

13-21-82

ADOPTION OF AN AMENDMENT TO CHAPTER 82

(MOTOR VEHICLES AND TRAFFIC)

OF THE 1976 CODE OF THE COUNTY OF FAIRFAX,

VIRGINIA

At a regular meeting of the Board of Supervisors of Fairfax, County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Tuesday, June 8, 2021, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment regarding Chapter 82 (Motor Vehicles and Traffic) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to wit:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,

VIRGINIA:

That Chapter 82 (Motor Vehicles and Traffic) is amended as follows:

**Adopted Amendments to
Chapter 82, Motor Vehicles and Traffic**

ARTICLE 1. - In General.

Section 82-1-2. - Definitions.

- (a) The following words and phrases, when used in this Chapter, shall, for the purpose of this Chapter, have the meanings respectively ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning:
- (1) *Antique motor vehicle.* Every motor vehicle, as herein defined, which was actually manufactured, or designated by the manufacturer as a model manufactured in a calendar year not less than twenty-five (25) years prior to January 1 of each calendar year and is owned solely as a collector's item, and is used for participation in club activities, exhibits, tours, parades, and similar uses, but in no event used for general transportation, may be classified by the Commissioner as an antique motor vehicle.
 - (2) *Bicycle* shall include pedal bicycles with helper motors rated less than one brake horsepower, which produce only ordinary pedaling speeds up to a maximum of twenty (20) miles per hour, provided such bicycles so equipped shall not be operated upon any highway or public vehicular area of this State by any person under the age of sixteen (16) years.
 - (3) *Business district.* The territory contiguous to a highway where seventy-five percent (75%) or more of the total frontage, or both sides of the highway, for a distance of three hundred (300) feet or more is occupied by buildings actually in use and operation for business purposes.
 - (4) *Camping trailer.* Every vehicle which has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.
 - (5) *Chapter.* The word "Chapter" as used herein shall mean and refer to this Ordinance.
 - (6) *Chauffeur.* Every person employed for the principal purpose of operating a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.
 - (7) *Commission* shall mean the State Corporation Commission.
 - (8) *Commissioner* shall mean the Commissioner of the Division of Motor

Vehicles of this State.

- (9) *County* shall mean Fairfax County, Virginia.
- (10) *Dealer*. Every person engaged in the business of buying, selling or exchanging motor vehicles, trailers and semitrailers in this County and who has an established place of business for such purpose in this County and at which place of business the books and records of such dealer are kept and at which a substantial part of the business of such dealer is conducted.
- (11) *Division* shall mean the Division of Motor Vehicles of this State.
- (12) *Essential parts*. All integral parts and body parts, the removal, alteration or substitution of which will tend to conceal the identity of a vehicle.
- (13) *Farm tractor*. Every motor vehicle designed and used as a farm, agricultural or horticultural implement for drawing plows, moving machines and other farm, agricultural or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.
- (14) *Financial responsibility*. Ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use or operation of a motor vehicle, in the amount of Twenty-five Thousand Dollars (\$25,000.00) because of bodily injury to or death of any one person and, subject to such limit for one person, in the amount of Fifty Thousand Dollars (\$50,000.00) because of bodily injury to or death of two (2) or more persons in any one accident, and in the amount of Ten Thousand Dollars (\$10,000.00) because of injury to or destruction of property in any one accident.
- (15) *Foreign vehicles*. Every motor vehicle, trailer or semitrailer which shall be brought into the State otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in the State.
- (16) *Highway*. The entire width between boundary lines of every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this County, including the streets, alleys and publicly maintained parking lots in the County, and for law enforcement purposes only the entire width between boundary lines of all private roads or private streets located within any residential development containing five hundred (500) or more lots.
- (17) *Intersection*.
 - (A) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
 - (B) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway

by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

(C) For purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

- (18) *License plate.* A device containing letters, numerals or a combination of both, attached to a motor vehicle, trailer or semitrailer to indicate that such motor vehicle, trailer or semitrailer is properly registered with the Division.
- (19) *Manufacturer.* Every person engaged in the business of constructing or assembling motor vehicles, trailers or semitrailers at an established place of business in this State
- (20) *Metal tires.* All tires, the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.
- (21) *Mobile home.* Every vehicle not otherwise classified herein which has noncollapsible sides, which contains sleeping quarters and may or may not contain bathing and cooking facilities and every trailer not designed for the transportation of property but used primarily for office space and is designed to be drawn by a motor vehicle.
- (22) *Motorcycle.* Every motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred (500) pounds and equipped with an engine of less than six (6) horsepower, except any such vehicle as may be included within the term "farm tractor" as defined in this Section.
- (23) *Motorhome.* Every private motor vehicle with a normal seating capacity of not more than ten (10) persons, including the driver, designed primarily for use as living quarters for human beings.
- (24) *Motor vehicle.* Every vehicle as defined in this Section which is self-propelled or designed for self-propulsion. Any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space, shall be considered a part of a motor vehicle. For the purpose of this Chapter, any device herein defined as a bicycle shall be deemed not to be a motor vehicle.
- (25) *Nonresident.* Every person who is not domiciled in this State, except:
 - (A) Any foreign corporation which is authorized to do business in this State by the State Corporation Commission shall be deemed a resident of this State for the purpose of this Chapter; provided, however, that in the case of corporations incorporated in this State but doing business without the State, only such principal place of

business or branches located within this State shall be dealt with as residents of this State.

- (B) A person who becomes engaged in a gainful occupation in this State for a period exceeding sixty (60) days, shall be deemed a resident for the purposes of this Chapter.
 - (C) A person other than a nonresident student as defined in paragraph (20) of this Section who has actually resided in this State for a period of six (6) months, whether employed or not, or who has registered a motor vehicle, listing an address within this State in the application for registration, shall be deemed a resident for the purposes of this Chapter.
- (26) *Nonresident student.* Every nonresident person who is enrolled as a full-time student in an accredited institution of learning in this State and who is not gainfully employed.
 - (27) *Operation or use for rent or for hire, etc.* The terms operation or use for rent or for hire, and the term *business of transporting persons or property*, wherever used in this title, shall mean any owner or operator of any motor vehicle, trailer or semitrailer operating over the highways of this State who accepts or receives compensation for the service, directly or indirectly; but such terms shall not be construed to mean a "truck lessor" as defined herein.
 - (28) *Operator.* Every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.
 - (29) *Owner.* A person who holds the legal title of a vehicle or, in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Chapter, except that in all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee upon payment of the rent stipulated, the lessor shall be regarded as the owner of such vehicle and the vehicle shall be subject to such requirements of this Chapter as are applicable to vehicles operated for compensation; provided, however, that a "truck lessor" as defined in *Code of Virginia*, Section 46.2-100(36), shall be regarded as the owner, and his vehicles shall be subject to such requirements of this Chapter as are applicable to vehicles of private carriers.
 - (30) *Peace or police officer.* Every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

- (31) *Person*. Every natural person, firm, partnership, association or corporation.
- (32) *Pickup or panel truck*. Every motor vehicle designed for the transportation of property with a registered gross weight of seven thousand five hundred (7,500) pounds or less.
- (33) *Pneumatic tires*. All tires inflated with compressed air.
- (34) *Private road or driveway*. Every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- (35) *Reconstructed vehicle*. Every vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition or substitution of essential parts, new or used.
- (36) *Rescue vehicle*. The term "rescue vehicle" is defined as any vehicle designed or utilized for the principal purposes of supplying resuscitation or other emergency relief where human life is endangered.
- (37) *Residence district*. The territory contiguous to a highway not comprising a business district where seventy-five percent (75%) or more of the total frontage, on both sides of the highway, for a distance of three hundred (300) feet or more is occupied by dwellings and land improved for dwelling purposes, or by dwellings, land improved for dwelling purposes and land or buildings in use for business purposes.
- (38) *Road tractor*. Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon independently or any part of the weight of a vehicle or load so drawn.
- (39) *Roadway* shall mean that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or unpaved area.
- (40) *Safety zone*. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
- (41) *School bus*. Any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is:
 - (i) Designed and used primarily for the transportation of pupils to and from public, private or parochial schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; and
 - (ii) Painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and

