a warrant being obtained by the owner of any private parking lot or lot area. When any such summons is paid pursuant to §14-55 of this Code, the fine shall be as indicated in §14-55(b)(3); otherwise, any person convicted of violating this subsection shall be punished by a fine of not

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less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00). (Code 1959, §15-102; Ord. No. 005-84, 3-13-84; Ord. No. 019-2002, 8-13-02).

**Cross Reference** - - Volunteer Disabled Parking Units – §20-4

**State Law References**--Authority for above subsection (b) - Code of Virginia, §46.2-1237, § 46.2-1239.

### **SECTION 14-51. BACKING TO CURB.**

No vehicle shall be backed up to a curb, except during the time actually engaged in loading or unloading merchandise therefrom; provided, however, that on Loudoun Street, between Piccadilly and Cork Street, no vehicle shall be backed up to a curb for any purpose, without a special permit from the police department. (Code 1959, §15-102).

### **SECTION 14-52. LOADING ZONES, BUS STOPS AND TAXICAB STANDS - DESIGNATION.**

- (a) The Chief of Police is hereby authorized, when in his judgment it is in the public interest to do so, to set apart on any of the streets of the City spaces for loading and unloading merchandise, bus stops, taxicab stands, and other like places in which no general parking shall be permitted or in which parking time is limited.
- (b) It shall be the duty of the public works director, upon the promulgation of regulations under this section, and before the same shall become effective, to give such public notice thereof by establishing and posting or erecting signs or otherwise as may be reasonably adequate to make clear to the operators of vehicles the nature and requirements of such regulations, and to maintain such signs. (Ord. No. 041-93, 11-09-93)
- (c) The designation of taxicab stands under this section shall be subject to the provisions of Section 31-25 of this Code. (Code 1959, §15-98; Ord. of 7-13-76).

### **SECTION 14-53. SAME - MANNER OF USE.**

- (a) Where a loading and unloading zone has been set apart and properly designated and identified pursuant to Section 14-52, the following regulations shall apply with respect to use of such areas:
  - 1. No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and the delivery or pickup and loading materials, in any place marked as a curb loading zone during

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hours when the provisions applicable to such zones are in effect. All delivery vehicles, other than regular delivery trucks using such loading zones, shall be identified by the owner's or company's name in letters three (3) inches high on both sides of the vehicle.

2. The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers or bundles when such stopping does not interfere with any vehicle used for transportation of materials which is waiting to enter or is about to enter such loading space.
- (b) Where a bus stop or taxicab stand has been set apart and is properly designated and identified pursuant to Section 14-52, the following regulations shall apply to the use thereof: No person shall stop, stand or park a vehicle, other than a bus, in a bus stop or other than a taxicab in a taxicab stand, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading or unloading of passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone. (Code 1959, §§15-106, 15-107).

### **SECTION 14-54. PARKING TICKETS.**

Whenever any vehicle without a driver is found parked in violation of any provision of this article, or in violation of §14-11 Article II, 14-17, *et seq.*, 14-59, or 14-60 of this chapter, the officer finding such vehicle shall take the number of the parking meter, if any, at which the vehicle is parked and the license number of such vehicle, and may take any other information displayed on the vehicle which may identify its operator, and shall conspicuously affix to such vehicle a traffic citation or notice, in writing, on a form provided for that purpose. Such notice shall specify the violation and shall inform the operator when and where he may report with reference to such violation. Such officer shall give a proper accounting of each and every traffic citation or notice, report the violation to the police department, and make proper complaint. (Code 1959, §§15-29, 15-126; Ord. No. 021-88, 4-12-88; Ord. No. 002-91, 1-15-91; Ord. No. 2011-21, 10-11-11).

### **SECTION 14-55. VOLUNTARY PAYMENT OF PARKING FINE.**

- (a) The operator of any vehicle to which a citation or notice is attached pursuant to §14-54 may waive his right to appear and to be formally tried for the offense as set forth in the citation or notice, and upon voluntary payment of the fine prescribed by subsection (b) below within forty-eight (48) hours at the office of the Chief of Police, shall not be required to appear for trial upon the charge for which the notice or citation was issued. The failure of such operator to make such

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payment within forty-eight (48) hours shall render such operator subject to the penalty prescribed in §14-1. (Ord. No. 019-2002, 8-13-02)

- (b) The fine to be paid pursuant to subsection (a) above as follows:
1. Violating or parking in violation of §14-69 or 14-70, ten dollars (\$10.00) for the first issuance of a citation, and twelve dollars (\$12.00) for the second issuance of a citation within an eight (8) hour period. If the fine for such violation is not paid within forty-eight (48) hours, the violator shall pay an additional penalty of twenty dollars (\$20.00) per violation, in satisfaction of each such violation. (Ord. No. 037-90, 11-13-90; Ord. No. 019-2002, 8-13-02; Ord. No. 2010-13, 5-11-10)
  2. Violation of §14-46(a)(4), parking within fifteen (15) feet of a fire hydrant, or (a)(15), parking in a fire lane or traffic lane, fifty dollars (\$50.00). (Ord. No. 019-2002, 8-13-02)
  3. Parking in a space posted for "Handicapped Parking Only" or like designation in violation of subsections 14-46(a)(14) or 14-50(b) of this Code when the vehicle so parked displays neither State decal designating handicapped use or City "Parking Permit - Handicapped Individual"; one hundred dollars (\$100.00). (Ord. No. 019-99, 7-13-99)
  4. All other parking violations subject to this section, twenty-five dollars (\$25.00). (Ord. No. 019-2002, 8-13-02; Ord. No. 2010-13, 5-11-10)

Fifteen days after the issuance of a citation, if the charge has not been contested in the manner provided by this chapter or paid, there shall be added a late penalty equal to twice the original penalty.

(Code 1959, §§15-31, 15-32, 15-127; Ord. of 4-12-77; Ord. No. 006-82, 3-09-82; Ord. No. 005-84, 3-13-84; Ord. No. 020-88, 4-12-88; Ord. No. 002-91, 1-15-91; Ord. No. 2010-16, 5-11-10).

- (c) The operator of any vehicle to which a citation or notice is attached pursuant to §14-54 may contest the offense set forth in the citation or notice within thirty (30) days of the issuance of the citation or notice by executing a form for that purpose at the police department.

By executing the form, the person shall waive any further notice of the hearing on the charge before the court; and shall authorize the court to try the charge in the person's absence.

The Chief-of-Police shall develop a form for such purpose. The chief shall see that each such citation or notice issued after 1 June, 1994 shall inform the person charged of his or her rights and obligations under this subsection.

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The form shall set out the following: (1) specific charge; (2) the date and time of the hearing on the charge; (3) a notice that by signing the form, the person waives any further notice of the hearing on the charge; (4) a notice that the charge may be tried in the person's absence.

The police department shall forward all such executed forms to the court for hearing within twenty (20) days of execution by the person charged.

This subsection shall be effective 1 June, 1994. (Ord. No. 016-94, 04-12-94)

**State Law Reference**--Code of Virginia, §46.2-1220.

### **SECTION 14-56. NOTICE PREREQUISITE TO ISSUANCE OF SUMMONS FOR PARKING VIOLATION.**

Before any summons shall be issued for the prosecution of a violation of any provision of this article regulating parking, the violator shall have been first notified, by mail at his last known address or at the address shown for such violator on the records of the State division of motor vehicles, that he may pay the fine as provided for such violation within five (5) days of receipt of such notice, and the officer issuing such summons shall be notified that the violator has failed to pay such fine within such time. The notice to the violator required by this section shall be contained in an envelope bearing the words "Law Enforcement Notice" stamped or printed on the face thereof in type at least one-half inch in height. (Code 1959, §15-29.1; Ord. of 2-14-71) .

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-941.

### **SECTION 14-57. PRESUMPTIONS IN PROSECUTIONS FOR PARKING.**

In any prosecution charging that a vehicle has been parked in violation of any provision of this article or any other ordinance of the City, proof that the vehicle described in the complaint, summons, or warrant was parked in violation of such provision, together with proof that the defendant was, at the time of such parking, the registered owner of the vehicle as required by Code of Virginia, Title 46.2, Chapter 3 (Section 46.2-600, *et seq.* ) shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred. (Code 1959, §§15-97, 15-103, 15-128; Ord. of 7-13-76).

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-1220.

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### **SECTION 14-58. ILLEGAL PARKING ON RENTED SPACES.**

It shall be unlawful for any person to park any vehicle in any parking space owned by the City or the Winchester Parking Authority which is rented on a regular basis, unless such person shall be the lessee of that space. (Ord. No. 010-87, 4-14-87) .

### **SECTION 14-59. PARKING WITH RIGHT WHEEL TO CURB.**

It shall be unlawful for any person to stop or park any vehicle, trailer or semitrailer except with the right wheels close to and parallel to the right edge of the curb or roadway, except that a vehicle may be stopped close to and parallel to the left curb or edge of the roadway on one-way streets, or except as provided in lawful angle parking area. (Ord. No. 002-91, 1-15-91; Ord. No. 2011-21, 10-11-11).

**State Law Reference--**Code of Virginia, §46.2-889.

### **SECTION 14-60. NON-EMERGENCY REPAIRS TO VEHICLES ON STREET.**

It shall be unlawful for any person to carry out any non-emergency repairs to any vehicle which is located on a street between the edges of the curb or the outer edges of the paved roadway surface.

For the purposes of this section, a non-emergency repair shall be any repair to a vehicle other than a minor repair necessitated by the breakdown of the vehicle while traveling on the street such as a flat tire, but shall not include any normal maintenance or major repair of damage, malfunction, or wear and tear to a vehicle. (Ord. No. 002-91, 1-15-91).

### **SECTION 14-61. TOWING VEHICLES FOR NON-PAYMENT OF PARKING CITATIONS.**

Whenever there is found any motor vehicle parked on the public streets or public grounds within the City against which there are three or more outstanding unpaid or otherwise unsettled parking violation citations issued pursuant to §14-54 of this chapter, such vehicle may, by towing or otherwise, be removed or conveyed to a place designated by the Chief of Police for the temporary storage for such vehicles. Any removal or conveyance of the vehicle pursuant to this section shall be by, or under the direction of, an officer of the police department.

It shall be the duty of the officer removing such motor vehicle, or under whose direction such vehicle is removed, or other employee of the police department, to inform as soon as practicable the owner of or person responsible for the removed vehicle of the fact of the

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towing with a description of the dates and charges of the prior unsettled parking violations.

