

CHAPTER 11

CRIMES AND OFFENSES GENERALLY

**ARTICLE I. CLASSIFICATION OF MISDEMEANOR OFFENSES
AND PUNISHMENT THEREFORE**

Sec. 11-1. Misdemeanor offenses and punishment therefore.

Misdemeanor offenses are punishable with confinement in jail for not more than twelve months and a fine of not more than \$2,500.00., either or both. (See VA Code 18.2-11)

Sec. 11-2. Classification of misdemeanor offenses.

Misdemeanors are classed for the purposes of punishment and sentencing, into four classes:

- (a) Class 1 misdemeanor
- (b) Class 2 misdemeanor
- (c) Class 3 misdemeanor
- (d) Class 4 misdemeanor (See VA Code 18.2-9, par. 2).

Sec. 11-3. Punishment for conviction of misdemeanor.

The authorized punishments for conviction of a misdemeanor are:

- (a) For Class 1 misdemeanors, confinement in jail for not more than twelve months and a fine of not more than \$2,500.00, either or both.
- (b) For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than \$1000.00, either or both.
- (c) For Class 3 misdemeanors, a fine of not more than \$500.00
- (d) For Class 4 misdemeanors, a fine of not more than \$250.00. (See VA Code 18.2-11).

Sec. 11-4. Same; where no punishment or maximum punishment prescribed.

A misdemeanor for which no punishment or no maximum punishment prescribed by statute shall be punishable as a class 1 misdemeanor. (See VA Code 18.2-12).

Sec. 11-5. Place of punishment.

Imprisonment for conviction of a felony shall be confinement in a state correctional facility, unless in Class 5 and 6 felonies the jury or court trying the case without a jury fixes the punishment by confinement in jail. Imprisonment for conviction of a misdemeanor shall be by confinement in jail. (See VA Code 18.2-15).

ARTICLE II. - CRIMES AGAINST PROPERTY

Sec. 11-11. Petit larceny defined; how punished.

Any person who:

1. Commits larceny from the person of another of money or other thing of value of less than five dollars, or
2. Commits simple larceny not from the person of another of goods and chattels of the value less than \$200, except as provided in subdivision (iii) of Sec. 18.2-95, shall be deemed guilty of petit larceny, which shall be punishable as a Class 1 Misdemeanor. (See VA Code 18.2-96).

Sec. 11-12. Removal of shopping cart from store premises.

- (1) The term "shopping cart" when used in this section means those push carts of the type or types which are commonly provided by grocery stores, drug stores, or other merchant stores or markets for the use of the public in transporting commodities in stores and markets from the store to a place outside the store.
- (2) It shall be unlawful for any person to remove a shopping cart from the premises, of the owner of such shopping cart without the consent, of the owner or of his agent, servant, or employee given at the time of such removal. For the purpose of this section, the premises shall include all the parking area set aside by the owner or on behalf of the owner, for the parking of cars for the convenience of the patrons of the owner.
- (3) Any person convicted of a violation under subsection (2) shall be guilty of a Class 3 misdemeanor. (See VA Code 18.2-102.1).

Sec. 11-13. Shoplifting

It shall be unlawful for any person, without authority, with the intent of converting goods or merchandise to his own or another's use without having paid the full purchase price thereof, or of defrauding the owner thereof out of the value of the goods or merchandise, to (i) willfully conceal or take possession of the goods or merchandise of any store or other mercantile establishment, or to (ii) alter the price tag or other price marking on such goods or merchandise, or (iii). transfer the goods from one container to another, or counsels, assists, aids or abets another in the performance of any of the above acts, when the value of the goods or merchandise involved in the offense is less than \$200, shall be guilty of petit larceny. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner out of the value of the goods or merchandise.

Any person convicted for the first time violation of this section when the value is less than two hundred dollars shall be guilty of a Class 1 Misdemeanor.

Any merchant, agent or employee of the merchant, who causes the arrest of any person for a violation of this section shall not be held civilly liable under any provision of this code or other ordinance of the Town

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for unlawful detention, if such detention does not exceed one hour, slander, malicious prosecution, false imprisonment, false arrest, or assault and battery of the person so arrested, whether such arrest takes place on the premises of the merchant, or after close pursuit from such premises by such merchant, his agent or employee; provided that in causing the arrest of such person, the merchant, agent or employee of the merchant, had at the time of such arrest probable cause to believe that the person committed willful concealment of goods or merchandise. As used in this paragraph, "agents of the merchant" shall include attendants in any parking lot owned or leased by the merchant, or generally used by customers of the merchant through any contract or agreement between the owner of the parking lot and the merchant.

Any person who has been convicted of violating the provisions of this section shall be civilly liable to the owner for the retail value of any goods and merchandise illegally converted and not recovered by the owner, and for all costs incurred in prosecuting such person under the provisions of this section. Such costs shall be limited to actual expenses, including the base wage of one employee acting as a witness for the Commonwealth and suit costs. Provided, however the total amount of allowable costs granted hereunder shall not exceed two hundred fifty dollars excluding the retail value of the goods and merchandise, (See VA Code 18.2-103; 18.2-104; 18.2-106.) (Amended 8/10/94)

Sec. 11-14. Receiving, etc., stolen goods.

If any person buys or receives from another person, or aids in concealing, any stolen goods or other thing, knowing the same to have been stolen, he shall be deemed guilty of larceny thereof, and may be proceeded against, although the principal offender be not convicted. (See VA Code 18.2-108)

Sec. 11-15. Trespass after having been forbidden to do so; penalties.