- (iii) Is equipped with warning devices prescribed in Section 46.2-1090, *Code of Virginia*. School buses manufactured prior to July 1, 1974, may continue to have the words "Stop, State Law" in black letters of specified size on front and rear.
- (42) *Semitrailer*. Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.
- (43) *Shoulder* shall mean that part of a highway between the portion regularly travelled by vehicular traffic and the lateral curb line or ditch.
- (44) *Solid rubber tires*. Every tire made of rubber other than a pneumatic tire.
- (45) *Specially constructed vehicles*. Any vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as defined in this Section.
- (46) *Street*. Such term shall have the same meaning as the term "highway," as defined in this Section.
- (47) *Superintendent* shall mean the Superintendent of the Department of State Police of this State.
- (48) *Tractor truck*. Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.
- (48.1) *Traffic infraction* shall mean any violation of any provision of this Chapter, or of any rules or regulations established thereunder, not expressly defined as a felony or misdemeanor, and otherwise not punishable by incarceration or by a fine of more than One Hundred Dollars (\$100.00). The term "traffic infraction", used in any other Chapter of this Code, or in any rule or regulation adopted pursuant to any provision of this Chapter, shall have this same meaning and effect.
- (49) *Traffic lane or lane*. shall mean that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.
- (50) *Trailer*. Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.
- (51) *Truck*. Every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a gross weight in excess of seven thousand five hundred (7,500) pounds.
- (52) *Truck lessor*. A person who holds the legal title to any motor vehicle, trailer or semitrailer which is the subject of a bona fide written lease for a term of one (1) year or more to another person, provided that:

- (A) Neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in *Code of Virginia*, Section 56-273; and
 - (B) The leased motor vehicle, trailer or semitrailer is used exclusively for the transportation of property of the lessee; and
 - (C) The lessor is not employed in any capacity by the lessee; and
 - (D) The operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and
 - (E) A true copy of such lease, verified by affidavit of the lessor, is filed with the Commissioner.
- (53) *Vehicle*. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks and except any vehicle as may be included within the term bicycle as herein defined. (3-13-63; 1961 Code, § 16-2; 37-76-82; 9-78-82; 34-78-82; 19-79-82; 26-81-82; 30-89-82.)

Footnotes:

--- () ---

2. For similar state law, see Va. Code Ann. ~~§46.1-1~~ 46.2-100.

Section 82-1-3. - Enforcement by County officers; officers to be uniformed.

- (a) 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 ~~Title 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 ~~Title Chapter~~.
- (b) With the consent of the landowner, any such officer or other uniformed employee of the police department may patrol the landowner's property to enforce State or County motor vehicle registration and licensing requirements.
- (c) Any law enforcement officer may patrol the streets and roads within subdivisions of real property or within a condominium pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.) or land submitted to a horizontal property regime pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.), ~~Code of Virginia, Chapter 4.1 (§ 55-79.1 et seq.) or 4.2 (§ 55-79.39 et seq.) of Title 55~~, which streets and roads are maintained by the owners of the lots or parcels of land within ~~any such~~ the subdivision or the owners of condominium units within any ~~such~~ horizontal property regime or any association of such owners, on the request or with the consent of the owners or association of owners, to enforce the provisions of Title 46.2 of the Code of Virginia punishable as felonies, misdemeanors, or traffic infractions. ~~Code of Virginia, Chapters 1 through 4 (§§ 46.1-1 through 46.2-347) of Title 46.1. (3-13-63; 1961 Code, § 16-3; 37-76-82; 26-81-82.)~~

Section 82-1-6. Adoption of State Law.

Pursuant to the authority of Section 46.2-1313 of the Virginia Code, all provisions and requirements of the following sections of the Code of Virginia, as in effect on July 1, ~~2020~~ 2021, except those provisions and requirements the violation of which constitutes a felony, are hereby incorporated into the Fairfax County Code by reference, effective July 1, ~~2020~~ 2021.

18.2-266	<u>18.2-271.1</u>	46.2-341.26:2
18.2-266.1	18.2-272	46.2-341.26:3
18.2-267	<u>46.2-100</u>	46.2-341.26:4
18.2-268.1	46.2-102	46.2-341.26:7
18.2-268.2	46.2-104	46.2-341.26:9
18.2-268.3	46.2-108	46.2-341.27
18.2-268.4	46.2-109	46.2-341.28
18.2-268.5	46.2-110	<u>46.2-345.3</u>
18.2-268.6	46.2-111	<u>46.2-346</u>
18.2-268.7	46.2-112	46.2-349
18.2-268.8	46.2-203.1	46.2-357
18.2-268.9	<u>46.2-208</u>	46.2-371
18.2-268.10	46.2-218	46.2-373
18.2-268.11	46.2-300	46.2-376
18.2-268.12	<u>46.2-301</u>	46.2-379
18.2-269	<u>46.2-301.1</u>	46.2-380
18.2-270	46.2-302	46.2-391.01
18.2-270.01	46.2-329	46.2-391.2
18.2-270.1	46.2-334.001	46.2-391.3
18.2-271	46.2-341.20:5	46.2-391.4

46.2-392	46.2-808	46.2-829
46.2-393	46.2-808.1	46.2-830
46.2-398	46.2-808.2	46.2-831
46.2-602.3	46.2-810	46.2-832
46.2-612	46.2-811	46.2-833
46.2-613	46.2-812	46.2-833.1
46.2-616	46.2-814	46.2-834
46.2-617	46.2-816	46.2-835
46.2-618	46.2-816.1	46.2-836
46.2-704	46.2-817	46.2-837
46.2-711	46.2-818.1	46.2-838
46.2-715	46.2-818.2	<u>46.2-839</u>
46.2-716	46.2-819.4	46.2-841
46.2-724	46.2-820	46.2-842
46.2-730	46.2-821	46.2-842.1
46.2-800	46.2-822	46.2-844
46.2-801	46.2-823	46.2-845
46.2-802	46.2-824	46.2-846
46.2-803	46.2-825	46.2-848
46.2-804	46.2-826	46.2-849
46.2-805	46.2-827	46.2-850
46.2-806	46.2-828	46.2-851
46.2-807	46.2-828.2	46.2-852

46.2-853	46.2-874	46.2-895
46.2-854	46.2-876	46.2-896
46.2-855	46.2-877	46.2-897
46.2-856	46.2-878	46.2-898
46.2-857	46.2-878.1	46.2-899
46.2-858	46.2-878.2	46.2-900
46.2-859	46.2-878.3	46.2-902
46.2-860	46.2-879	46.2-903
46.2-861	46.2-880	46.2-904
46.2-861.1	46.2-882	46.2-904.1
46.2-862	46.2-882.1	<u>46.2-905</u>
46.2-863	46.2-883	46.2-906
46.2-864	46.2-884	46.2-908.1
46.2-865	46.2-885	46.2-909
46.2-865.1	46.2-886	46.2-910
46.2-866	46.2-887	46.2-911.1
46.2-868	46.2-888	46.2-912
46.2-868.1	46.2-889	46.2-914
46.2-869	46.2-890	46.2-915
46.2-870	46.2-891	46.2-915.2
46.2-871	46.2-892	46.2-918
46.2-872	46.2-893	46.2-919
46.2-873	46.2-894	46.2-919.1

46.2-920	<u>46.2-1013</u>	46.2-1038
46.2-921	<u>46.2-1014</u>	46.2-1039
46.2-922	46.2-1015	46.2-1040
<u>46.2-923</u>	46.2-1016	46.2-1041
46.2-924	46.2-1017	46.2-1043
<u>46.2-926</u>	46.2-1018	46.2-1043.1
46.2-927	46.2-1019	46.2-1044
46.2-928	46.2-1020	46.2-1047
46.2-929	46.2-1021	<u>46.2-1049</u>
46.2-930	46.2-1022	46.2-1050
46.2-932	46.2-1023	<u>46.2-1052</u>
<u>46.2-936</u>	46.2-1024	46.2-1053
46.2-937	46.2-1025	<u>46.2-1054</u>
<u>46.2-940</u>	46.2-1026	46.2-1055
46.2-942	46.2-1027	46.2-1056
46.2-1001.1	<u>46.2-1030</u>	46.2-1057
46.2-1001	46.2-1031	46.2-1058
46.2-1002	46.2-1032	46.2-1059
<u>46.2-1003</u>	46.2-1033	46.2-1060
46.2-1004	46.2-1034	46.2-1061
46.2-1010	46.2-1035	<u>46.2-1063</u>
46.2-1011	46.2-1036	46.2-1064
46.2-1012	46.2-1037	46.2-1065