The owner or other person responsible for the vehicle shall be permitted to repossess or to secure the release of the vehicle by payment of all outstanding parking violation citations for which the vehicle was removed, and by payment of all outstanding personal property taxes for the vehicle and reasonable costs incidental to the removal and storage of the vehicle and efforts to locate the owner of or person responsible for the vehicle. Should such owner or person responsible for the vehicle fail or refuse to secure its release in accordance with the foregoing, or should the identity or whereabouts of such person be unknown or unascertainable, such vehicle may be sold in accordance with the procedures set forth in the Code of Virginia, §46.2-203, as amended. (Ord. No. 002-91, 1-15-91; Ord. No. 2011-21, 10-11-11).

**State Law Reference--** Code of Virginia, §46.2-1216.

### **SECTION 14-62. RESERVED.**

## **DIVISION 2. PARKING METERS**

### **SECTION 14-63. DEFINITIONS.**

The following words and phrases, when used in this division, shall, for the purposes of this division, have the meanings respectively ascribed to them in this section:

*Operator; driver.* The word "operator" or "driver" shall mean and include every individual who shall operate a vehicle as the owner thereof, or as the agent, employee or permittee of the owner, or who is in actual physical control of a vehicle.

*Parking meter.* The words "parking meter" shall mean and include any mechanical device or meter, not inconsistent with this division, placed or erected for the regulation of parking by authority of this division.

*Parking meter space.* The words "parking meter space" shall mean any space within a parking meter zone, adjacent to a parking meter and duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street adjacent to or adjoining the parking meter.

*Parking meter zone.* The words "parking meter zone" shall mean and include any restricted street upon which parking meters are installed and in operation.

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*Park; parking.* The words "park" and "parking" shall mean the standing of a vehicle, whether occupied or not, upon a street otherwise than temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason of causes beyond the control of the operator of the vehicle.

*Vehicle.* The word "vehicle" shall mean any device in, upon or by which any person or property is or may be transported upon a highway, except a device which is operated upon rails or tracks. (Code 1959, §15-111)

### **SECTION 14-64. METER ZONES ESTABLISHED.**

The following named and described areas, streets or portions of streets, and such other areas, streets or portions of streets as may hereafter be included in this section by amendment thereto, including, except as otherwise provided, all frontage on such areas, streets or portions of streets, lying within the corporate limits of the City, shall each constitute a parking meter zone:

1. *Amherst Street*, both sides, from Braddock Street to Washington Street.
2. *Baker Street*, north side, from Cameron Street to Loudoun Street.
3. *Boscawen Street*, north side, from Stewart Street to Kent Street; and south side, from Stewart Street to Indian Alley and from Kent Street to East Lane.
4. *Braddock Street*, both sides, from Fairfax Lane to Cork Street.
5. *Cameron Street*, both sides, from Clark Street to Cork Street.
6. *Clifford Street*, both sides, from Loudoun Street to Cameron Street.
7. *Cork Street*, both sides, from Braddock Street to Cameron Street.
8. *Fairfax Lane*, south side, from Cameron Street to Library Lane.
9. *Loudoun Street*, west side, from Peyton Street to Fairfax Lane and from Cork Street to Clifford Street; and east side, from Cork Street to Clifford Street.
10. *Philpot Street*, north side, from Kent Street to the railroad track.
11. *Piccadilly Street*, north side, from Washington Street to Kent Street; and south side, from Washington Street to East Lane.

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12. *Washington Street*, both sides, from Wolfe Street to Fairfax Lane.
13. *Wolfe Street*, both sides, from Indian Alley to Braddock Street.
14. *Kent Street*, west side, from Fairfax Lane to Billings Alley (a.k.a. Fairfax Alley); and east side, from Piccadilly Street to Town Run.
15. All parking lots operated by the Winchester Parking Authority, as described below:
  - a. East side of unit block of North Cameron Street.
  - b. West side of 100 block of North Cameron Street.
  - c. Northeast corner of Loudoun Street and Fairfax Lane.
  - d. West side of unit block of South Loudoun Street.
  - e. West side of 100 block of South Loudoun Street.
  - f. Southwest corner of Cork Street and South Loudoun Street.
  - g. West side of unit block of North Kent Street.
  - h. East side of unit block of North Braddock Street.
  - i. West side of unit block of North Braddock Street.
  - j. Northwest corner of Cork Street and Stewart Street.

(Code 1959, §15-112; Ord. No. 008-79, 2-13-79; Ord. No. 019-84, 10-09-84; Ord. No. 041-93, 11-09-93; Ord. No. 015-98, 5-12-98; Ord. No. 2010-35, 7-10-10).

**Cross reference**--Fraudulent use of parking meters, §14-4.

**State Law Reference**--Authority of city with respect to parking meters, Code of Virginia, §42.1-1220.

### **SECTION 14-65. RESPONSIBILITIES OF FINANCE AND ADMINISTRATION COMMITTEE AND WINCHESTER PARKING AUTHORITY.**

The City Council shall be responsible for the regulation, control, rates up to the maximums set forth in §14-66 below, and use of parking meters installed as provided in this division. The City Manager shall be responsible for the location of meters within the meter zones. The Winchester Parking Authority shall be responsible for the operation and maintenance of such parking meters. (Code 1959, §15-115; Ord. No. 036-90, 11-13-90; Ord. No. 041-93, 11-09-93; Ord. No. 2011-21, 10-11-11).

### **SECTION 14-66. INSTALLATION; REQUIRED LEGEND AND SIGNALS.**

- (a) In the parking meter zones established by this division, at the locations designated by the City Manager, the Winchester Parking Authority shall cause parking meters to be installed upon the curb or sidewalk immediately adjacent to the parking

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meter spaces provided for in §14-67. Such meter shall be placed not more than two (2) feet from the curb and within the designated lines of the parking meter space to which the parking meter is adjacent. (Ord. No. 041-93, 11-09-93)

- (b) Each parking meter installed as provided in this section shall indicate, by proper legend, the legal parking time established by the City for the particular parking meter. Each such meter shall be set so as to display a signal showing legal parking upon the deposit of the appropriate coin or coins, lawful money of the United States, for the period of time prescribed, which parking meters shall require the deposit of coin(s) of the denominations of nickels, dimes, or quarters permitting parking at a charge not to exceed seventy-five cents (\$0.75) per hour. Each such meter shall be so arranged that, upon the expiration of the lawful time limit, it will indicate by a proper visible signal that the lawful parking period has expired. (Code 1959, §§15-113, 15-118, 15-119; Ord. No. 036-90, 11-13-90; Ord. No. 23-2006, 6-13-06; Ord. No. 2011-21, 10-11-11; Ord. No. 2013-03, 4-9-13)

### **SECTION 14-67. MARKING AND MANNER OF PARKING IN METERED SPACES.**

- (a) The public works director shall mark off individual parking meter spaces in the parking meter zones established by this division. Such meter spaces shall be designated by lines painted or durably marked on the curbing or surface of the street. (Ord. No. 041-93, 11-09-93)
- (b) It shall be unlawful for any person to park any vehicle across any line or marking of a parking meter space designated as provided in this section or in such position that the vehicle shall not be entirely within the area designated by such lines or markings. (Code 1959, §§15-114, 15-123; Ord. of 7-16-76).

### **SECTION 14-68. WHEN METERS SHALL BE OPERATED.**

Parking meters installed pursuant to this division shall be operated between the hours of 9:00 A.M. and 6:00 P.M. every day from Monday through Friday, except for the following designated holidays: New Year's Day (January 1); Lee Jackson Day (January); Martin Luther King, Jr. Day (January); George Washington Day (February); the Thursday and Friday prior to the Grand Feature Parade of the annual Shenandoah Apple Blossom Festival; Memorial Day (May); Independence Day (July 4); Labor Day (September); Veteran's Day (November 11); Thanksgiving Day and the day after Thanksgiving; Christmas Eve; and Christmas Day. When any of the aforesaid holidays fall on a Sunday, parking meters need not be operated on the following Monday. (Code 1959, §15-117; Ord. No. 019-84, 10-09-84; Ord. No. 041-91, 10-08-91; Ord. No. 003-97, 1-14-97; Ord. No. 2009-41, 2-23-2010; Ord. No. 2013-04, 4-9-13).

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### SECTION 14-69. DEPOSIT OF COIN REQUIRED; OVERTIME PARKING.

- (a) Except for vehicles having license plates issued by the Commonwealth of Virginia bearing Purple Heart or Former POW designations, or in a period of emergency determined by an officer of the fire department or police department, or in compliance with the directions of a police officer or traffic control sign or signal, and subject to the provisions of §14-68, when any vehicle is parked in any parking meter space alongside or next to which a parking meter installed as provided in this division is located, the operator of such vehicle shall, upon entering such parking meter space, immediately deposit or cause to be deposited in such meter proper coin of the United States as is required for such parking meter and is designated by proper directions on the meter and, when required by the directions on the meter, the operator of such vehicle after the deposit of the proper coin or coins shall also set in operation the timing mechanism on such meter in accordance with directions properly appearing thereon. It shall be unlawful for any person to fail to deposit such proper coin and to set the timing mechanism in operation when so required.
- (b) Upon the deposit of such coin and the setting of the timing mechanism in operation, when so required, the parking meter space may be lawfully occupied by such vehicle during the period of time which has been prescribed for the part of the street in which such parking meter space is located.
- (c) Any person placing a vehicle in a parking meter space adjacent to a parking meter which indicates that unused time has been left in the meter by the previous occupant of the space shall not be required to deposit a coin, so long as his occupancy of such space does not exceed the indicated unused parking time.
- (d) If any vehicle, except a vehicle having license plates issued by the Commonwealth of Virginia bearing Purple Heart or Former POW designations, shall remain parked in any parking meter space beyond the parking time limit set for such space, and if the meter indicates such illegal parking then, and in that event, such vehicle shall be considered as parking overtime and beyond the period of legal parking time.
- (e) It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in the name of, or operated by, such person, except a vehicle having license plates issued by the Commonwealth of Virginia bearing Purple Heart or Former POW designations, to be parked overtime or beyond the period of legal parking time established for any parking meter zone established by this division. It shall likewise be unlawful for any person to permit any vehicle, except a vehicle having license plates issued by the Commonwealth of Virginia bearing Purple Heart or Former POW designations, to remain in any parking meter space adjacent to any parking meter installed under this division while such meter is displaying a signal indicating that the vehicle occupying such parking space has

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already been parked beyond the period prescribed for such parking meter space. (Code 1959, §§15-116, 15-120 - 15-122, Ord. No. 012-99, 06-08-99).

