

ADOPTION OF AMENDMENTS TO CHAPTER 82

(MOTOR VEHICLES AND TRAFFIC) SECTIONS 82-1-3, 82-1-6, 82-2-

8, 82-5-29, 82-6-39, 82-6-40, 82-6-43, 82-6-44, AND 82-9-2

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 27, 2023, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted amendments regarding Chapter 82 (Motor Vehicles and Traffic), Sections 82-1-3, 82-1-6, 82-2-8, 82-5-29, 82-6-39, 82-6-40, 82-6-43, 82-6-44, and 82-9-2 of the 1976 Code of the County of Fairfax, Virginia, said amendments 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), Sections 82-1-3, 82-1-6, 82-2-8, 82-5-29, 82-6-39, 82-6-40, 82-6-43, 82-6-44, and 82-9-2 are amended as follows:

Article 1. – In General.

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 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.
- (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.), which streets and roads are maintained by the owners of the lots or parcels of land within the subdivision or the owners of condominium units within any 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.
- (d) A summons or parking ticket for violations of the parking regulations contained in this Chapter may be issued by law-enforcement officers, uniformed employees of the Fairfax County Police Department who are authorized by the Chief of Police, or by uniformed personnel serving under contract with the County pursuant to the Code of Virginia § 46.2-1220. (3-13-63; 1961 Code, § 16-3; 37-76-82; 26-81-82; 13-21-82.)

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, ~~2022~~ 2023, 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, ~~2022~~ 2023, except where otherwise noted.

18.2-266	<u>46.2-100</u>	46.2-341.26:9
18.2-266.1	46.2-102	46.2-341.27
18.2-267	46.2-104	46.2-341.28
18.2-268.1	46.2-108	46.2-345.3
18.2-268.2	46.2-109	46.2-346
18.2-268.3	46.2-110	46.2-349
18.2-268.4	46.2-111	46.2-371
18.2-268.5	46.2-112	46.2-373
18.2-268.6	46.2-203.1	46.2-376
18.2-268.7	<u>46.2-208</u>	46.2-379
18.2-268.8	46.2-218	<u>46.2-380</u>
18.2-268.9	46.2-300	46.2-391.01
18.2-268.10	46.2-301	46.2-391.2
18.2-268.11	46.2-301.1	46.2-391.3
18.2-268.12	46.2-302	46.2-391.4
18.2-269	46.2-329	<u>46.2-392</u>
18.2-270	46.2-334.001	46.2-393
18.2-270.01	46.2-341.20:5	46.2-398
18.2-270.1	46.2-341.26:2	46.2-602.3
18.2-271	46.2-341.26:3	46.2-612
<u>18.2-271.1</u>	46.2-341.26:4	46.2-613
18.2-272	46.2-341.26:7	46.2-616

46.2-617	46.2-814	46.2-834
46.2-618	46.2-816	46.2-835
<u>46.2-684.2*</u>	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	<u>46.2-818.2</u>	46.2-839
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	<u>46.2-844</u>
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
46.2-808	46.2-829	46.2-853
46.2-808.1	46.2-830	46.2-854
46.2-808.2	46.2-831	46.2-855
46.2-810	<u>46.2-832</u>	46.2-856
46.2-811	46.2-833	46.2-857
46.2-812	46.2-833.1	46.2-858

<u>46.2-859</u>	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
<u>46.2-861.1</u>	46.2-882	46.2-904.1
46.2-862	46.2-882.1	46.2-905
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
<u>46.2-873</u>	46.2-894	46.2-919.1
46.2-874	46.2-895	<u>46.2-920</u>
46.2-876	46.2-896	46.2-921
46.2-877	46.2-897	46.2-922
46.2-878	46.2-898	46.2-923
46.2-878.1	46.2-899	<u>46.2-924</u>
46.2-878.2	46.2-900	46.2-926