46.2-1066	46.2-1092	46.2-1158.1
46.2-1067	46.2-1093	46.2-1172
46.2-1068	46.2-1102	46.2-1173
46.2-1070	46.2-1105	46.2-1216
46.2-1071	46.2-1110	46.2-1218
46.2-1072	46.2-1111	46.2-1219.2
46.2-1076	46.2-1112	46.2-1231
46.2-1077	46.2-1115	46.2-1234
46.2-1077.01	46.2-1116	46.2-1240
46.2-1078	46.2-1118	46.2-1242
46.2-1079	46.2-1120	46.2-1250
46.2-1080	46.2-1121	46.2-1309
46.2-1081	46.2-1130	46.2-1508.2
46.2-1082	46.2-1137	46.2-1552
46.2-1083	46.2-1150	46.2-1561
46.2-1084	46.2-1151	46.2-2910
46.2-1088	46.2-1154	
46.2-1088.1	46.2-1155	
46.2-1088.2	46.2-1156	
46.2-1088.5	<u>46.2-1157</u>	
46.2-1088.6	46.2-1158	
46.2-1090	46.2-1158.01	
46.2-1091	46.2-1158.02	

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 County. Such provisions and requirements are hereby adopted, mutatis mutandis, 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 county, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-270.1, 18.2-271, 18.2-271.1 and 18.2-272 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 or Title 18.2-266, 18.2-266.1, 18.2-267, 18.2-268.1 through 18.2-268.12, 18.2-269, 18.2-270, 18.2-270.01, 18.2-271, 18.2-270.1, 18.2-271.1 and 18.2-272 of the *Code of Virginia*.

(20-83-82; 25-84-82; 14-85-82; 16-87-82; 29-88-82; 20-89-82; 30-89-82; 18-90-82; 36-90-82; 23-91-82; 37-91-82; 37-92-82; 46-92-82; 33-93-82; 27-94-82; 17-95-82; 35-95-82; 25-96-82; 41-96-82; 18-97-82; 21-98-82; 20-99-82; 27-00-82; 25-01-82; 24-02-82; 33-02-82; 26-03-82; 25-04-82; 22-05-82; 18-06-82; 21-07-82; 45-08-82; 52-08-82; 41-09-82; 21-10-82; 22-11-82; 13-12-82; 15-12-82; 48-13-82; 27-14-82; 21-15-82; 21-16-82; 11-17-82; 21-18-82; 21-19-82; [10-20-82](#).)

Section 82-1-31. - Arrest for misdemeanors; release on summons and promise to appear; admitting to bail; violations.

- (a) Whenever any person is detained by or in the custody of an arresting officer ~~arrested~~, including an arrest on a warrant, for a violation of any provision of this Chapter, ~~except of Section 82-4-17,~~ the arresting officer shall, except as otherwise provided in Section 82-1-34 or any other Section of this Chapter, 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.
- (b) For purposes of arrest, traffic infractions shall be treated as misdemeanors. Except as otherwise provided by this Chapter, the authority and duties of arresting officers shall be the same for traffic infractions as for misdemeanors.
- (c) ~~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.~~ If any person refuses to give such written promise to appear under the provisions of this section, the arresting officer shall give such person notice of the time and place of the hearing, note such person's refusal to give his written promise to appear on the summons, and forthwith release him from custody.
- (d) Any person who willfully violates his written promise to appear or fails to appear at the time and place specified in such summons or notice issued, ~~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.
- (e) 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. (3-13-63; 1961 Code, § 16-30; 37-76-82; 9-78-82.)

Section 82-3-14. - Inspection of vehicles.

- (a) The Superintendent may at any time compel, by proclamation of the Governor or otherwise, the owner or operator of any motor vehicle, trailer or semitrailer operated or parked on the ~~upon a~~ highways ~~within this~~ in the Commonwealth to submit such vehicle to an inspection of its mechanism and equipment by an official inspection station, designated for that purpose, and any such owner or operator who fails to submit a motor vehicle, trailer or semitrailer operated or parked on ~~upon~~ the highways of this State to such inspection or who fails or refuses to correct or have corrected in accordance with the requirements of this title any mechanical defects found by such inspection to exist shall be guilty of a misdemeanor and shall be punished in accordance with the provisions of Section 46.2-113 of the *Code of Virginia*, and each day upon which such motor vehicle, trailer or semitrailer is operated over any highway of this State after failure to comply with this law shall constitute a separate offense; provided, that the penalty provided herein shall not be imposed upon any owner or operator for operation of a motor vehicle, trailer or semitrailer after the expiration of a period fixed for the inspection thereof, over the most direct route between the place where such vehicle is kept or garaged and an official inspection station, for the purpose of having the same inspected pursuant to a prior appointment with such station for such inspection.
- (b) The provisions of this Section shall not apply to any vehicle for transporting well-drilling machinery licensed under *Code of Virginia*, Section 46.2-700 or to any vehicle as defined under *Code of Virginia*, Section 46.2-100 and licensed pursuant to *Code of Virginia*, Section 46.2-730.
- (c) No law-enforcement officer shall stop a motor vehicle due to an expired vehicle inspection sticker until the first day of the fourth month after the original expiration date. (1950 Va. Code, § 46-317; 1950, h. 691; 1958, c. 541; 3-13-63; 1961 Code, § 16-51; 37-76-82; 9-78-82; 34-78-82.)

Footnotes:

--- () ---

32. For similar state law, see Va. Code Ann., § 46.2-1157.

Section 82-5-1. - Parking prohibited in Specified Places.

- (a) No person shall park a vehicle, except when necessary to avoid a 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, or within ten feet to either side of, a public or private driveway;
 - (3) In or within 20 feet of an intersection;
 - (4) Within 15 feet of a fire hydrant located on private or public property or within a fire lane as defined in chapter 62 (Fire Protection), of the Code of the County of Fairfax;
 - (5) In or within 20 feet of a crosswalk;
 - (6) Repealed;
 - (7) Within 30 feet upon the approach of 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 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 50 feet of the nearest rail of a railroad grade crossing;
 - (10) Within 20 feet of the driveway entrance to any fire station and on the street opposite the entrance to any fire station within 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 the street ;
 - (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;
 - (15) Repealed; or
 - (16) So as to prevent the use of curb ramps located on public property or on privately owned property open to the public.
- (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, or start or cause to be started the motor of any motor vehicle or shift, change or move the levers, brake, starting device, gears, or other mechanism of a parked motor vehicle to a position other than that in which it was left by the owner or driver thereof, or attempt to do so. (3-13-63; Code, § 16-121; 14-74-16; 37-76-82; 38-76-82; 28-80-82; 17-83-82; 34-84-82; 31-91-82; 49-93-82; 18-97-82; 48-09-82.)

Section 82-5-32. - Removal, immobilization, and disposition of vehicles unlawfully parked on private or county property.

- (a) *Applicability.* Section 82-5-32 establishes the minimum requirements for all trespass towing initiated in Fairfax County. Fairfax County Code shall also apply to a trespassing vehicle towed from Fairfax County and stored outside the County.
- (b) *Definitions.* The following words and phrases shall have the meanings respectively ascribed to them in this section:

"Advisory Board" means the Fairfax County Trespass Towing Advisory Board.

"Board" means the Fairfax County Board of Supervisors.

"Commission" means the Fairfax County Consumer Protection Commission.

"County" means the County of Fairfax, Virginia.

"Department" or "DCCS" means the Fairfax County Department of Cable and Consumer Services.

"Director" means the Director of the Fairfax County Department of Cable and Consumer Services or the duly assigned agent of the Director of the Department.

"Driver" means a person who drives or is in actual physical control of a tow truck. A driver shall have obtained all required documents issued by the state in order to operate a tow truck while providing towing services.

"Drop fee" means a fee that is charged a vehicle owner for disconnecting a tow truck from a vehicle prior to leaving private property.

"Equipment" means any tow truck, vehicle or related machinery or tools used to provide towing.