### **SECTION 14-70. DEPOSIT OF COIN FOR PURPOSE OF EXTENDING PERIOD FOR LEGAL PARKING.**

With the exception of the Old Town Winchester courtesy parking meter extension promotional event operated under the authority of the Old Town Development Board in the primary and secondary districts, it shall be unlawful for any person to deposit in any parking meter installed under this division any coin for the purpose of extending the parking time beyond the maximum legal parking time for the particular parking meter zone. (Code 1959, §15-151; Ord. No. 2010-57, 11-9-10).

### **SECTION 14-71. PURPOSE AND USE OF DEPOSITS.**

The coins deposited in parking meters under this article are required and shall be used to defray the expense of proper regulation of traffic upon the public streets of the City; to provide for the cost of supervision, regulation and control of the parking of vehicles in parking meter zones; and to cover the cost of purchase, supervision, protection, inspection, installation, operation, maintenance, control and use of parking meters. (Code 1959, §15-132)

### **SECTION 14-72. COLLECTION OF DEPOSITS.**

The Parking Authority shall appoint a person to make regular collections of the money deposited in parking meters under this division. The Parking Authority shall deliver deposit receipts of said collections from the parking meters to the City Treasurer daily. (Code 1959, §15-131; Ord. No. 2011-21, 10-11-11)

### **SECTION 14-73. DAMAGING, TAMPERING WITH, ETC., METERS.**

It shall be unlawful for any person to deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under this division. Any person violating this section shall be guilty of a Class 1 misdemeanor. (Code 1959, §15-125)

**Cross reference--**Use of slugs in parking meters, §14-4.

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### **SECTION 14-74. BUS STOPS, TAXICAB STANDS, ETC., IN METER ZONES.**

Nothing in this division shall be construed as prohibiting the City from providing for bus stops, taxicab stands, loading zones and other similar areas or places within the parking meter zones established by this division. (Code 1959, §15-129)

**Cross reference--**Taxicab stands generally, §31-25.

### **DIVISION 3. PERMIT PARKING**

#### **SECTION 14-75. PURPOSE.**

In order to reduce hazardous traffic conditions resulting from the use of streets within areas zoned for residential uses for the parking of vehicles by persons not residing therein; to protect those areas from polluted air and from excessive noise, trash, and refuse caused by the entry of such vehicles; to protect the residents of those areas from unreasonable burdens in gaining access to their residences; to preserve the residential character of those areas; to promote efficiency in the maintenance of those streets in a clean and safe condition; to preserve the value of the property in those areas; to preserve the safety of children and other pedestrians; and to promote and preserve the peace, good order, comfort, convenience, and welfare of the inhabitants of the city, it is necessary to establish a system of permit parking. (Ord. No. 017-98, 6-9-98)

#### **SECTION 14-76. DEFINITION.**

For the purposes of this division, the term “resident” shall be deemed to mean a person who customarily resides and maintains a place of abode within the permit parking district, or who owns realty abutting a street or public way within such a district upon which a dwelling intended for human habitation is located. (Ord. No. 017-98, 6-9-98)

#### **SECTION 14-77. VIOLATIONS.**

- (a) Any person violating the provisions of this division shall, upon conviction thereof, be punished by a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00) for each offense.
- (b) In any prosecution charging a violation of this division, proof that the vehicle described in the complaint, summons, or warrant was parked in violation of this ordinance, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, as required by the Code of Virginia, Chapter 3 (Section 46.1-41, et seq.), shall constitute a presumption that such registered

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owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred.

- (c) If any person transfers, or allows others to use or possess any parking permit issued to them, or gives false answers upon an application therefor, or uses or continues to use such parking permit after termination or expiration thereof by expiration of time or operation of law or cessation of residence, or violates any of the terms, conditions, rules, or regulations applicable to same, such person shall be guilty of a class 4 misdemeanor. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-78. DESIGNATION OF AREA.**

Should the Chief of Police, based upon studies conducted by the Police Department and in consultation with the Council, ascertain that parking spaces on the streets within a particular residential area or distinct portion of such residential area, not less than the lesser of three hundred and sixty (360) feet or one city block, unless the street in such district is abutted by unimproved land, in which case said minimum lengths shall not apply, are used for the parking of vehicles not belonging to the residents of the particular area to such an extent as to create congestion, excessive noise, air pollution, and/or cause the residents of such areas unreasonable burdens in gaining access to their residences, and that the majority of the contiguous property owners to the streets of such area, or portion thereof, desire the establishment of such area as a permit parking area, then the Chief of Police shall establish such area as a permit parking district.  
(Ord. No. 017-98, 6-9-98; Ord. No. 2011-21, 10-11-11)

### **SECTION 14-78.1. APPEAL FROM DESIGNATION.**

Any resident of a permit parking district area may appeal the decision of the Chief of Police to the Council. Notice of appeal shall be in writing and filed with the City Manager within thirty (30) days after the decision is rendered by the Chief of Police.  
(Ord. No. 017-98, 6-9-98)

### **SECTION 14-78.2. HOURS OF ENFORCEMENT.**

The parking prohibitions in each district area will be enforced between the hours of 7 a.m. and 7 p.m., Monday through Friday. There will be no enforcement of permits from 7 p.m. Friday through 7 a.m. Monday. (Ord. No. 017-98, 6-9-98)

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### **SECTION 14-79. EXCEPTIONS.**

The parking prohibitions of this division shall not apply to service or delivery vehicles which are being used to provide services to or make deliveries to residents of the permit parking district. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-80. PERMIT REQUIRED.**

Unless a parking permit, validly issued pursuant to regulations contained in or adopted pursuant to this division, be properly displayed, no vehicle shall be parked upon any street or public way within a permit parking district. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-81. APPLICATION FOR PERMIT.**

Permanent residents within a permit parking district may apply to the Police Department for a permit to park their vehicle(s) upon the streets or public ways of the permit parking district in which such applicant resides. (Ord. No. 017-98, 6-9-98)

#### **SECTION 14-81.1. PERMIT FEES.**

A fee of five dollars (\$5.00) shall be charged each resident for the issuance of one (1) parking permit, and a fee of five dollars (\$5.00) shall be charged each resident for each additional or replacement permit, such fee to be used by the city to defray the cost of enforcement of the provisions of this division. (Ord. No. 017-98, 6-9-98)

#### **SECTION 14-81.2. ISSUANCE.**

Upon proof that the applicant for a permit required by the provisions of this division is a resident of the permit parking district, and upon payment by the applicant of the applicable fee, a parking permit shall be issued to the applicant for each vehicle owned by the applicant. (Ord. No. 017-98, 6-9-98)

#### **SECTION 14-81.3. DURATION.**

Permits issued under the provisions of this division shall be valid for a period of one year. (Ord. No. 017-98, 6-9-98)

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### SECTION 14-81.4. NONTRANSFERABLE.

A permit issued under the provisions of this division shall be personal, nonassignable and nontransferable. Each such permit shall be valid only for a specific vehicle. (Ord. No. 017-98, 6-9-98)

### SECTION 14-81.5. VISITOR PASSES.

Each household resident shall receive three (3) visitor passes at no additional charge. Whenever a visitor is parked in the permit parking district, the visitor pass must be displayed on the vehicle's dash and in plain view. No resident may use a visitor pass for parking in lieu of obtaining a parking permit. (Ord. No. 017-98, 6-9-98)

### SECTION 14-82. SIGNS.

The Chief of Police or his duly designated representative shall cause appropriate signs to be placed upon all streets of the permit parking district, such signs to be of such character as to readily inform an ordinarily observant person of the existence of the parking prohibition within said district. (Ord. No. 017-98, 6-9-98)

## DIVISION 4. HANDICAPPED PARKING

### SECTION 14-83. ESTABLISHMENT OF PARKING SPACES FOR PERSONS WITH A DISABILITY.

- (a) **Preemption of the law.** Notwithstanding any contrary provision in this code, reserved parking spaces in the public right-of-way in single-family, two-family, townhouse residential and business areas for use by persons with disabilities shall be established and removed as provided in this section.
- (b) **Application requirements.** An application for a reserved parking space for persons with disabilities in the public right-of-way in residential and business areas must comply with the following criteria in order to be considered:
  - (1) There must be no off-street parking at the applicant's residence or business, or the applicant must demonstrate, as provided in paragraph (6), that existing off-street parking is not feasible for use by the applicant;
  - (2) The applicant must have a valid Virginia DMV disabled parking license plate or placard;

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- (3) The applicant must reside at the address in front of which the space is requested;
  - (4) The applicant must demonstrate that a vehicle is registered in the City of Winchester to a person who resides at the address requested; and
  - (5) Legal parking must be available in front of the applicant's address.
  - (6) Where existing off-street parking exists, must supply additional evidence to demonstrate that such parking is not feasible for use by the applicant.
  - (7) A business may be issued restricted use spaces for Monday through Friday or Sunday only.
- (c) **Approval Requirements.** If an application fails to meet any of the criteria listed in subsection (b), it will not be approved, unless a waiver is sought and approved under subsection (e). If the application is denied, the applicant shall be notified in writing as to the specific reasons for the denial, and shall also be notified of any right to appeal provided under this section.
- (d) **Block limits.** No more than one reserved parking space for persons with disabilities will be authorized for one side of any street, between intersecting streets (block face). An exception would be granted for restricted use spaces. The exceptions would take into consideration any undue burdens placed on residents living within the area.
- (e) **Waivers.** The City Manager is authorized to waive:
- (1) The block limits standard under the following conditions:
    - (a) (i) The applicant demonstrates to the satisfaction of the City Manager that the applicant has a severe mobility impairment, and that (1) the applicant or a resident of the applicant's household owns a motor vehicle especially equipped to permit operation by, or transport of, the applicant, or (2) the applicant has a life threatening condition; or
    - (ii) The applicant demonstrates to the satisfaction of the City Manager that the block on which the applicant resides is of unusual or exceptional length, and that permitting an additional space would be the functional equivalent of the application of the usual block limit standard; and