46.2-927	46.2-1019	46.2-1044
46.2-928	46.2-1020	46.2-1047
46.2-929	46.2-1021	46.2-1049
46.2-930	46.2-1022	46.2-1050
46.2-932	<u>46.2-1023</u>	46.2-1052
46.2-936	46.2-1024	46.2-1053
46.2-937	<u>46.2-1025</u>	<u>46.2-1054</u>
46.2-940	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
46.2-1003	46.2-1033	46.2-1060
46.2-1004	46.2-1034	46.2-1061
46.2-1010	46.2-1035	46.2-1063
<u>46.2-1011</u>	46.2-1036	46.2-1064
<u>46.2-1012</u>	46.2-1037	46.2-1065
46.2-1013	46.2-1038	46.2-1066
46.2-1014	46.2-1039	46.2-1067
<u>46.2-1015</u>	46.2-1040	46.2-1068
<u>46.2-1016</u>	46.2-1041	46.2-1070
46.2-1017	46.2-1043	46.2-1071
46.2-1018	46.2-1043.1	46.2-1072

46.2-1076	46.2-1105	46.2-1158.1
46.2-1077	46.2-1110	46.2-1172
46.2-1077.01	46.2-1111	46.2-1173
46.2-1078	46.2-1112	46.2-1216
46.2-1079	46.2-1115	46.2-1218
46.2-1080	46.2-1116	46.2-1219.2
46.2-1081	46.2-1118	46.2-1219.3
46.2-1082	46.2-1120	46.2-1231
46.2-1083	46.2-1121	46.2-1234
46.2-1084	46.2-1130	<u>46.2-1240</u>
46.2-1088	46.2-1137	46.2-1242
46.2-1088.1	46.2-1150	46.2-1250
46.2-1088.2	46.2-1151	46.2-1309
46.2-1088.5	46.2-1154	46.2-1508.2
46.2-1088.6	46.2-1155	46.2-1552
<u>46.2-1090</u>	46.2-1156	46.2-1561
46.2-1091	46.2-1157	46.2-2910
46.2-1092	46.2-1158	
46.2-1093	<u>46.2-1158.01</u>	
46.2-1102	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*.

* To become effective on July 1, ~~2023~~ 2024, per ~~2022~~ 2023 Acts of General Assembly Chapter ~~54~~ 86.

~~** To become effective on July 1, 2023, per 2022 Acts of General Assembly Chapter 50.~~

(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; 13-21-82; 13-22-82

ARTICLE 2. – Signs, Signals and Markers

Section 82-2-8. – Authorization of school board to install and operate a video monitoring system to enforce law against passing stopped school buses; enforcement; and penalty.

- (a) The Fairfax County School Board is authorized to install and operate a video-monitoring system in or on the school buses operated by the School Board, or it may contract with a private vendor to do so on its behalf for the purpose of recording violations of subsection A of Virginia Code § 46.2-844, incorporated by reference into the Fairfax County Code pursuant to Section 82-1-6.
- (b) "Video-monitoring system" has the same meaning as the definition set forth in Virginia Code § 46.2-844(B).
- (c) The driver of a vehicle that is found to have failed to comply with Virginia Code § 46.2-859, as evidenced by information obtained from a video-monitoring system, shall be liable for a monetary civil penalty of \$250.00 imposed in accordance with this ordinance.
- (d) In any prosecution for which a summons charging a violation of this section was issued within ~~ten~~ *thirty business* days of the alleged violation, proof that the motor vehicle described in the summons was operated in violation of this section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, as required by Chapter 6 of Subtitle II of Title 46.2 of the Virginia Code, shall give rise to a rebuttable presumption that the registered owner of the vehicle was the person who operated the vehicle at the place where, and for the time during which, the violation occurred. Such presumption shall be rebutted if (i) the owner of the vehicle files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation, (ii) the owner testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation, or (iii) a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section is presented prior to the return date established on the summons issued pursuant to this section to the court adjudicating the alleged violation. Nothing herein shall limit the admission of otherwise admissible evidence.
- (e) Any person who receives a summons pursuant to this ordinance may waive his right to appear and be formally tried for the offense pursuant to Virginia Code § 16.1-69.40:1.B. The waiver shall be effective when the person pays the civil penalty of \$250.00 and all applicable court costs and processing fees to the Clerk of the General District Court.
- (f) The Clerk of the General District Court shall at month end, in addition to remittance of all other local cost and fee monies, transmit to the Fairfax County Director of Finance all funds received from a civil penalty imposed pursuant to this Section. In accordance with a written agreement between Fairfax County and the Fairfax County School Board, the Fairfax County Director of Finance

shall deduct certain costs incurred by Fairfax County associated with the administration of this ordinance and then remit the remaining balance of the funds to the Fairfax County School Board.