"Immobilize" means a procedure or piece of equipment, such as a boot, used to prevent a vehicle from moving. Immobilization does not include attachment to a tow truck.

"Law-enforcement officer" means any officer authorized by law to direct or regulate traffic, or to make arrests for violations of the Code of Virginia or local ordinances.

"Locality" means the geographical area of control of a county, city, or town.

"Locality permit" means a document indicating an operator has been approved to immobilize or trespass tow vehicles in Fairfax County and store vehicles both inside and outside of Fairfax County.

"Operator" or "towing and recovery operator" means any person, including a business, corporation, or sole proprietor, offering services involving the use of a tow truck and services incidental to the use of a tow truck.

"Personal property" means any property in a vehicle which is not attached to or considered to be necessary for the proper operation of the vehicle.

"Property owner" means the owner, operator, authorized agent, or lessee of any land, space, or area used for parking, including any county, city, or town, or authorized agent of the person having control of such premises.

"Registration certificate" means a document indicating an operator has been approved to trespass tow and store vehicles within Fairfax County.

"State" means the Commonwealth of Virginia.

"Storage site" means a location where vehicles are taken until the owner reclaims the vehicle or it is sold. The location must meet all requirements specified in this section.

"Tow" or "towed" means when the tow truck has engaged a vehicle by a physical or mechanical means that causes the towed vehicle to be removed from private property.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus, and (ii) having a manufacturer's gross vehicle weight rating (GVWR) of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks."

"Trespass tow" means requests for towing services made by the owner, manager, or lessee of private property, or the authorized agent thereof, or under contract between such person and a towing and recovery operator that specifies what tows are to be made from the property when a vehicle is on the property in violation of law or rules promulgated by the owner, manager, or lessee of the private property.

"Vehicle" means every device in, on, or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks.

"Vehicle owner" means the owner, operator, authorized agent, or lessee of a vehicle.

(c) *Exclusions.*

(1) This section shall not apply to:

(A) Police, fire, or public health vehicles, or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another at the direction of police, fire or public health officials.

(B) Vehicle repossession activities.

Vehicles towed, moved, or stored at the request of a law-

enforcement officer.

- (2) The provisions of this section shall not be construed to prohibit vehicles from being towed when such towing is otherwise permitted by law.

(d) *Signs.*

- (1) Permanent signs, clearly visible during daytime and nighttime hours, shall be posted at all entrances to the parking area that conspicuously disclose that such vehicle shall be towed or immobilized.
- (2) Such signs, at a minimum, shall: (all measurements are approximate)
 - (A) Be made of metal.
 - (B) Be 18 inches high and 12 inches wide.
 - (C) Contain reflective red letters and red reflective graphics on a reflective white background, with a $\frac{3}{8}$ inch reflective red trim strip $\frac{3}{8}$ inch in from the entire outer edge of the sign.
 - (D) Contain the international Towing symbol that is at least 5 inches high by 11 inches wide as found in the Federal Highway Administration, *"Manual on Uniform Traffic Control Devices"*.
 - (E) Use Series B or Clearview lettering found in the Federal Highway Administration, *"Manual on Uniform Traffic Control Devices"*.
 - (F) Contain "Towing Enforced" in a font size of two inch letters.
 - (G) Contain "If towed Call 703-691-2131" in a font size of one inch letters, which is the Fairfax County Department of Public Safety Communications (DPSC) telephone number. However, if the tow originated in the Town of Vienna, the sign shall contain, "If Towed Call 703-255-6366" and if the tow originated in the Town of Herndon, the sign shall contain, "If Towed Call 703-435-6846".
 - (H) Paragraphs (2)(A) through (2)(F) shall be effective January 1, 2015.
- (3) Signs posted in a government road right-of-way must meet Virginia Department of Transportation standards and all applicable Virginia laws to include the bottom of the sign mounted at least seven feet above the ground. Signs posted on private property are not required to meet this height requirement as long as they are clearly visible.
- (4) Sign contents may also include additional information such as, but not limited to, the name of the property or name and telephone number of the designated operator in a font size of 19/32 inch letters.
- (5) In addition to the mandatory entrance signs, other area signs may be used to specify any other requirements for parking.
- (6) The requirement for signs shall not apply to single-family residence properties not subject to common interest community regulations (as defined in Va. Code § ~~55-528~~ 54.1-2354.1, as amended).

- (7) No signage of the type required in this section shall be required to effect the towing of a vehicle unlawfully parked in a spot reserved for persons with disabilities or in a "Fire Lane" that is approved and marked in accordance with County and state requirements.
- (8) Trespassing vehicle on property not marked by signs.
 - (A) Non-residential properties. A notice must be conspicuously affixed to a trespassing vehicle with a warning the vehicle is liable to be towed 48 hours after such notice is posted.
 - (i) The notice must contain the date and time of posting.
 - (ii) A vehicle found to be trespassing a second time on the same unmarked property may be towed immediately. A warning notice is not required.
 - (B) Vehicles trespassing on single-family residence properties not subject to common interest community regulations may be towed immediately. No notice is required.
- (e) *Property owner.*
 - (1) A property owner may have a vehicle towed to a storage site or immobilized without the permission of the vehicle owner if the vehicle is occupying property without permission of the property owner, and if conditions set forth in this section are met.
 - (A) The property owner has executed a contract with a towing and recovery operator that specifies what tows are to be made from the property when a vehicle is parked on the property in violation of law, or rules promulgated by the owner, manager, or lessee of the private property. Such contract shall clearly state the terms under which towing and recovery operators may monitor private lots on behalf of property owners.
 - (B) Copies of such written contracts shall be retained for three years after the date of the last tow or immobilization approved by the agreement.
 - (2) In lieu of having such vehicle towed or immobilized, the property owner on which the vehicle is located may request a law enforcement officer issue, on the premises, a citation to the vehicle owner.
- (f) *Operator.* Trespass tow operators must comply with all requirements of this section.
 - (1) *Registration certificate.*
 - (A) All operators engaged in immobilizing or towing vehicles without the consent of the vehicle owner in Fairfax County must register with the Department of Cable and Consumer Services prior to the initiation of any such operations, and by January 31 of each subsequent year.

- (B) To obtain a registration certificate, the following information and documents must be provided to the Department:
 - (i) Name, address and telephone number of the business engaged in immobilizing or towing;
 - (ii) Name and telephone number of the business owner or chief executive officer (CEO);
 - (iii) Copy of the operator's business license;
 - (iv) Address, telephone number, and vehicle storage capacity of each storage site to which vehicles will be towed;
 - (v) Copy of each office and storage site Non-Residential Use Permit and,
 - (vi) Number of tow trucks to be operated in Fairfax County.
 - (vii) Proof of insurance as required by Va. Code § 46.2-2143, as amended, and shall include provisions for notice by the insurance carrier to the Director prior to termination of such coverage.
 - (C) Application shall be made on forms provided by the Department.
 - (D) The department must be notified of any changes to information previously provided by the operator within 30 calendar days of the change.
- (2) *Locality permit.*
- (A) All operators engaged in towing vehicles without the consent of the vehicle owner in Fairfax County and storing those vehicles outside of Fairfax County must obtain an approved locality permit prior to the initiation of any such operations and by January 31 of each subsequent year.
 - (i) The initial application and annual renewal fee for each operator shall be \$150.00.
 - (ii) The initial inspection fee for each storage site outside of Fairfax County shall be \$450.00.
 - (B) To obtain a locality permit, the following information and documents must be provided to the Department:
 - (i) Name, address and telephone number of the business engaged in immobilizing or towing;
 - (ii) Name and telephone number of the business owner or chief executive officer (CEO);
 - (iii) Copy of the operator's business license issued by the

jurisdiction in which the operator is headquartered;

- (iv) Address, telephone number, and vehicle storage capacity of each storage site to which vehicles will be towed;
- (v) Copy of each office and storage site occupancy permit issued by the zoning agency in the jurisdiction in which the storage site is located.
- (vi) Number of tow trucks to be operated in Fairfax County.
- (vii) Proof of insurance as required by Va. Code 46.2-2143, as amended, and shall include provisions for notice by the insurance carrier to the Director prior to termination of such coverage.

(C) Application shall be made on forms provided by the Department.

(D) The Department must be notified of any changes to information previously provided by the operator within 30 calendar days of the change.