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- (b) The applicant demonstrates to the satisfaction of the City Manager that the applicant otherwise meets the criteria in subsection (b) of this section; and
    - (c) If granted, a waiver shall be valid for a period of one year only, but the applicant may reapply for additional one year periods.
  - (2) The requirement that legal parking must be available in front of the applicant's address, under the following conditions:
    - (a) There is a fire hydrant, city no-parking regulation, or other similar impediment to parking in front of the applicant's address, or the applicant's property is of insufficient width to accommodate the reserved space.
    - (b) The applicant demonstrates to the satisfaction of the City Manager that the applicant otherwise meets the criteria in subsection (b) of this section; and
  - (3) The City Manager may impose such conditions on any waiver as the manager deems reasonable.
- (f) **Use of reserved spaces.** A parking space for persons with disabilities will be available for use by any eligible person with a DMV disabled license plate or placard on a first come, first served basis, and is not reserved for the exclusive use of the applicant. Only those vehicles used by, or to transport, persons with disabilities may park in the reserved space, and the applicant's vehicle is expected to use the reserved space when parked in the neighborhood. Reserved spaces are not intended for use by companions except when transporting persons with disabilities, and displaying a DMV plate or placard. Use of the parking space by other persons when not transporting a person with a disability, and/or not displaying a valid placard or DMV issued disabled license plate, is a parking violation that carries a \$100 to \$500 fine, as provided in Section 14-50(b) of the Winchester City Code and Section 46.2-1242 of the Virginia Code.
- (g) **Administrative procedures.** The Chief of police (hereinafter "the Chief") shall be responsible for administering this section.
- (1) All applications must be submitted to the Chief for consideration and review. The Chief will (a) evaluate satisfaction of eligibility criteria; (b) verify the validity of the disabled parking license plate or placard; (c) verify vehicle registration; (d) confirm residency; (e) determine availability of off-street and on-street parking; and (f) ensure conformance to the terms of this section in making a decision.

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- (2) Applications for a determination that an existing off-street parking space is not feasible for use by the applicant, and for a block limit or availability of parking waiver, shall be submitted to the Chief, for review and recommendation, and shall be decided by the City Manager.
  - (3) Any person aggrieved may appeal the Chief's decision to the City Manager, by filing an appeal, in writing, with the Chief, within 15 days of the Chief's decision. The appeal shall be limited to the record upon which the Chief based his decision, and such additional written submissions as the parties may provide. The City Manager's decision on appeal, or on an application for a waiver, shall state the findings of fact and reasons for the decision, and shall be final and not appealable to city council.
  - (4) Any disabled parking requests that have been received and processed prior to the adoption of this ordinance shall remain in effect until which time that the original requestor no longer has a need to utilize the service of the sign or the requestor can no longer meets the eligibility criteria for such space. Any disabled parking requests that have been received after the adoption of this ordinance shall be subjected to all of the terms and conditions established by this ordinance.
- (h) **Annual recertification.** Each year the Chief will mail a recertification form to each applicant who received approval for the installation of a reserved parking space. In order to retain the reserved space, the resident must complete and execute the form affirming continued satisfaction of all of the eligibility criteria in subsection (b) of this section, except such criteria as may have been waived by the City Manager pursuant to subsection (e) of this section. If the Chief determines that the eligibility criteria are no longer satisfied, the applicant will be notified in writing and must provide a response to the Chief with proper evidence of compliance within 45 days of notification. Failure to provide the information in accordance with the requested deadline will result in a second letter and failure to respond to the second letter within 30 days shall result in the removal of the reserved space. If the requestor no longer resides at the residence or the requestor is now deceased, the disabled parking space permission shall be revoked and the disabled parking space shall be removed.
- (i) **Revocation.** A reserved space is subject to revocation as follows:
- (1) In the event that a complaint is made to the Chief that the applicant no longer satisfies the eligibility criteria of subsection (b) of this section, or that the space is being repeatedly used in a manner contrary to subsection (f), by persons residing in or visiting the applicant's household, the Chief will conduct a preliminary inquiry to determine if the complaint is

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supported by substantial and credible evidence. If the Chief determines that the complaint is so supported, the applicant will be notified in writing of the nature and specifics of the complaint, and must provide a response within 45 days to the Chief. The applicant and complainant(s) shall have the right to appear before the Chief, upon 15 days written notice of the time and place of the hearing, and be heard in person or by counsel, but such hearing shall be conducted in an informal manner. The Chief shall revoke a reserved parking space designation only if (i) the Chief finds by a preponderance of the evidence that the applicant did not, or does not continue to, meet the criteria in subsection (b), or if (ii) the Chief finds by clear and convincing evidence that the space is being repeatedly used in a manner contrary to subsection (f), by persons residing in or visiting the applicant's household. The Chief shall notify all parties of the decision in writing, within 15 days of the close of the hearing. The decision shall state the findings of fact and the reasons for the decision. The notice shall inform the parties of their right to appeal the decision to the City Manager, and of the procedure for making such an appeal.

- (2) Any person aggrieved may appeal the Chief's decision to the City Manager, by filing an appeal, in writing, with the Chief, within 15 days of issuance of the decision. The City Manager shall schedule a hearing on the matter within 30 days of the filing of the appeal, and shall give the parties 15 days notice of the time and place of the hearing. The City Manager shall notify all parties of the City Manager's decision in writing, within 15 days of the close of the hearing. The City Manager's decision shall state the findings of fact and the reasons for the decision, and the decision shall be final and not appealable to city council.  
(Ord. No. 2007-44, 11-13-07)

### **SECTIONS 14-84. EXEMPTION FROM PARKING FEES FOR HANDICAPPED AND DISABLED**

- (a) Except as provided in Subsections (b) and (c), the disabled person, vehicle owner, or volunteer for an institution or organization to which disabled parking license plates, organizational removable windshield placards, permanent windshield placards, or temporary removable windshield placards are issued or any person to whom disabled parking license plates have been issued in accordance with the applicable provision of the Code of Virginia shall be allowed to park the vehicle on which such license plates or placards are displayed for up to four (4) hours in metered or unmetered parking zones restricted as to length of parking time permitted and shall be exempted from paying parking meter fees.
- (b) The exclusion from paying parking fees described in subsection (a) shall not apply to zones created by Ordinance where stopping, standing, or parking is prohibited, or

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- (c) zones created by Ordinance for special types of vehicles, nor shall it apply to any area identified by Ordinance which prohibits parking during heavy traffic periods, during specified rush hours, or where parking would clearly present a traffic hazard. Such areas shall be specifically designated and identified by the City of Winchester as excluded from the provisions allowing four (4) hours of free parking described in Subsection (a) and the Code of Virginia by signs or other reasonable notice.
- (d) The exclusion from paying parking fees described in Subsection (a) shall not apply within the parking garages managed by the Winchester Parking Authority which are specifically designated and identified by the Winchester Parking Authority as excluded from the provision allowing four (4) hours of free parking described in Subsection (a) and the Code of Virginia by signs or other reasonable notice.

(Ord. No. 2012-18, 7-10-12)

**The provision of this Ordinance shall become effective on July 1, 2012.**

*State Law Reference -- §46.2-1245 of the Code of Virginia*

### ARTICLE V. BICYCLES AND MOPEDS

**SECTION 14-85. REPEALED.**  
(Ord. No. 2011-21, 10-11-11)

**SECTION 14-86. RIDER'S HANDS TO BE ON HANDLEBARS.**

It shall be unlawful for any person to ride a bicycle upon any street without having his, her or their hands upon the handlebars. (Code 1959, §15-178; Ord. No. 041-93, 11-09-93)

**Cross reference--**Disposal of unclaimed bicycles in possession of police department, §20-25.

**State Law Reference--**Rider not to carry package or bundle which prevents keeping at least one hand on handlebar, Code of Virginia, §46.2-906.

**SECTIONS 14-87. OPERATION OF MOPEDS ON PUBLIC STREETS;  
SAFETY EQUIPMENT REQUIRED**

- (a) It shall be unlawful for any person to operate or ride upon a moped, as defined in Section 46.2-100, of the Code of Virginia, 1950, as amended, upon a public street

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or highway without wearing protective helmets of a type approved by the Superintendent of State Police.

- (b) Violation of this section shall be a traffic infraction, punishable by a fine of not more than fifty dollars (\$50.00).  
(Ordinance No. 034-2003, 11-11-03)

**State Law Reference**—Authority of city to adopt ordinance providing for certain safety equipment for mopeds and penalty for violation, Code of Virginia, §46.2-915.2. See also, Code of Virginia, §46.2-100.

**SECTIONS 14-88-- 14-111. RESERVED.**

### ARTICLE VI. PEDESTRIANS

#### **SECTION 14-112. RIGHT TO CROSS INTERSECTIONS DIAGONALLY.**

Pedestrians may cross an intersection diagonally, when all traffic entering the intersection has been halted by lights, semaphores or signals by a peace or police officer. (Code 1959, §15-135)

**State Law Reference**--Authority for above section, Code of Virginia, §46.2-923.

#### **SECTION 14-113. UNLAWFUL CARRYING OF CERTAIN CANES OR WALKING STICKS.**

It shall be unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway, to carry in a raised or extended position a cane or walking stick which is metallic or white in color or white tipped with red. A violation of this section shall constitute a Class 4 misdemeanor. (Code 1959, §15-143)

**State Law Reference**--Similar provisions, Code of Virginia, §18.2-212.1.

#### **SECTION 14-114. DUTY TO OBEY TRAFFIC CONTROL SIGNS AND SIGNALS AND ORDERS OF TRAFFIC OFFICERS.**

Pedestrians shall obey signs and signals erected on highways or streets for the direction and control of travel and traffic and they shall obey the orders of police officers engaged in directing travel and traffic on the highways and streets. Violations of this section shall be punished by a fine not exceeding two hundred dollars (\$200.00) for each offense. (Code 1959, §15-146; Ord. No. 041-93, 11-09-93)

**State Law Reference**--Authority for above section, Code of Virginia, §46.2-935.

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### SECTIONS 14-115 - 14-124. RESERVED.