(02-17-82.)

Article 5. – Stopping, Standing and Parking

Section 82-5-29. Removal and disposition of unattended vehicles; sale; disposition or proceeds.^[107]

- (a) Whenever any motor vehicle, trailer or semitrailer is found on the public streets or public grounds unattended by the owner or operator and constitutes a hazard to traffic, or is parked in such manner as to be in violation of law, or whenever any motor vehicle, trailer or semitrailer is left unattended for more than 15 days upon any public property or privately owned property other than the property of the owner of such motor vehicle, trailer or semitrailer, or is abandoned upon such public property or privately owned property, without the permission of the owner, lessee or occupant thereof, or whenever any motor vehicle, trailer, or semitrailer is stalled or rendered immobile as the result of adverse weather conditions or other emergency situations on any public roadway, any such motor vehicle, trailer or semitrailer may be removed for safekeeping by or under the direction of a ~~police officer~~ law-enforcement officer or other uniformed employee of the Fairfax County Police Department who specifically is authorized to do so by the Chief of Police or his designee to a storage area; provided, however, that no such vehicle shall be so removed from privately owned premises without the written request of the property owner, property lessee, or property occupant thereof.
- (b) The person at whose request such motor vehicle, trailer or semitrailer is removed from privately owned property shall indemnify the County against any loss or expense incurred by reason of removal, storage or sale thereof.
- (c) It shall be presumed that such motor vehicle, trailer or semitrailer, or part thereof, is abandoned if: (1) it lacks either a current license plate, or a valid state inspection certificate or sticker, or is parked in violation of the law; or (2) it has been in a specific location for 15 days without being moved at least 300 feet. Provision (2) does not apply if the vehicle is parked within 500 feet of the property line where the vehicle is registered.
- (d) Each removal shall be reported immediately to the Department of Public Safety Communications and notice thereof given to the owner of the motor vehicle, trailer or semitrailer as promptly as possible.
- (e) The owner of such motor vehicle or trailer or semitrailer, before obtaining possession thereof, shall pay to the parties entitled thereto all reasonable costs incidental to the removal, storage, and locating and notifying the owner of the motor vehicle, trailer, or semitrailer. Should such owner fail or refuse to pay the

cost, or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made, and after notice to him at his last-known address and to the holder of any lien of record filed with the Virginia Department of Motor Vehicles against the motor vehicle, trailer or semitrailer, the officer or authorized agent designated by the Chief of Police may, after holding the motor vehicle, trailer or semitrailer 40 days and after due notice of sale dispose of the same at a public auction, which may include an internet sale by auction. The County or its authorized agent shall reimburse itself for the expenses of the auction, the cost of removal, storage, and investigation as to ownership and liens. Any remainder from the proceeds of a sale shall be held for the owner of the abandoned motor vehicle or any person having security interest in the vehicle, as their interests may appear, for 60 days, and then be deposited into the General Fund of the County.

- (f) This Section shall not operate to deprive any person of other remedies available under law to obtain payment from the owner of unattended, abandoned or immobile vehicles for towing, storage or other services rendered.
- (g) The Virginia Department of Motor Vehicles shall be notified of the disposition of any motor vehicle, trailer or semitrailer under this Section.
- (h) Any person who shall violate, permit, or suffer or allow anyone to violate any provisions of Section 82-5-29 shall be punished as provided in Section 82-1-32. (3-13-63; 1961 Code, § 16-133; 37-76-82; 26-81-82; 24-84-82; 34-86-82; 08-06-82; 27-18-82.)

Footnotes:

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98. For authority of the county to adopt this Section, see Va. Code Ann., § 46.2-1213.

ARTICLE 6. - Equipment.

Section 82-6-39. – ~~Head lamps~~ Headlights on motor vehicles.

Every motor vehicle other than a motorcycle, road roller, road machinery or tractor used on a highway shall be equipped with at least two (2) ~~head lamps~~ headlights as approved by the Superintendent, at the front of and on opposite sides of the motor vehicle.

Such headlights shall not have any aftermarket modifications that cause the headlights to appear as a blue light; however, such prohibition shall not be construed to prohibit the installation and use of headlights of types approved by the Superintendent. (3-13-63; 1961 Code, § 16-175.)