(3) *Registration certificates and locality permits.*

- (A) It shall be unlawful for any person to procure, or assist another to procure, through theft, fraud, or other illegal means, a registration certificate or locality permit from the Department. Any violation of any provision of this section shall be punishable as a Class 2 misdemeanor.
- (B) Any person or entity other than the Department that sells, gives, or distributes, or attempts to sell, give or distribute any document purporting to be a registration certificate or locality permit to conduct a trespass towing business in Fairfax County is guilty of a Class 1 misdemeanor.

(4) *Operational requirements.*

- (A) The operator shall be open for business 24 hours a day and seven days per week, unless the operator has no vehicles immobilized or stored at an approved storage site.
- (B) All tow truck safety devices must be operational, used, and comply with local, state, and federal laws and regulations.
- (C) An operator shall not tow a vehicle from private property or immobilize a vehicle on private property unless the vehicle is parked on the property in violation of law or rules promulgated by the owner, manager, or lessee of the private property.
- (D) All tow trucks shall have the following identifying markings of a contrasting color to the truck body on both sides of each tow truck:
 - (i) The operator's business name as registered with the

Department in a font not less than three inches in height.

- (ii) The operator's telephone number in a font not less than three inches in height.
 - (iii) Truck number in a font not less than four inches in height.
- (E) Each tow truck, while trespass towing, shall have a copy of the current Fairfax County trespass towing registration certificate or locality permit in the tow truck.
- (F) Each immobilization device shall have a label, clearly visible while the device is in position immobilizing a vehicle, that lists the operator's name and telephone number, immobilization fee, and the Department's name and telephone number.
- (G) The Fairfax County Department of Public Safety Communications (DPSC) shall be notified no later than 30 minutes after initiating the immobilization or towing of a vehicle. However, whenever a vehicle is towed or immobilized from sites within the Town of Herndon or the Town of Vienna, the operator, shall notify the law enforcement agency in those localities as applicable.
- (H) Such notification shall include the:
 - (i) Operator name and driver employee number who towed or immobilized the vehicle;
 - (ii) Make, model, color, year, vehicle identification number of the towed or immobilized vehicle;
 - (iii) License plate type (such as passenger car, truck, dealer, taxi, disabled), number, state, and year of license of the towed or immobilized vehicle;
 - (iv) Address where the vehicle was towed or immobilized from;
 - (v) Reason for the tow or immobilization;
 - (vi) Time such tow or immobilization was initiated; and
 - (vii) Storage site address where the vehicle is located and the operator's telephone number.
- (I) It shall be unlawful to fail to report a tow or immobilization as required by this section. Violation of the reporting requirements of this section shall constitute an invalid tow resulting in no charge to the owner for the release of the vehicle.
- (J) Any tow truck driver who tows a vehicle that is occupied by an unattended companion animal, as defined by Va. Code § 3.2-6500, as amended, shall, upon such removal, immediately notify the Animal Services Division of the Fairfax County Police Department (FCPD). Such notification should be made to the Fairfax County

DPSC non-emergency telephone number.

- (K) Upon leaving private property, a driver must tow each vehicle directly to a storage site registered with the Department. Changing the towing vehicle shall not be permitted unless the original towing vehicle becomes non-operational.
 - (i) The vehicle must remain in that lot for 30 calendar days if the owner fails to claim the vehicle.
 - (ii) A vehicle towed outside of Fairfax County may not be towed more than ten miles from the origin of the tow, and must remain in the Commonwealth. The straight line ten-mile radius from a storage site outside of Fairfax County shall be determined by the Director using the Fairfax County GIS & Mapping Services Branch data.
 - (L) Photographic evidence clearly substantiating the vehicle's condition, location, and reason for the vehicle's tow or immobilization must be made prior to connecting the tow truck to the vehicle.
 - (M) While being towed, vehicles shall be properly secured in accordance with all laws, regulations, and tow truck vehicle manufacturer recommendations.
 - (N) Nothing in this section shall release the operator from liability for failure to use reasonable care to prevent the load from shifting or falling.
 - (O) Records. An operator shall maintain written and electronic records for each towed or immobilized vehicle for a period of three years after such tow or immobilization. Records to be retained shall include:
 - (i) A record of the property owner's approval;
 - (ii) The information required to be provided to the DPSC and other local law enforcement agencies pursuant to this section;
 - (iii) A legible copy of the receipt provided to vehicle owner; and
 - (iv) Photographs and any other documentation supporting the tow.
- (5) *Storage site requirements.*
- (A) Every site to which trespassing vehicles are towed, stored, and available for return to the vehicle owner shall comply with the following requirements:
 - (i) A storage site must be staffed, and open for business 24 hours per day and seven days per week, unless the operator has no vehicles towed from a location in Fairfax County stored at the storage site.

- (ii) Each storage site must be properly zoned and approved for storage of towed vehicles, as evidenced by an occupancy permit issued by the zoning agency in the jurisdiction in which the storage site is located. Each storage site must also be registered with the Department.
- (iii) A storage site shall be lighted during the hours of darkness to afford clear visibility to all portions of the storage site.
- (iv) A towed vehicle shall not be stored more than a reasonable walking distance from the area where towing and storage fee payments are received.
- (v) The operator shall exercise reasonable care to keep the towed vehicle and its contents safe and secure at all times, which shall include appropriate permanent fencing.
- (vi) No operator may take a vehicle to a storage site which does not meet these standards and all other applicable ordinances and regulations:
 - (a) A clearly visible sign must be posted at the entrance of the storage site that provides the operator's name and telephone number; and
 - (b) The telephone for the posted number shall be answered 24 hours a day.
 - (c) A clearly visible sign with a list of all of the operator's fees for trespass immobilization, towing and storage services, and the operator's contact information.
 - (d) A clearly visible sign available from the Department of Cable and Consumer Services, listing the Department's web site, office address, and telephone number.

(6) *Personal property.*

- (A) Nothing shall be removed from the vehicle without the express consent of the vehicle owner.
- (B) Personal property must be released immediately upon the vehicle owner's request without charge, and it shall be the duty of the operator to return it to the vehicle owner if the vehicle owner claims the items prior to release or disposition of the vehicle. Any lien created under this section shall not extend to any personal property.

(7) *Vehicle release.*

- (A) If the vehicle owner of the vehicle is present and removes the vehicle from the property or corrects the violation before the vehicle is connected to the tow truck, no fee shall be charged the vehicle owner;

- (B) If the vehicle has been connected to the tow truck and has not yet left private property, the vehicle shall not be towed upon request of the vehicle owner. The vehicle owner shall be liable for a drop fee, as set forth in this section, in lieu of towing, provided that the vehicle owner or representative is present and ready, willing, and able to pay the required drop fee and removes the vehicle from the property or corrects the violation.
- (C) An immobilized or a towed vehicle moved to a storage site shall be immediately available for release at the request of the vehicle owner.
- (D) The operator shall accept the following forms of payment for any trespass towing fees:
 - (i) Cash;
 - (ii) Two major national credit cards;
 - (iii) MasterCard or Visa debit cards; and
 - (iv) Personal checks shall be accepted when credit/debit card machines are not available or are inoperable.
- (E) In all cases when a vehicle is immobilized, towed, or fees charged, the operator shall provide the vehicle owner with a receipt that bears the:
 - (i) Complete name, address, and telephone number of the operator that towed the vehicle;
 - (ii) Time the vehicle was towed;
 - (iii) Address from which the vehicle was towed;
 - (iv) Authority for the tow (entity or person authorizing the tow);
 - (v) Reason for the tow;
 - (vi) Driver employee number; (the corresponding driver's name shall be provided to the FCPD; and/or the Director upon request)
 - (vii) Time the vehicle was released;
 - (viii) An itemized list of all fees assessed in the immobilization, towing, storage, and/or release of the vehicle;
 - (ix) The printed name of the person to whom the vehicle was released; and
 - (x) The name and telephone number of the Department where vehicle owners may file a consumer complaint.
- (F) If any requirements of this section are not met, for such

immobilization or tow, no fee shall be charged.

(8) *Compliance.*

- (A) The operator shall provide to the vehicle owner, upon request, a copy of the authority for the tow; including, without limitation, photographs and other documentation supporting the tow.
- (B) Right of entry. Whenever it is necessary for the purposes of this section, the duly authorized agent of the Director may enter any trespass towing business, business establishment, or storage site property to obtain information, conduct surveys, audits, compliance reviews, or investigations.