## ARTICLE VII. ACCIDENTS

### SECTION 14-125. REPORTS BY DRIVERS.

The driver of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of one thousand dollars (\$1,000.00) or more shall, within five (5) days after the accident, file, with the police department, a copy of the report required by the Code of Virginia, §46.2-372. Such driver shall also file, with the police department, a copy of any supplemental report filed pursuant to such section. A willful failure to file a report required herein shall constitute a violation of this section. (Code 1959, §15-151; Ord. No. 041-93, 11-09-93)

**Cross reference**--Reports of accidents in which taxicabs are involved, §31-31.

**State Law References**--Authority for above section, Code of Virginia, §46.2-381, § 46.2-894.

### SECTION 14-126. REPORTS BY PASSENGERS.

Whenever the driver of a vehicle is physically incapable of making an immediate or a written report of an accident, as required by this chapter or the state law adopted by this chapter, each other occupant of the vehicle at the time of the accident, if any, who is capable of so doing must make the report required to be made by the driver. A willful failure to make such report shall constitute a violation of this section. (Code 1959, §15-153)

**State Law Reference**--Similar provisions, Code of Virginia, § 46.2-895.

### SECTION 14-127. REPORTS BY INVESTIGATING OFFICER.

Every law-enforcement officer who, in the course of duty, investigates a motor vehicle accident of which report must be made, either at the time of and at the scene of the accident or thereafter and elsewhere, by interviewing participants or witnesses shall, within twenty-four (24) hours after completing the investigation, forward to the police department a copy of the report required by the Code of Virginia, (Code 1959, §15-152).

### SECTION 14-128. AUTHORITY OF POLICE TO MOVE VEHICLE INVOLVED IN ACCIDENT.

Whenever a motor vehicle, trailer or semitrailer involved in an accident is found upon the highways or streets within the City and is so located as to impede the orderly flow of traffic, the police may, at no cost to the owner or operator, remove such motor vehicle, trailer or semitrailer from the highway or street to some point in the vicinity of such accident where such motor vehicle, trailer or semitrailer will not impede the flow of traffic.

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**State Law Reference**--Authority for above section, Code of Virginia, §46.2-1212.

**SECTIONS 14-129 - 14-138. RESERVED.**

### ARTICLE VIII. ABANDONED VEHICLES

#### SECTION 14-139. DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them by this section:

*Abandoned motor vehicle* means a motor vehicle, trailer, or semitrailer or part thereof that:

1. Is left unattended on public property for more than forty-eight (48) hours in violation of a state law or local ordinance; or
2. Has remained for more than forty-eight (48) hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property; or
3. Is left unattended on the shoulder of a primary highway.

*Scrap metal processor* means any person who is engaged in the business of processing motor vehicles into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

*Vehicle removal certificate* means a transferable document issued by the Department for any abandoned motor vehicle that authorizes the removal and destruction of the vehicle. (Ord. of 2-14-78; Ord. No. 2014-25, 8-12-14)

**Cross reference**--Open storage of inoperative vehicles in certain zoning districts, §16-25.

**State Law References**--Authority of city to adopt ordinance similar to this article, Code of Virginia, §46.2-1201. See also, §46.2-1213, 46.2-1217; Similar provisions, Code of Virginia, §46.2-1200.

#### SECTION 14-140. AUTHORITY TO IMPOUND.

The City may take into custody any abandoned motor vehicle. In such connection, the City may employ its own personnel, equipment and facilities or hire persons, equipment

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and facilities or firms or corporations that may be independent contractors for the purpose of removing, preserving, storing, and selling at public auction abandoned motor vehicles.

No person shall cause any motor vehicle to become an abandoned motor vehicle as defined in §46.2-1200. In any prosecution for a violation of this section, proof that the defendant was, at the time that the vehicle was found abandoned, the owner of the vehicle shall constitute in evidence a rebuttable presumption that the owner was the person who committed the violation. Such presumption, however, shall not arise if the owner of the vehicle provided notice to the Department, as provided in §46.2-604, that he had sold or otherwise transferred the ownership of the vehicle.

A summons for a violation of this section shall be executed by mailing a copy of the summons by first-class mail to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles. If the person fails to appear on the date of return set out in the summons, a new summons shall be issued and delivered to the sheriff of the county, city, or town for service on the accused personally. If the person so served then fails to appear on the date of return set out in the summons, proceedings for contempt shall be instituted.

Any person convicted of a violation of this section shall be subject to a civil penalty of no more than \$500. If any person fails to pay any such penalty, his privilege to drive a motor vehicle on the highways of the Commonwealth shall be suspended as provided in §46.2-395. All penalties collected under this section shall be paid into the state treasury to be credited to the Literary Fund as provided in §46.2-114.  
(Ord. of 2-14-78; Ord. No. 2014-25, 8-12-14)

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-1200.1 and 46.2-1201.

### **SECTION 14-141. NOTICE OF IMPOUNDMENT.**

- (a) When an abandoned motor vehicle is taken into custody, the city or city's agent shall initiate with the DMV, in a manner prescribed by the Commissioner, a search for the owner and/or lienholder of record of the vehicle, requesting the name and address of the owner of record of the motor vehicle and all persons having security interests in the motor vehicle on record in the office of the DMV, describing, if ascertainable, the motor vehicle by year, make, model, and vehicle identification number. A local government agency with a written agreement with the DMV shall be exempt from paying a \$25 fee to the DMV.

The Department shall check: (i) its own records, (ii) the records of a nationally recognized crime database, and (iii) records of a nationally recognized motor vehicle title database for owner and lienholder information. If a vehicle has been reported as stolen, the Department shall notify the appropriate law-enforcement agency of that fact. If a vehicle has been found to have been titled in another

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jurisdiction, the Department shall notify the applicant of that jurisdiction. In cases of motor vehicles titled in other jurisdictions, the Commissioner shall issue certificates of title on proof satisfactory to the Commissioner that the persons required to be notified by registered or certified mail have received actual notice fully containing the information required by this section.

- (b) If the DMV confirms owner or lienholder information, the DMV shall notify the owner, at the last known address of record, and lienholder, at the last known address of record, of the notice of interest in their vehicle, by certified mail, return receipt requested, and advise them to reclaim and remove the vehicle within 15 days, or, if the vehicle is a manufactured home or a mobile home, 120 days, from the date of notice. Such notice, when sent in accordance with these requirements, shall be sufficient regardless of whether or not it was ever received. Following the notice required in the subsection, if the motor vehicle remains unclaimed, the owner and all persons having security interests in the motor vehicle shall have waived all right, title, and interest in the motor vehicle

Whenever a vehicle is shown by the Department's records to be owned by a person who has indicated that he is on active military duty or service, the Department shall notify the requestor of such information. Any person having an interest in such vehicle under the provisions of this article shall comply with the provisions of the Federal Service Members Civil Relief Act (50 U.S.C. app. 501 *et seq.*)

- (c) If records of the Department contain no address for the owner or no address of any person shown by the Department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, the person in possession of the abandoned motor vehicle shall obtain from the Department in a manner prescribed by the Commissioner, a Vehicle Removal Certificate. The vehicle may be sold or transferred to a licensee or a scrap metal processor, as defined in §46.2-1600. (Ord. of 2-14-78; Ord. No. 2014-25, 8-12-14)

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-1202 and 46.2-1202.1.

### SECTION 14-142. SALE.

- (a) If an abandoned motor vehicle has not been reclaimed as provided for in §14-141, the City or its authorized agent shall, notwithstanding the provisions of §46.2-617 of the Code of Virginia, sell the vehicle at public auction. For purposes of this Article, the term "public auction", when conducted by any county, city or town shall include an Internet sale by auction. The purchaser of the motor vehicle shall take title thereto free and clear of all liens and claims of ownership of others, shall receive a sales receipt from the sale, and shall be entitled to apply to and receive

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from the DMV a certificate of title and registration card therefor. The sales receipt at such a sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking or dismantling, and in such case, no further titling of the vehicle is necessary; however, such demolisher shall provide the DMV acceptable documentation indicating that the vehicle has been demolished.

- (b) From the proceeds of the sale of an abandoned motor vehicle, the City or its authorized agent shall reimburse itself for the expenses of the auction, the cost of towing, preserving and storing the vehicle which resulted from placing it in custody, and all notice and publication costs incurred pursuant to §14-141. Any remainder from the proceeds of such sale shall be held for the owner of the abandoned motor vehicle or any persons having security interests therein, as their interests may appear, for sixty (60) days, and then shall be deposited into the city treasury. (Ord. of 2-14-78; Ord. No. 2014-25, 8-12-14)

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-1203.

**SECTION 14-143. REPEALED.** (Ord. No. 2014-25, 8-12-14)

### **SECTION 14-144. DISPOSITION OF INOPERABLE ABANDONED VEHICLES.**

Notwithstanding any other provisions of this article, or the provisions of §46.2-617 of the Code of Virginia, any abandoned motor vehicle which is inoperable and which, in the opinion of the Chief of Police or the city sheriff cannot be feasibly restored to operable condition, may be disposed of to a demolisher without the title and without the notification procedures prescribed by this article. The demolisher, upon taking custody of such vehicle, shall adhere to the provisions of §§46.2-1206 and 46.2-1207 of the Code of Virginia, and shall notify the state division of motor vehicles, on forms and in the manner prescribed by the state commissioner of motor vehicles and, notwithstanding any other provisions of law, no other report or notice shall be required in such instance. (Ord. of 2-14-78; Ord. No. 036-87, 10-13-87).

**State Law Reference**--Similar Provisions, Code of Virginia, §46.2-1205.

**SECTION 14-145. REPEALED.** (Ord. No. 044-95, 9-12-95)

## **ARTICLE IX. ASSEMBLIES, DEMONSTRATIONS AND PARADES**

**SECTION 14-146. PURPOSE.**

Pursuant to the authority granted to the city by the Code of Virginia and its general police powers, the city does hereby adopt the following sections in order to provide for the

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public health, safety and general welfare in the city, to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, and to ensure the safe and unimpaired use and enjoyment of public property in places open to the general public and otherwise to regulate and control the time, place and manner of activities that would otherwise threaten or impair the public health, safety, and welfare in the city while also encouraging the exercise of the rights to free speech and assembly in the city. (Ord. No.19-2006, 5-3-2006)

### **SECTION 14-147. DEFINITIONS.**

The following terms shall have the meanings set out herein:

- (a) Parade means any march, demonstration, procession or motorcade consisting of people, animals, or vehicles, or a combination thereof upon the streets, sidewalks or other public areas within the city with an intent or likely effect of attracting public attention that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property.
- (b) Public assembly means any meeting, demonstration, picket line, rally or gathering of more than ten (10) people for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property within the city or that interferes with or has a tendency to interfere with the normal use of any public property in a place open to the general public.
- (c) “Spontaneous event” shall mean an unplanned or unannounced coming together of people, animals or vehicles in a parade or public assembly which was not contemplated beforehand by any participant therein and which is caused by or in response to unforeseen circumstances or events occasioned by news or affairs first coming into public knowledge within five (5) days of such parade or public assembly.
- (d) “Special Event” means any “Public Assembly” which occurs upon City property that requires the closure of City streets, sidewalks or parks or where it is anticipated that over twenty-five (25) people may gather and participate, or which requires licenses and permits by City departments beyond the assembly permit required by this Section. This may include but is not limited to fairs, festivals, carnivals, sporting events, foot runs, markets, dances, and exhibitions. (Ord. No. 2012-06, 4-10-12)

### **SECTION 14-148. PERMIT REQUIRED.**

- (a) It shall be unlawful for any person to conduct or participate in a parade, public assembly, or special event unless a written permit has not been issued in accordance with the provisions of this article.