Section 82-6-40. – ~~Head lamps~~ Headlights on motorcycles.

Every motorcycle shall be equipped with at least one (1) headlight and ~~not more than two (2) head lamps~~ which shall be of a type that has been approved by the superintendent and shall be capable of projecting sufficient light to the front of such motorcycle to render discernible a person or object at a distance of two hundred (200) feet, ~~but shall not project a glaring or dazzling light to persons approaching such motorcycles.~~ Each motorcycle may be equipped with not more than two auxiliary headlights of a type approved by the Superintendent except as otherwise provided in this section. However, headlights shall not (i) project a glaring or dazzling light to persons approaching such motorcycles or (ii) have any aftermarket modifications that cause such headlight to appear as a blue light. Such prohibition shall not be construed to prohibit the installation and use of headlights of types approved by the Superintendent. (3-13-63; 1961 Code, § 16-176.)

Section 82-6-43. – Lamps Lights on bicycles.^[134]

Every bicycle, when in use between sunset and sunrise, shall be equipped with a lamp headlight on the front which shall emit a white light visible in clear weather from a distance of at least five hundred (500) feet to the front and with a red reflector visible from a distance of at least six hundred (600) feet on the rear of a type approved by the Superintendent which shall be visible from all distances in clear weather from fifty (50) feet to three hundred (300) feet a distance to the rear when directly in front of lawful upper lower beams of headlamps headlights on a motor vehicle. A lamp emitting a red light visible in clear weather from a distance of five hundred (500) feet to the rear may be used in lieu of or in addition to the red reflector. Such headlights shall not have any aftermarket modifications that cause the headlights to appear as a blue light; however, such prohibition shall not be construed to prohibit the installation and use of headlights of types approved by the Superintendent. (3-13-63; 1961 Code, § 16-178.)

Footnotes:

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126. For similar state law, see Va. Code Ann., § 46.2-1015.

Section 82-6-44. – Lamps Lights on other vehicles; ~~reflex~~ reflectors.^[135]

- (a) All vehicles, including animal-drawn vehicles, or other mobile equipment not heretofore in this Article required to be equipped with specified lamps lights shall carry one or more lamps or lanterns lights capable of projecting a white light to the front and a red light to the rear visible in clear weather from a distance of not less than five hundred (500) feet to the front and rear of such vehicles. Such light may be battery-operated.
- (b) In lieu of or in addition to the lamps or lanterns lights, a ~~reflex~~ reflector of a type, size and color approved by the Superintendent may be permanently affixed to the rear and front of ~~such~~ any vehicle described in this section. (3-13-63; 1961 Code, § 16-179.) Code, § 16-179.)

Footnotes:

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127. For similar state law, see Va. Code Ann., § 46.2-1016.

ARTICLE 9. – Protection of Pedestrians.

Section 82-9-2. – Right-of-way of pedestrians.^[169]

- (a) The driver of any vehicle upon a highway or street shall ~~yield the right-of-way to~~ stop when a pedestrian crossing is within the driver's lane or within an adjacent lane and approaching the driver's lane of such highway or street within any clearly marked crosswalk, whether at mid-block or at the end of any block, or at any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block, or at any intersection when the driver is approaching on a highway or street where the legal maximum speed does not exceed thirty-five miles per hour, except at intersections or crosswalks where the movement of traffic is being regulated by law enforcement officers, uniformed school crossing guards, or traffic direction devices where the driver shall yield according to the direction of the law enforcement officer, uniformed school crossing guard, or device.
- (b) No pedestrian shall enter or cross an intersection in disregard of approaching traffic.
- (c) The drivers of vehicles entering, crossing, or turning at intersections shall change their course, slow down, or come to a complete stop if necessary to permit pedestrians to cross such intersections safely and expeditiously.
- (d) Pedestrians crossing highways or streets at intersections shall at all times have the right-of-way over vehicles making turns into the highways or streets being crossed by the pedestrians. (3-13-63; 1961 Code, § 16-222; 37-76-82; 35-02-82.)

Footnotes:

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161. For similar state law, see Va. Code Ann., § 46.2-924.

GIVEN under my hand this 27th day of June, 2023.

Jill G. Cooper
Clerk for the Board of Supervisors