(g) *Rates and charges.*

(1) *Change to rates and charges.*

- (A) Changes in rates and charges for trespass towing services rendered by operators shall be approved by the Board.
- (B) The Board may consider changes in rates or charges upon recommendation of the Director or the Advisory Board.
- (C) The Director shall conduct a review of rates every two years.
- (D) Any review of rate changes as well as any recommended change to any rule, regulation, or practice thereto shall come before the Advisory Board pursuant to a public hearing, which shall be scheduled as soon as analysis, investigation, and administration allow. All recommendations of the Advisory Board and the Director shall be conveyed to the Board for its consideration and determination.
- (E) Whenever the Director or Advisory Board determines a rate change is warranted, all registered operators shall provide notice to the public of proposed changes in rates and charges thereto, by means of a sign posted in a clearly visible place at each of their fixed places of business in Fairfax County. Such notice shall be on a document no smaller than 8.5 by 11.0 inches, printed in no smaller than 12-point type, and shall contain substantially the following information:

Notice of Proposed Rate Change

A proposed change in trespass towing rates is under consideration by the Fairfax County government. The proposed rates are: (Insert description of the proposed changes).

The proposed trespass towing rate change shall be considered by the Trespass Towing Advisory Board at a public hearing. The date, time and location of the public hearing may be obtained by calling the Department of Cable and Consumer Services. Any interested person may appear before the Advisory Board to be heard on this

proposed change. Persons who wish to be placed on the speakers' list or who wish further information should call the Department of Cable and Consumer Services at 703-324-5966.

- (F) Notices with respect to a proposed rate change shall be posted within ten days of the staff report for such change and shall remain posted until the change in rates is denied or becomes effective.

(2) *Rates and charges.*

- (A) It shall be unlawful for an operator to charge any fees exceeding the fees set forth in this section.
 - (i) Immobilization. An operator may charge a vehicle owner a maximum fee of \$75.00 for the release of a vehicle when it is immobilized. No other fee of any type may be charged.
 - (ii) Drop fee. An operator may charge a vehicle owner a maximum fee of \$50.00 for the release of a vehicle prior to towing the vehicle from private property. No other fee of any type may be charged.
 - (iii) Hookup and initial towing fee shall not exceed:
 - (I) \$135.00 for vehicles with GVWR of 7,500 pounds or less.
 - (II) \$250.00 for vehicles with GVWR of 7,501 pounds through 10,000 pounds.
 - (III) \$500.00 for vehicles with GVWR greater than 10,000 pounds.
 - (IV) For towing a vehicle between seven o'clock p.m. and eight o'clock a.m. or on any Saturday, Sunday, or holiday, a maximum additional fee of \$25 per instance may be charged; however, in no event shall more than two such fees be charged for towing any such vehicle.
 - (V) No other fees or charges shall be imposed during the first 24 hour period.
 - (iv) Storage fee for the safekeeping of vehicles:
 - (I) No charge shall be made for storage and safekeeping of a vehicle for the first 24 hours the vehicle is on the storage site.
 - (II) After the vehicle is on the storage site for more than 24 hours, a vehicle storage fee may be charged for each subsequent 24-hour period, or any portion thereof, at a rate not to exceed \$50.00 for any vehicle 22 feet or less in length, or \$5.00 per foot for any vehicle over 22 feet in length.

- (v) If an administrative fee for notification of lien holder, owner, agent or other interested party is charged, it shall not exceed \$75.00. This fee may only apply after the vehicle is on the storage site over three full business days. If an administrative fee is charged, a copy of the Virginia Department of Motor Vehicles report shall be attached to the receipt given to the vehicle owner.
 - (vi) No other fees shall be charged unless expressly set forth herein.
 - (B) Upon vehicle release, the operator shall give the vehicle owner a receipt itemizing all charges.
 - (C) An operator shall not require a vehicle owner to sign any waiver of the vehicle owner's right to receive compensation for damages to the owner's vehicle as a condition of the owner retrieving the towed vehicle.
- (h) *Penalties and remedies for violations.*
- (1) *All trespass towing.*
 - (A) It shall be unlawful for any person to violate any of the provisions of this section, or any regulation adopted pursuant to this section. Unless otherwise stated, these violations shall constitute traffic infractions punishable by a fine of not more than that provided for a Class 4 misdemeanor.
 - (B) It shall be unlawful for any person to make or cause to be made any false statement in writing for the purpose of procuring a registration certificate or locality permit, or to make any false statements or entry on records required to be kept by this section.
 - (C) An operator shall be suspended if the operator's insurance is no longer in effect. Suspension shall be in accordance with Section 82-5-32(h)(2)(B) and (D).
 - (2) *Locality permit operators.*
 - (A) *Denial.*
 - (i) The Director may deny an operator's locality permit application to conduct a trespass towing business in Fairfax County if the operator:
 - (I) Does not have an approved storage site;
 - (II) Does not possess a valid business license; or
 - (III) Is not properly licensed by the state; or
 - (IV) Provides false information on the application.
 - (ii) The operator may reapply after application deficiencies are

corrected. If the denial is based on 82-5-32(h)(2)(A)(i)(IV), the denial shall remain in force for one year from the date of denial.

(B) *Suspension.*

- (i) The Director may suspend an operator's Fairfax County locality permit for a period of one to 60 days and/or until proof of compliance is provided to the satisfaction of the Director for any of the following reasons, but not limited to:
 - (I) Operating a tow vehicle that fails to meet federal, state, and local codes.
 - (II) Any violations of this section which regulate conduct, reporting, and record-keeping.
 - (III) Occurrence of any of the grounds for denial of a registration application or locality permit, listed in Section 82-5-32(h)(2)(A).
 - (IV) Failure to maintain the storage site(s) and/or operation(s) in good order and repair.
 - (V) Failure to pay all fees and taxes imposed insofar as such fees relate to operation of a trespass towing business.
 - (VI) Failure to maintain proper insurance.
 - (VII) Valid consumer complaints regarding trespass towing operation.
- (ii) Any suspension for a violation of Sections 82-5-32(h)(2)(B)(i)(I) and (VI) shall become effective upon the date of any such violation without notification pursuant to paragraph (d) below.

(C) *Revocation.*

- (i) An operator's locality permit may be revoked by the Director for, but not limited to, any of the following reasons:
 - (I) If an operator fails to correct deficiencies for which the operator was suspended;
 - (II) The operator makes or causes or allows to be made any false statement in writing for the purpose of procuring a locality permit;
 - (III) If an operator makes or causes or allows to be made any false statement or entry on records required to be kept by this section;
 - (IV) Conducts operations in the County while under suspension;
 - (V) At the discretion of the Director for multiple violations by

the locality permit holder of any of the provisions of this section within a twelve-month period.

(D) *Notification.*

- (i) Written notice of any denial, suspension, or revocation under the above provisions of this section shall be given by the Director to the operator in person, or by email, and by certified mail. Such suspension or revocation shall be effective seven calendar days after the deposit of such notice in the US mail unless otherwise specified in this section.
- (ii) Locality permits that have been suspended or revoked shall be returned to the Director within seven calendar days from the effective date of the suspension or revocation, provided such suspension was ordered for more than seven calendar days.

(E) *Appeal.* Procedure for appeal of action by the Director.

- (i) If the Director denies, suspends or revokes any operator's locality permit, any party aggrieved thereby may appeal such decision to the Commission.
- (ii) An appeal shall be filed with the Department of Cable and Consumer Services by the appellant or by the legal representative of the appellant. Appeals shall be in writing, and appeals shall include a brief statement of the reasons thereof. Appeals shall be filed within 45 calendar days of receipt of the notice of denial, suspension, or revocation, and signed by the appellant or the legal representative of the appellant.
- (iii) Upon receipt of notice of appeal, the Commission shall set a time and place for such hearing and shall give the appellant or legal representative and the Director reasonable notice thereof. All hearings on appeals shall be scheduled and determined as promptly as practicable and in no event more than 60 calendar days from the date the notice of appeal is filed.
- (iv) An appeal may be withdrawn at any time by the appellant or his agent prior to the Commission meeting by giving written notice to the Director.
- (v) An appeal may also be administratively withdrawn by the Director if it is determined that the appeal was the result of an error.
- (vi) The Commission shall consider the case record as well as the statements offered by any interested party and shall consider the matter *de novo*, and the Commission shall, upon the basis of the record before it, affirm, modify or reverse the decision of the Director.