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(b) The provisions of this permit shall not apply to:

(1) Spontaneous events;

(2) Recreational activities, including jogging or walking, that do not require closing public streets or other public streets or other public rights-of-way and that do not interfere with or have a tendency to interfere with the normal use of any public property in a place open to the general public;

(3) Door-to-door advocacy, including canvassing, pamphleteering, religious or political proselytizing and the distribution of written materials, and similar activities that do not interfere with or have a tendency to interfere with the free passage of pedestrians and vehicles on the public rights-of-way or the normal use of any public property in a place open to the general public;

(4) Door-to-door sales of goods or services, and similar activities that do not interfere with or have a tendency to interfere with the free passage of pedestrians and vehicles on the public rights-of-way or the normal use of any public property in a place open to the general public; provided, however, that any persons or organizations engaging in such activities shall comply with any other applicable requirements of the code of the City of Winchester;

(5) Funeral processions;

(6) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities;

(7) The United States army, navy, air force and coast guard, the military forces of the state and the police and fire divisions of the city;

(8) A governmental agency/agencies acting within the scope of its functions; or

(9) Park and recreation areas that are regulated by the city's Parks and Recreation Department.

(c) Permits may be granted if they are requested by individuals or organizations who desire to have a permit, even though the permit is not required under this section. (Ord. No. 2012-06, 4-10-12)

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### SECTION 14-149. APPLICATION.

(a) Any person desiring to conduct a parade special event shall make written application to the Chief of Police, or his designee, at least sixty (60) days prior to such parade or event. Any person desiring to conduct a public assembly shall make written application to the Chief of Police, or his designee, at least five (5) days prior to such public assembly. Such application shall set forth the following information:

(1) The name, address and telephone number of the person requesting the permit;

(2) The name and address of any organization or group the applicant is representing;

(3) The name, address and telephone number of the person who will act as the parade or public assembly leader or chairman and who will be responsible for the conduct of the parade or public assembly;

(4) The type of parade, public assembly, or special event, including a description of the activities planned during the event;

(5) The date and time (start and ending) of the parade, public assembly, or special event;

(6) The specific location or locations where the parade, public assembly, or special event is to be held;

(7) If a parade, the specific assembly and dispersal locations, the specific route, and the plans, if any, for assembly and dispersal;

(8) The approximate number of people who, and animals and vehicles which will constitute such parade or public assembly and the type of animals and a description of the vehicles;

(9) A statement as to whether the parade, public assembly, or special event will occupy all or only a portion of the width of the streets or sidewalks or other public rights-of-way proposed to be traversed or used;

(10) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the parade, public assembly or special event; and

(11) Such other information as the Chief of Police, or his designee, may deem reasonably necessary in order to properly provide for traffic control, street and property maintenance, administrative arrangements, police and fire protection, and for the protection of public health, safety and welfare.

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- (b) The Chief of Police, or his designee, shall not issue the permit if any information supplied by the applicant is false or intentionally misleading.
- (c) The Chief of Police, or his designee, shall have the authority to and shall make reasonable efforts to consider an application hereunder which is filed less than five (5) days before the date the parade or assembly is proposed to be conducted if, after due consideration of the date, time, place and nature of the parade or public assembly, the anticipated number of participants and the city services required in connection with the event, and where good cause is otherwise shown, the Chief of Police, or his designee determines that the waiver of the permit application deadline will not present an undue hazard to public safety. (Ord. No. 2012-06, 4-10-12)

### **SECTION 14-150. ISSUANCE OR DENIAL OF PERMIT.**

- (a) The Chief of Police, or his designee, shall issue the permit within three (3) days of receipt of a completed application for a public assembly, and within thirty (30) days of receipt of a completed application for a parade or special event; but, in any event prior to the scheduled parade or public assembly if the application has been timely submitted and it has been determined by the Chief of Police that the proposed parade, public assembly or special event will not endanger the public health, welfare or safety, applying the following criteria and finding that:
  - (1) The time, duration, route and size of the event will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic or the normal use of public property in a place open to the general public;
  - (2) The event is not of such a nature that it will require diversion of so great a number of police and fire personnel to properly police the line of movement in the areas contiguous thereto so as to impair the normal protection of the remainder of the city;
  - (3) The applicant has, where appropriate, designated monitors sufficient to control the orderly conduct of the event in conformity with such permit;
  - (4) The conduct of the event will not unduly interfere with the proper fire and police protection of, or ambulance service to, the remainder of the city, or unreasonably disrupt other public services and protection normally provided to the city;
  - (5) The event will not interfere with another event for which a permit has been granted;
  - (6) The event proposed will not violate, and will conform with all applicable state regulations and laws governing the proposed event; and

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(7) If alcoholic beverages are to be served at the event, the applicant must comply with all applicable provisions of the State Code and local ordinances pertaining to serving and consumption of alcoholic beverages. Additionally:

- a. The applicant may be required to demonstrate that adequate measures have or otherwise will be taken to ensure the safety of persons who may become impaired or intoxicated at the event.
  - b. The applicant may be required to demonstrate that adequate measures have or otherwise will be taken to ensure that underage persons are not served or permitted to consume alcoholic beverages at the event.
  - c. The possession of open containers and consumption of alcoholic beverages is strictly prohibited upon any public school grounds or public park within the City. No permit shall be issued to any applicant where alcohol is to be served upon public school grounds or in a public park.
  - d. The Chief of Police shall call upon the members of a special advisory committee appointed by the City Manager to assist in determining whether adequate measures to ensure public safety are available for a proposed parade or public assembly where alcoholic beverages are to be served.
- (b) For parades, special events, or public assemblies held on a regular or recurring basis at the same location, an application for an annual permit covering all such parades or assemblies during the calendar year may be filed with the Chief of Police, or his designee, at least sixty (60) days before the date and time at which the first such parade or special event is proposed to commence and at least five (5) days before any public assemblies. The Chief of Police, or his designee, may and shall make reasonable efforts to waive the minimum period after due consideration of the factors specified in subsection (c) in the previous section.
- (c) If the Chief of Police, or his designee, denies an application, he shall promptly mail to the applicant a notice of his action, stating the reasons for his denial of the permit, and notifying the applicant of his right to appeal the denial pursuant to Section 14-155 of this article.
- (d) If two or more applications are submitted requesting a permit under this article for an event to be used at the same time and place, the application first filed shall be granted if it meets the requirements of this article;
- (e) Nothing in this article shall permit the Chief of Police, or his designee, to deny a permit based upon political, social or religious grounds or reasons or based upon

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the content of the views expressed. Denial of a permit on such grounds is prohibited.

(Ord. No. 2007-12, 5-8-2007; Ord. No. 2012-06, 4-10-12)

### **SECTION 14-151. ALTERNATIVE PERMIT.**

The Chief of Police, or his designee, in denying a permit for an event shall be empowered to authorize the conduct of the event on a date, at a time, at a place, or over a route different from that proposed by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of acceptance with the Chief of Police, or his designee. An alternate permit shall conform to the requirements of and shall have the effect of a permit under this article.

(Ord. No. 2012-06, 4-10-12)

### **SECTION 14-152. NOTICE TO CITY AND OTHER OFFICIALS.**

Immediately upon the issuance of a permit, the Chief of Police, or his designee, shall send a copy thereof to the following:

- (a) The City Manager;
- (b) The City Attorney;
- (c) The Fire Chief;
- (d) The Director of the Department of Public Services; and
- (e) The Risk Manager.

(Ord. No. 2012-06, 4-10-12)

### **SECTION 14-153. COMPLIANCE WITH DIRECTIONS AND CONDITIONS.**

Every person to whom a permit is issued under this article shall substantially comply with all permit terms and conditions and with all applicable laws and ordinances. The parade or assembly chairman or other person heading or leading the event shall carry the permit upon his person during the conduct of the event, and show the permit when requested to do so. Any violation of this ordinance shall be punishable by a fine of up to \$500.00. Any willful and intentional disregard for the procedures established in this ordinance may be punishable as a Class 2 Misdemeanor.

(Ord. No. 2007-13, 5-8-07; Ord. No. 2012-06, 4-10-12)

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### **SECTION 14-154. REVOCATION OF PERMIT.**

The Chief of Police, or his designee, shall have the authority to revoke any permit issued pursuant to this article if any information supplied by the applicant is discovered to be false or intentionally misleading or if any term, condition, restriction or limitation of the permit has been substantially violated or if there is any continued violation of the terms, conditions, restrictions or limitations of the permit after the applicant or anyone acting in concert with him is notified of a violation of the permit by an appropriate law enforcement official.

### **SECTION 14-155. APPEAL.**

- (a) Any person aggrieved by the refusal of the Chief of Police, or his designee, to grant a permit, or by the revocation of a permit after one has been issued, may appeal the denial to the City Manager, or his designee, by filing with the City Manager's office, within five (5) working days after the date of denial or revocation, a written notice of the appeal setting forth the grounds therefore. The City Manager, or his designee, shall act upon the appeal within five (5) working days after its receipt.
- (b) The decision of the City Manager, or his designee, may be appealed to the circuit court of the City of Winchester, in accordance with the laws of the state.
- (c) In any appeal under this section, the city shall have the burden of demonstrating that the denial of the permit was justified under Section 14-150 of this article.

### **SECTION 14-156. PUBLIC CONDUCT DURING PARADES, DEMONSTRATIONS AND ASSEMBLIES.**

- (a) Interference. No person shall unreasonably hamper, obstruct, impede or interfere with any event or with any person, vehicle or animal participating or used in an event for which a written permit has been issued in accordance with the provisions of this article.
- (b) Driving through parades. No driver of a vehicle shall drive between the vehicles, persons or animals comprising a parade, special event, public assembly or funeral procession except when otherwise directed by a police officer. This shall not apply to authorized emergency vehicles.
- (c) Parking on parade, special event or public assembly route. The Chief of Police, or his designee, shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the public streets or public rights-of-way constituting a part of the route of a parade, demonstration or assembly. The Chief of Police, or his designee, shall post signs to such effect, and it shall be unlawful for any person to park

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or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this article.  
(Ord. No. 2012-06, 4-10-12)

### **SECTION 14-157. SEVERABILITY.**

If any portion of this article is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article and such invalid provisions or portions thereof shall be severable.

## **ARTICLE X. POLICE-REQUESTED TOWING**

### **SECTION 14-158. PURPOSE AND DEFINITIONS.**

This article, adopted in accordance with §§46.2-1217 and 1232 of the Code of Virginia, is intended to apply to requests for towing services made by the Winchester Police Department in order to ensure storage, availability, and service by persons and firms authorized to provide towing services at the request of the Chief of Police or other law enforcement personnel. The provisions of this ordinance are not applicable to towing not at the request of official law enforcement personnel.

Notwithstanding this division or any agreement executed pursuant to it, all tow services authorized to provide service shall remain independent contractors and shall not be deemed to be employees of the city.

This Article is intended to complement other specific provisions of the City Code related to towing including but not limited to the towing of abandoned vehicles under Chapter 14, Art. XIII, and towing for non-payment of parking citations covered under in Section 14-61. To the extent that the provisions of this article conflict with other specific provisions of the Code, the other specific provision of the Code shall supersede.

The following definitions shall be used in the interpretation and administration of this Article. The definitions of various terms as presented herein do not necessarily represent the same definitions as may be found for the same terms in other Chapters of the Code.

- (a) *Authorized Towing Service*: A towing firm or service which meets the requirements of the Code of Virginia, Title 46.2, Chapter 12, and that has entered into a Towing Service Agreement to provide services at the request of the Police Department or other law enforcement personnel.

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- (b) *Emergency*: Refers to a critical traffic problem or extreme weather condition, a parade or other similar public event, a riot, or a disaster or similar event not ordinarily or usually occurring, as determined by the City Manager or his or her designee.
- (c) *Heavy-duty tow rotation list* means the list maintained by the chief of police of those towers meeting the requirements of section 14-169.b herein, who are authorized to respond city-wide to the police department or other law enforcement personnel's requests for heavy towing.
- (d) *Officer*: Refers to a law enforcement officer sworn in the City of Winchester or any other sworn law enforcement officer with jurisdiction at the scene of the tow. This term may also refer to law enforcement communications made by dispatch personnel.
- (e) *Police-Requested Towing*: All requests made by law enforcement officers of the City pursuant to the Code of Virginia §46.2-1218 or 1209, or requests made by a law enforcement officer at the request of an owner or operator of an unattended, abandoned, or immobile vehicle, when no specific service provider is requested by such owner or operator.
- (f) *Suspension*: Temporary removal from the City's Towing Rotation List.
- (g) *Termination*: Permanent removal from the City's Towing Rotation List as well as termination of the Towing Service Agreement.
- (h) *Towing Business*: A towing service in operation for a minimum of one (1) year and meeting the requirements of Section 14-161, herein operating from a location within the City or within five miles of the City limits such that service response can be made within response times allotted. For purposes of this Article, multiple corporations, partnerships, sole proprietorships or other legal entities owned or controlled by one or more members of a single household are deemed to constitute a single towing business.
- (i) *Tow Rotation List*: List maintained by the Chief of Police indicating those towing services authorized to respond to requests made by law enforcement personnel for the towing of vehicles. "Heavy-Duty Tow Rotation List" refers to a separate list of authorized towing services capable of responding to requests for heavy-duty towing.
- (j) *Vehicle*: Refers to a motor vehicle, trailer, semitrailer, or parts thereof.  
(Ord. No. 2014-04, 4-8-14)

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### **SECTION 14-159. POLICE-REQUESTED TOWING; TOWING SERVICE AGREEMENT AND TOW ROTATION LIST.**

- (a) The City adopts this Article pursuant to authority provided in the Code of Virginia §46.2-1217 and 1232 to regulate services rendered in response to police towing requests. Such regulation shall be established through use of a Towing Service Agreement, which shall specify the criteria for becoming an authorized towing service upon the advice of the Towing and Recovery Advisory Board.
- (b) Application. A towing and recovery operator may apply for inclusion on the Tow Rotation List by submitting an application to the Chief of Police. The Chief of Police shall conduct an investigation to determine the accuracy of the information provided and the eligibility of the applicant based upon the criteria set forth in the Towing Service Agreement. Qualified towing services will sign a standard Towing Service Agreement and be placed on the Tow Rotation List or Heavy Duty Tow Rotation List as appropriate. Applicants found to be unqualified will have their application returned with a written determination indicating the reasons for the denial. Except as otherwise provided herein, the only modification to the standard agreement shall be as to the type of towing vehicles the authorized tower will supply
- (c) Tow Rotation List. The Chief of Police shall ensure that towing services are called on a rotating basis in accordance with the Tow Rotation List. Towing services not included on the Tow Rotation List shall not be called by an officer except in the event of an emergency, as defined above and in the Code of Virginia §46.2-1317, or at the specific request of a vehicle owner or operator. If, for the reasons stated above, a towing service is utilized that is not on the list, it must be reported to the Communications Office for record purposes.
- (d) Equal Call System. Each towing service on the Tow Rotation List will have an equal opportunity to respond to police requests for towing. If the Police Department makes two (2) attempts to contact an authorized towing service and receives no answer or a busy signal on both attempts, the next business on the list will be called. If a towing service refuses to respond to a request, or responds but is deemed unfit to proceed by an officer at the scene, they will lose their turn in the rotation and fall to the bottom of the list. In the event a towing service responds to a call but does not provide service due to no fault of its own, that business will be placed back on the top of the Tow Rotation List.  
(Ord. No. 2014-04, 4-8-14)

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### **SECTION 14-160. TOWING AND RECOVERY ADVISORY BOARD.**

- (a) A Towing and Recovery Advisory Board shall be created pursuant to §46.2-1217 and §46.2-1233.2 of the Virginia Code. The purpose of the Towing and Recovery Advisory Board shall be to:
- (1) Study the governing practices of towing and recovery services rendered pursuant to police towing requests;
  - (2) Make recommendations to City Council and the Winchester Police Department regarding adoption or amendment of any ordinance, regulation, or contract pertaining to the same;
  - (3) Hear appeals and complaints arising from police towing requests;
  - (4) Periodically review fees charged by authorized towing services to allow for timely adjustment of fee limitations implemented pursuant to §46.2-1233.1 of the Code of Virginia.
- (b) The Board shall consist of three (3) members appointed by City Council, including one (1) representative from a local law enforcement agency, one (1) representative of a licensed towing and recovery operator, and one (1) member of the general public. The Board shall meet at least once per year at the call of the Chairman, who shall be elected annually by a majority vote of the voting members of the Board. (Ord. No. 2014-04, 4-8-14)

### **SECTION 14-161. DUTIES AND REQUIREMENTS OF AUTHORIZED TOWING SERVICES.**

- (a) Safety. Authorized towing services responding to police requests shall tow vehicles in a manner that does not cause damage to the vehicle and that uses the safest and most direct route. The towing service shall remove all litter, glass, and debris caused by incidents necessitating towing, excluding the contents of a load carried by a private or commercial truck, van, or similar vehicle.
- (b) License and Registration. Authorized towing services shall comply with all applicable federal, state, and local laws, including but not limited to, the securing of all necessary federal, state, and local licenses and payment of registration fees. All authorized towing services shall display a WT-TAG (“Tow Truck for Hire”) or a Virginia apportioned tag while maintaining \$1,000,000.00 in liability

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insurance. All authorized towing services must be current in all financial obligations to the City including all tax and license obligations.

All towing operators shall possess a valid Virginia Driver's License or Commercial Driver's License (as may be required by law) and shall be qualified to operate the tow vehicle and its equipment. Authorized towing services shall ensure that all employees participating in towing operations meet these requirements.

- (c) Insurance. Prior to entering into a Towing Service Agreement, a towing service must provide the Chief of Police with evidence of the following insurance coverage for the duration of the proposed agreement:
- (1) Garage Keeper's Legal Liability Insurance in the minimum amount of \$75,000.00 to cover fire, theft, windstorm, vandalism, and explosion for each lot (\$200,000.00 for towing services on the Heavy-Duty Rotation List);
  - (2) Insurance sufficient to cover any and all claims of loss, damage, or bodily injury resulting from its acts or incurred in the operation of the towing service's equipment and vehicles in the amount required by the state (vehicle liability policy);
  - (3) Insurance sufficient to cover claims under the Worker's Compensation Act, if applicable, for all employees. If any work will be sublet due to a need for specialized equipment, the subcontractor shall provide similar coverage; and
  - (4) A Certificate of Insurance listing the City as an additional insured on its policy.
- (d) Service. All authorized towing services shall provide service twenty-four (24) hours a day, 365 days a year, and shall have available at all times a sufficient number of qualified personnel to effectively receive calls and to respond to towing requests using only their own equipment and personnel. All authorized towing services shall have a business card which contains the name of the business, a physical address, telephone number, and after-hours telephone number if necessary.
- (e) Regular Towing Equipment. All equipment used by authorized towing services must be in good working order, and the use of equipment from another towing firm, regardless of ownership, is prohibited. Authorized towing services shall have at least one regular tow truck and one rollback to perform services under this Article. The rollback must have at least an eight thousand (8,000) pound winch and a deck rating of a minimum seven thousand (7,000) pounds, which shall be

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maintained in good condition with Virginia license plates, current Virginia inspection stickers, and an SCC license. The towing business name, address, and telephone number must be printed on both sides of the towing vehicle in letters and numbers of such size, shape and color as to be readily legible during daylight hours from a distance of fifty (50) feet while the vehicle is not in motion. All towing vehicles, including heavy-duty wreckers, must be equipped with the following:

- (1) A chassis rated with sufficient gross vehicle weight to match the maximum capacity of the crane mounted thereon;
  - (2) One (1) five-pound ABC or one (1) ten-pound ABC fire extinguisher;
  - (3) Two (2) operable amber revolving or flashing emergency lights, mounted on the highest part of the vehicle and visible from all sides;
  - (4) One (1) heavy-duty street broom and one (1) shovel; and
  - (5) Liquid absorbent source for small clean-ups.
- (f) Heavy-Duty Towing Equipment. Towing services included on the Heavy-Duty Tow Rotation List shall make available a heavy-duty wrecker, equipped with a wrecker crane capable of lifting at least 50,000 pounds and capable of towing at least 80,000 pounds. It shall be equipped with:
- (1) A wheel lift or under-reach of sufficient size to tow all types of trucks, tractors, and trailers without damage;
  - (2) A heavy-duty sling;
  - (3) Air brakes; and
  - (4) An auxiliary air supply capable of tying into the air brakes of the disable vehicle to enable safe towing under the braking control of the wrecker.
- (g) Response Time. Time is of the essence in the performance of services. The authorized towing service shall arrive on the scene within thirty (30) minutes of receiving a call, with a grace period of ten minutes if requested by the towing service within the first twenty-five (25) minutes. If such time limit is not met, the request will be considered cancelled, and an officer may request service from the next authorized towing service on the list. In such an event, neither the City nor the vehicle owner shall be liable for any payment to the initial towing service. Heavy-duty towing services are exempt from this requirement, provided they notify the law enforcement agency within the first twenty-five (25) minutes of receiving a call and arrive in a reasonably timely manner.