- (vii) If the Commission affirms the decision of the Director to suspend or revoke an operator's a locality permit, then the suspension or revocation shall be effective from the date of the Commissioner's order.
 - (viii) If the Commission reverses the decision of the Director, the Director shall issue or restore the operator's locality permit, in accordance with its order.
 - (ix) Except as otherwise provided in this section, an appeal of the decision of the Director to suspend or revoke an operator's locality permit shall stay the effective date of the suspension or revocation.
 - (x) However, if any suspension or revocation of an operator's locality permit is based on failure to follow appropriate safety procedures or falsifying documents, then the order of the Director shall remain in effect until the Commission has rendered its decision on the appeal.
- (F) The provisions of this section are not exclusive and do not relieve the parties or the contracts subject thereto from compliance with all other applicable provisions of law.
- (G) *Code or regulatory conflict.* In the event of a conflict between an action of the state and the County, the County ordinance shall be controlling, provided such provisions are no less stringent than requirements imposed by action of the state. (3-13-63; 1961 Code, § 16-135; 34-78-82; 19-79-82; 30-89-82; 1-94-82, § 1; 19-06-82; 05-12-82; 04-13-82; 20-14-82; 51-17-82.)

Section 82-5-41. - Removal or immobilization of motor vehicles against which there are outstanding parking violations.

- (a) Any motor vehicle parked on a public highway or public ground against which there are three or more unpaid or otherwise unsettled parking violation notices may be removed, by towing or otherwise, to a place within Fairfax County or in an adjacent locality designated by the chief law-enforcement officer for the temporary storage of the vehicle, or the vehicle may be immobilized in a manner which will prevent its removal or operation except by authorized law-enforcement personnel.
- (b) Any motor vehicle parked upon private property, including privately owned streets and roads, may be removed or immobilized in the manner provided in paragraph (a) above, provided the following conditions are met:
 - (1) No motor vehicle may be removed or immobilized from property that is owned or occupied as a single-family residence.
 - (2) The owner of the property or an association of condominium or apartment ~~or condominium~~ owners formed pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.) or the Horizontal Property Act (§ 55.1-2000 et seq.) ~~Va. Code §§ 55-79.1, et seq., or Va. Code §§ 55-79.39, et seq.,~~ has given written authorization to enforce this section.
 - (3) The Fairfax County Board of Supervisors has provided written assurance to the property owner that he will be held harmless from all loss, damage or expense, including costs and attorney's fees, which may be incurred as a result of the removal or immobilization of the vehicle.
- (c) The removal or immobilization of the vehicle shall be by or under the direction of an officer or employee of the police department or sheriff's office.
- (d) The law-enforcement officer or employee removing or immobilizing the motor vehicle, or directing the removal or immobilization, shall inform as soon as practicable the owner of the removed or immobilized vehicle of the nature and circumstances of the unsettled parking violation notices for which the vehicle was removed or immobilized.
- (e) If the motor vehicle is immobilized, there shall be placed on the vehicle, in a conspicuous manner, a notice warning that the vehicle has been immobilized and that any attempt to move the vehicle might damage it.
- (f) The owner of an immobilized vehicle, or other person acting on his behalf, shall be allowed at least twenty-four hours from the time of immobilization to repossess or secure the release of the vehicle. Failure to repossess or secure the release of the vehicle within that time period may result in the removal of the vehicle to a storage area for safekeeping under the direction of law-enforcement personnel.
- (g) The owner of a removed or immobilized motor vehicle, or other person acting on his behalf, shall be permitted to repossess or to secure the release of the vehicle by payment of the outstanding parking violation notices for which the

vehicle was removed or immobilized and by payment of all costs incidental to the immobilization, removal, and storage of the vehicle, and the efforts to locate the owner of the vehicle.

- (h) If the owner fails or refuses to pay the fines and costs identified in (g) above, or should the identity or whereabouts of the owner be unknown and unascertainable, the motor vehicle may be sold in accordance with the procedures set forth in *Va. Code* § 46.2-1213, after giving notice to the owner at his last known address and to the holder of any lien of record with the office of the Virginia Department of Motor Vehicles. (20-02-82.)

Section 82-6-15. - Signs on windshields, etc.

- (a) It shall be unlawful for any person to operate any motor vehicle upon a highway with any sign, poster or other nontransparent material ~~upon the front on the~~ windshield, ~~sideshields~~ front or rear side windows, or rear windows of such motor vehicle other than a certificate or other paper required to be placed by law or which may be permitted by the Superintendent. The size and placement location of stickers or decals used by counties, cities, and towns in lieu of license plates shall be in compliance with regulations promulgated by the Superintendent.
- (b) Notwithstanding the provisions of Subsection (a) of this Section, whenever a motor vehicle is equipped with a mirror on each side of such vehicle so located as to reflect to the operator of such vehicle a view of the highway for a distance of not less than two hundred (200) feet to the rear of such vehicle, any or all of the following shall be lawful:
- (1) To operate a motor vehicle equipped with one (1) optically grooved clear plastic right-angle rear view lens, attached to one (1) rear window of such motor vehicle, not exceeding eighteen (18) inches in diameter in the case of a circular lens or not exceeding eleven (11) inches by fourteen (14) inches in the case of a rectangular lens, which enables the operator of the motor vehicle to view below the line of sight as viewed through the rear window ~~provided such vehicle is equipped with a mirror on each side of such vehicle so located as to reflect to the operator a view of the highway for a distance of not less than two hundred (200) feet to the rear of such vehicle;~~
 - (2) To have affixed to the rear window, rear window or windows of a motor vehicle any sticker or stickers, regardless of size; or
 - ~~(3) To have affixed to the rear window or windows of a motor vehicle any sunshading material; or~~
 - ~~(4)~~
 - (3) To operate a motor vehicle when the driver's clear view of the highway through the rear window or windows is otherwise obstructed.
- (c) Nothing in this section shall be construed as prohibiting the affixing to the rear window of a motor vehicle of a single sticker no larger than ~~a circle four (4) inches in diameter~~ 20 square inches if such sticker is totally contained within the lower five inches of the glass of the rear window, nor shall the provisions of Subsection (b) of this Section be applied to a motor vehicle to which but one (1) such sticker is so affixed.
- (d) No law-enforcement officer shall stop a motor vehicle for a violation of this section. (3-13-63; 1961 Code, § 16-152; 34-78-82.)

Footnotes:

--- () ---

112. For similar state law, see Va. Code Ann., § 46.2-1052.

Section 82-6-16. - Suspension of objects or alteration of vehicle so as to obstruct view of driver.

- (a) It shall be unlawful for any person to operate a motor vehicle upon a highway with any object or objects, other than a rear view mirror, sun visor, or other equipment of the motor vehicle approved by the Superintendent, suspended from any part of such motor vehicle in such a manner as to substantially obstruct the driver's clear view of the highway through the windshield, the front side windows, or the rear window, or to alter a passenger-carrying vehicle in such a manner as to obstruct the driver's view through the windshield. ~~;~~
~~provided~~ However, that this Section shall not apply when the driver's clear view of the highway through the rear window is obstructed if such motor vehicle is equipped with a mirror on each side, so located as to reflect to the operator a view of the highway for a distance of not less than two hundred (200) feet to the rear of such vehicle.
- (b) No law-enforcement officer shall stop a motor vehicle for a violation of this section. (3-13-63; 1961 Code, § 16-153.)

Footnotes:

--- () ---

113. *For similar state law, see Va. Code Ann., § 46.2-1054.*

Section 82-6-26. - Exhaust system in good working order required.