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Authorized towing services will not be responsible for unavoidable delays caused by circumstances such as natural disasters or Acts of God. However, if the Chief of Police deems that excessive delays are the result of circumstances within the control of the towing service, including but not limited to negligence, lack of manpower, and poorly conditioned equipment, he or she may suspend and/or terminate the towing service from the Towing Rotation List.

If a tow truck is not available or the authorized towing service cannot respond within the time required, the towing service shall immediately notify the dispatcher and explain the reason why. If upon arrival at the towing scene, the towing and recovery operator determines that the responding towing vehicle will not be sufficient for the task, the towing service will be permitted to retrieve additional equipment, provided it is able to respond within the thirty (30) minute time period required.

- (h) Storage and Security of Vehicles. All authorized towing services shall have a secured lot for storage of vehicles located within the City of Winchester or within five (5) miles of the City of Winchester. Storage lots located in the City must meet off-street parking area surface requirements of the Winchester Zoning Ordinance, however a storage facility allowing for the inside storage of vehicles is also permissible. A sign must be conspicuously posted at the lot or facility identifying the towing firm's name and telephone number. The space available in a lot shall be a minimum of 1,500 feet. Share lots are permitted, so long as each towing service sharing the lot meets the minimum space requirement of 1,500 feet. (Ord. No. 2014-04, 4-8-14)

### **SECTION 14-162. LIABILITY AND PROHIBITED ACTS.**

- (a) Prohibited Acts. Violation of any provision of this section may subject the towing service to temporary or permanent removal from the Tow Rotation List, as well as possible termination of the Towing Service Agreement. Violations shall include, but are not limited to:
- (1) Deliberate failure of a towing business to respond to a call after accepting it;
  - (2) Securing a Towing Service Agreement by fraud or concealment of a material fact which, if known, would cause the application to be rejected;
  - (3) Violation of the Towing Service Agreement;
  - (4) Chronic or repeated violations, even if minor in nature, of this Article, and/or;

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- (5) A single, serious violation of this provision, including but not limited to:
- a. Soliciting business at the scene of accidents;
  - b. Knowingly charging excessive fees for services, or charging for services not rendered in violation of §46.2-118;
  - c. Alcohol or drug use;
  - d. Repeated failure to take a call and/or failing to respond to calls in a timely manner;
  - e. Failure to notify the Chief of Police of immediate changes regarding insurance, or the taking on of a new partner(s), owner(s), agent(s), corporate officer(s), or any other material changes to information disclosed in the application for a Towing Service Agreement;
  - f. Failure to remain current in financial obligations to the City;
  - g. Failure to comply with the requirements of this Article.

Unauthorized Provision of Towing Service. No towing service shall respond to an accident for the purpose of towing vehicles unless specifically called there by the Police Department, other law enforcement personnel, or the person involved in the accident or emergency. Violation of this section shall result in suspension from the towing list for thirty (30) days for the first offense, sixty (60) days for the second offense and permanent removal from the Tow Rotation List for the third offense.

- (b) Liability. All authorized towing and recovery operators entering into a Towing Service Agreement shall remain independent contractors and shall not be deemed to be employees of the City. Any such operator utilized in response to a police request shall indemnify and hold free and harmless the City for any costs and expenses, including but not limited to, attorneys' fees, reasonable investigative and discovery costs, court costs, and all other sums which the City, its agents, employees, and representatives may pay or become obligated to pay on account of any, all, and every demand for claim or assertion of liability, or any claim or action founded thereon, arising or alleged to have arisen out of an act or omission of the towing and recovery operator, its agents, employees, owners, officers, or directors. (Ord. No. 2014-04, 4-8-14)

### **SECTION 14-163. FEES AND COMPENSATION.**

(a) Maximum Fees. An authorized towing service, in accordance with §46.2-118, must have readily available at their principal office, upon request, information on the maximum fees normally charged for basic services, including the towing and

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initial hookup of vehicles. The hookup and initial towing fee of a vehicle without the consent of the vehicle owner or operator shall not exceed one hundred and fifty dollars (\$150.00), however the City may set reasonable limits on fees charged for the removal of vehicles from private property in violation of §46.2-1231 and 1215 if the fair market value of such removal is taken into consideration.

(b) Storage Fee. An authorized towing service may charge fifty dollars (\$50.00) a day for the storage of a towed vehicle; however there shall be no charge for the first twenty-four hours of vehicle storage for vehicles towed in accordance with §46.2-1233.1 of the Code of Virginia. An administrative fee of ninety dollars (\$90.00) may be charged for long-term storage exceeding seventy-two (72) hours.

(c) Record of Fees Charged. The towing service shall issue an itemized receipt for payment for towing and storage services to the owner of the towed vehicle. Said receipt shall include a signature line where the owner of the vehicle may acknowledge receipt of the vehicle and acceptance of the fees charged. (Ord. No. 2014-04, 4-8-14)

### **SECTION 14-164. RECORDS AND INSPECTIONS.**

(a) Inspections by Chief of Police. All tow vehicles, required equipment and storage facilities utilized by authorized towing services on the Tow Rotation List shall be inspected and approved by the Chief of Police prior to initial use. The Chief of Police may periodically inspect any tow trucks, equipment, and storage facilities used under this Article. The tow truck inspection shall take place at a location designated by the Chief of Police. There will be an annual inspection of all tow trucks, equipment, and storage facilities, for which a fee of fifty dollars (\$50.00) will be charged for each vehicle inspected. Such annual inspection shall occur on or about the anniversary date of the approval of the towing service's application. If a towing service changes the location of its storage facility, a new inspection must be conducted prior to approval of the new facility.

The Chief of Police shall give the towing service written notice if a vehicle or storage facility is found to be unacceptable. Unacceptable tow trucks, equipment and/or storage facilities may not be used in the performance of duties under a Towing Service Agreement until replaced, repaired, or otherwise brought into compliance and approved by the Chief of Police. Failure to comply with this provision shall result in suspension of the towing service from the Tow Rotation List until the necessary corrections have been made.

(b) Inspection of Stored Vehicles. Upon receiving a request to release or permit an inspection of a stored or seized vehicle from the owner, operator, other authorized

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person during other than normal business hours, a towing service may require one hour's notice for the release of such vehicle. A fee may be charged for after-hours access to the vehicle for purposes of inspection, release, or retrieval of property; however such fees shall be reasonable in light of fees charged by other towing services in the City for comparable service.

(c) Responsibility to Vehicle Owner. Towing services shall comply with the rights of owners of vehicles as set forth in the Code of Virginia §46.2-1217. Towing services must allow for the retrieval of personal property from the vehicle and shall not require that payment for towing and storage be rendered prior to providing such access to the vehicle owner or operator. Additionally, authorized towing services shall be responsible for vehicle(s) towed, including any contents within, from the time the vehicle is towed until the occurrence of one of the following:

- (1) The vehicle is delivered to a location specified by the owner or other authorized person;
- (2) The vehicle and property is released to and accepted by the owner or authorized person in the condition as originally towed. A facsimile authorization shall be acceptable as a form of release from the owner of the vehicle along with a photocopy of photo identification; or
- (3) The vehicle is otherwise disposed of according to law.

(d) Records. All authorized towing businesses shall keep records of all vehicles towed pursuant to the Towing Service Agreement. These records shall include, at a minimum, the date and time of the tow, the vehicle's license number and state of issue, the model and color of vehicle, the location from which it was towed, the charges for towing and storage, the disposition of the vehicle and the date of disposition, and an inventory of any items of value. Such records shall be retained for at least twelve (12) months following the date of tow, and shall be available for inspection by the Chief of Police during the towing service's normal business hours.

(e) Release and Disposition of Vehicle. An attendant must be on duty between the hours of 8:00AM and 5:00PM every Monday through Friday, with the exception of holidays, to permit inspection or release of stored vehicles. After hours, the owner or attendant must be available by telephone. If an owner or lien holder fails to claim any vehicle or if a towing service wants to satisfy any lien which it has on a vehicle, it shall be the towing service's responsibility to dispose of or sell the vehicle in compliance with the Code of Virginia. Towing services shall not release any vehicle designated as "seized" or "seized for forfeiture" by the Police

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Department or other law enforcement agency until the towing service obtains permission from the requesting agency. The towing service shall bill the requesting agency for the cost of the tow and storage. (Ord. No. 2014-04, 4-8-14)

### **SECTION 14-165. COMPLAINTS.**

Complaints resulting from a failure to adhere to proper towing procedure, as outlined in the standard Towing Service Agreement, shall be handled as any other citizen complaint. This may include direction of the complaint through the applicable chain of command, to the Chief of Police, or to the Towing Advisory Board. Authorized towing services must agree to abide by decisions rendered by the Chief of Police and the Towing Advisory Board in response to and resolution of complaints. (Ord. No. 2014-04, 4-8-14)

### **SECTION 14-166. AMENDMENTS TO ORDINANCES.**

The Towing Advisory Board is authorized to recommend revisions to this section. Revisions shall be effective from the date on which they are adopted by the City Council, unless otherwise provided. Towing businesses on the Tow Rotation List shall be given written notification of any changes ten (10) days prior to the revision being adopted. They may cancel their participation on the Tow Rotation List if they do not wish to accept the revision. Cancellations must be submitted in writing to the Chief of Police. (Ord. No. 2014-04, 4-8-14)