- (a) No person shall drive and no owner of a motor vehicle shall permit or allow the operation of any owned vehicle upon a highway unless such motor vehicle is equipped with an exhaust system ~~of a type installed as standard factory equipment, or comparable to that designed for use upon the particular vehicle as standard factory equipment,~~ in good working order and in constant operation to prevent excessive or unusual ~~levels of~~ noise, ~~annoying smoke and escape of excessive gas, steam or oil~~ provided, however, that for motor vehicles, such exhaust system shall be of a type installed as standard factory equipment, or comparable to that designed for use on the particular vehicle as standard factory equipment or other equipment that has been submitted to and approved by the Superintendent or meets or exceeds the standards and specifications of the Society of Automotive Engineers, the American National Standards Institute, or the federal Department of Transportation. ~~An exhaust system shall not be deemed to prevent excessive or unusual noise if it permits or allows the escape of noise in excess of that permitted by the standard factory equipment exhaust system of private passenger vehicles or trucks of standard make.~~
- (b) The term "exhaust system," as used in this Section, means all the parts of a motor vehicle through which the exhaust passes after leaving the engine block, including mufflers and other sound dissipative devices.
- (c) Chambered pipes shall not be deemed to be an effective muffling device to prevent excessive or unusual noise as required in Subsection (a).
- (d) No law-enforcement officer shall stop a motor vehicle for a violation of this section. (3-13-63; 1961 Code, § 16-163.)

Footnotes:

--- () ---

125. For similar state law, see Va. Code Ann., § 46.2-1049.

Section 82-6-33. - Illegal use of defective or unsafe equipment.

- (a) It shall be unlawful for any person to use or have as equipment upon a motor vehicle operated on a highway any device or equipment mentioned in Section 82-6-32 which is defective and in unsafe condition.
- (b) No law-enforcement officer shall stop a motor vehicle for a violation of this section. (3-13-63; 1961 Code, § 16-171.)

Section 82-6-41. - ~~Rear lamps~~ Tail lights.

- (a) Every motor vehicle, trailer or semitrailer which is being drawn at the end of one or more other vehicles, ~~or motorcycles,~~ shall carry at the rear ~~a lamp capable of exhibiting a~~ two red lights plainly visible in clear weather from a distance of five hundred (500) feet to the rear of such vehicle and such rear lamp shall be constructed and so mounted in its relation to the rear license plate as to illuminate by a white light such license plate so that the same may be read from a distance of fifty (50) feet to the rear of such vehicle; or a separate white light shall be so mounted as to illuminate and make visible such rear license from a distance of fifty (50) feet to the rear of such vehicle, such rear light or special white light to be of a type that has been approved by the Superintendent.
- (b) In any instance where the rear lamp is to be installed on a boat trailer and the boat extends beyond the end of the trailer or to the end of the trailer, an approved portable light assembly or assemblies may be attached to the exposed rear of the boat; provided such installation complies with the visibility requirements of this Section.
- (c) No law-enforcement officer shall stop a motor vehicle for a violation of subsection (a). (3-13-63; 1961 Code, § 16-177.)

Section 82-6-42. - ~~Stop-lamps~~ Brake lights.

- (a) Every motor vehicle, trailer or semitrailer, except an antique vehicle not originally equipped with a ~~stop-lamp~~ brake light, registered in this State and operated on the highways in this State shall be equipped with at least ~~one (1)~~ ~~stop-lamp~~ two brake lights of a type approved by the Superintendent which automatically exhibits a red or amber light plainly visible in clear weather from a distance of five hundred (500) feet to the rear of such vehicle when the ~~foot-brake pedal is actuated~~ brake is applied. ~~(1976.)~~
- (b) No law-enforcement officer shall stop a motor vehicle, trailer, or semitrailer for a violation of this section, except that a law-enforcement officer may stop a vehicle if it displays no brake lights that meet the requirements set forth in subsection (a).

Section 82-6-49. - When lights to be lighted; number of lights to be lighted at any time; use of warning lights.

- (a) Every vehicle in operation upon a highway shall display lighted head lamps and illuminating devices as required by this Article ~~from a half (½) hour after sunset to a half (½) hour before~~ (i) sunset to sunrise; (ii) during any other time when because of rain, smoke, fog, snow, sleet, and at any other time when, due to insufficient light or other unfavorable atmospheric conditions, ~~persons in vehicles on the highway are not clearly~~ visibility is reduced to a degree whereby persons or vehicles on the highway are not clearly discernible at a distance of five hundred (500) feet.
- (b) Not more than four (4) lamps used to provide general illumination ahead of the vehicle, including at least two (2) head lamps and any other combination of fog lamps, ~~passing lamps, driving lamp~~ or other auxiliary lamp approved by the Superintendent shall be lighted at any time; provided, however, this limitation shall not preclude the display of such warning lights as may be authorized in Section 82-6-48, nor such lights as may be authorized by the Superintendent for purposes of identification, other than warning lights.
- (c) Vehicles equipped with warning lights authorized in Section 82-6-48 shall display such lights at all times when engaged in emergency calls, and if engaged in towing disabled vehicles or in constructing, repairing and maintaining public highways or utilities on or along public highways, such lights shall be displayed during the periods prescribed in paragraph (a) of this Section.
- (d) No law enforcement officer shall stop a motor vehicle for a violation of this section, except that a law enforcement officer may stop a vehicle if it displays no lighted head lamps during the time periods set forth in subsection (a). (3-13-63; 1961 Code, § 16-184.)

Footnotes:

--- () ---

132. For similar state law, see Va. Code Ann., § 46.2-1030.

Section 82-6-56. - Lights on parked vehicles.

Whenever a vehicle is parked or stopped upon a highway, whether attended or unattended, during the period from ~~a half (½) hour after~~ sunset to ~~a half (½) hour before~~ sunrise, there shall be displayed upon such ~~vehcile~~ vehicle one or more lamps projecting a white or amber light visible in clear weather from a distance of five hundred (500) feet to the front of such vehicle and projecting a red light visible under like conditions from a distance of five hundred (500) feet to the rear. No lights need be displayed upon any such vehicle when legally parked. (3-13-63; 1961 Code, § 16-191.)

Section 82-7-1. - Width of vehicles and exceptions as to size.

- (a) No vehicle, including any load thereon, but excluding the mirror required by Section 82-6-13 shall exceed a total outside width as follows:
 - (1) Repealed;
 - (2) Passenger bus operated in an incorporated city or town when authorized under Va. Code Ann., § ~~46.2-180~~46.2-1300, one hundred two (102) inches;
 - (3) Other vehicles, ninety-six (96) inches; and
 - (4) School buses one hundred (100) inches wide while in motion and one hundred eighteen (118) inches wide when stopped to pick up or discharge students. (3-13-63; 1961 Code, § 16-193; 19-79-82.)

Footnotes:

--- () ---

139. *For similar state law, see Va. Code Ann., § 46.2-1105.*

Section 82-9-1. - Pedestrians crossing highways or streets.

- (a) When crossing highways ~~or streets~~, pedestrians shall not carelessly or maliciously interfere with the orderly passage of vehicles. They shall cross whenever possible only at intersections or marked crosswalks. Where any intersection ~~of highways or streets~~ contain no marked crosswalks, pedestrians shall not be guilty of negligence as a matter of law for crossing at any such intersection or between intersections when crossing by the most direct route.
- (b) Pedestrians may cross at an intersection diagonally when all traffic entering the intersection has been halted by lights, ~~semaphores or signals by a peace or police officer~~ other control devices, or by a law-enforcement officer.
- (c) No law-enforcement officer shall stop a pedestrian for a violation of this section. (3-13-63; 1961 Code, § 16-221.)

Footnotes:

--- () ---

160. *For similar state law, see Va. Code Ann., § 46.2-923.*

Section 82-9-3. - Pedestrians stepping into highway ~~or street~~ where they cannot be seen.

- (a) ~~No Pedestrians~~ pedestrian shall ~~not~~ step into ~~that portion of~~ a highway ~~or street~~ open to moving vehicular traffic at any point between intersections where their presence would be obscured from the vision of drivers of approaching vehicles by a vehicle or other obstruction at the curb or side,- except to board a passenger bus or to enter a safety zone, in which event they shall cross the highway or street only at right angles.
- (b) No law-enforcement officer shall stop a pedestrian for a violation of this section. (3-13-63; 1961 Code, § 16-223.)

Footnotes:

--- () ---

162. *For similar state law, see Va. Code Ann., § 46.2-926.*

This amendment shall become effective upon adoption.

GIVEN under my hand this 8th day of June, 2021.

Jill G. Cooper
Clerk for the Board of Supervisors