If any person shall without authority of law go upon or remain upon the lands, buildings or premises of another, or any portion or area thereof, after having been forbidden to do so either orally or in writing, by the owner, lessee, custodian, or other person lawfully in charge thereof, or after having been forbidden to do so by a sign posted on such lands or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises or part, portion or area thereof at a place where it or there may be reasonably seen, he shall be guilty of a class 1 misdemeanor. (See VA Code 18.2-119)

Sec. 11-16. Instigating, etc., such trespass by others; preventing service to persons not forbidden trespass.

If any person shall solicit, urge, encourage, exhort, instigate or procure another or others to go upon or remain upon the lands, buildings, or premises of another, or any part, portion or area thereof, knowing such other person or persons to have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian or other person lawfully in charge thereof, or knowing such other person or persons to have been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof at a place or places where it or they may reasonably be seen; or if any person shall, on such lands, buildings, premises or part, portion or area thereof prevent or seek to prevent the owner, lessee, custodian, person in charge or any of his employees from rendering service to any person or persons not forbidden, he shall be guilty of a Class I misdemeanor. (See VA Code 18.2-120)

Sec. 11-17. Entering property of another for purpose of damaging it, etc.

It shall be unlawful for any person to enter the land, dwelling, outhouse or any other building of another for the purpose of damaging such property or any of the contents thereof or in any manner to interfere with the right of the owner, user or the occupant thereof to use such property free from interference. Any person violation the provisions of this section shall be guilty of a class 1 misdemeanor. (VA 18.2-121)

Sec. 11-18. Trespass at night upon any cemetery.

If any person, without the consent of the owner, proprietor or custodian, go or enter in the nighttime, upon the premises, property, driveways or walks of any cemetery, either public or private, for any purpose other than to visit the burial lot or grave of some member of his family, he shall be guilty of a Class 4 misdemeanor. (See VA Code 18.2-125)

Sec. 11-19. Injuries to churches, church property, cemeteries, burial grounds, etc.; penalty.

Any person who willfully or maliciously commits any of the following acts is guilty of a Class 1 misdemeanor.

- (1) Destroy, mutilates, defaces, injures or removes any object or structure placed within any church or on church property, any tomb, monument, gravestone, or other structure placed within any cemetery, graveyard, or place of burial, or within any lot belonging to any memorial or monumental association, or any fence, railing or other work for the protection or ornament of any tomb, monument, gravestones, or other structure aforesaid, or of any cemetery lot within any cemetery;
- (2) Destroy, removes, cuts, breaks or injures any tree, shrub, or plant on any church property or within any cemetery or lot of any memorial or monumental association;
- (3) Destroy, mutilates, injures, or removes and carries away any flowers, wreaths, vases, or other ornaments placed within any church or on church property or within any cemetery, graveyard, or other place of burial; or
- (4) Obstructs proper ingress to and egress from any church or any cemetery or lot belonging to any memorial or monumental association.

This section shall not apply to any work which is done by the authorities of a church or congregation in the maintenance or improvement of any church property or any burial ground or cemetery belonging to it and under it's management or control and which does not injure or result in the removal of a tomb, monument, gravestone, grave marker or vault. For the purpose of this section, "church" shall mean any place of worship, and "church property" shall mean any educational building or community center owned or rented by a church (See VA Code 18.2-127)

Sec. 11-20. Trespass upon church or school property

A. Any person who without the consent of some person authorized to give such consent, goes or enters upon, in the nighttime, the premises or property of any church or upon any school property for any purpose other than to attend a meeting or service held or conducted in such church or school property, shall be guilty of

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a Class 3 misdemeanor.

B. It shall be unlawful for any person whether or not a church member or student to enter upon or remain upon any church or school property in violation of (i) any direction to vacate the property by a person authorized to give such direction or (ii) any posted notice which contains such information, posted at a place where it reasonably may be seen. Each time such person enters upon or remains upon the posted premises or after such direction that person refuses to vacate such property, it shall constitute a separate offense.

A violation of this subsection shall be punishable as a Class I misdemeanor.

C. For the purposes of this section,; (i) "school property" includes a school bus as defined in 46.2-100 and (ii) "church" means any place of worship and includes any educational building or community center owned or leased by a church.

(Amended August 10, 1994; November 12, 1997) (See VA Code 18.2-128)

Sec. 11-21. Peeping or spying into structure occupied as a dwelling.

If any person enters upon the property of another, and secretly or furtively peeps, spies or attempts to peep, or spy into, or through, a window, door or other aperture of any building structure, or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, such person shall be guilty of a Class 1 misdemeanor. (Amended June 10, 1992) (See Va. Code Sec. 18.2-130.)

Sec. 11-22. Injuring, etc., any property, monument, etc.

If any person, unlawfully, but not feloniously, takes and carries away or destroys, defaces or injures any property, real or personal, not his own, or breaks down, destroys defaces, injures or removes any monument erected for the War Between the States, or for the purpose of designating the boundaries of the town, tract of land, or any tree marked for that purpose, he shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-146)

Sec. 11-23. Breaking, injuring, defacing, destroying or preventing the operation of vehicle, aircraft or boat.

Any person who shall individually or in association with one or more other willfully break, injure, tamper with or remove any part or parts of any vehicle, aircraft, boat or vessel for the purpose of injuring, defacing or destroying said vehicle, aircraft, boat or vessel, or temporarily or permanently preventing it's useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, aircraft, boat or vessel, or who shall in any manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat or vessel, shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-146)

Sec. 11-24. Entering or setting in motion, vehicle, aircraft, boat, locomotive or rolling stock of railroad; exceptions.

Any person who shall, without the consent of the owner or person in charge of a vehicle, aircraft, boat, locomotive or other rolling stock of a railroad, climb into or upon any such vehicle, aircraft, boat, locomotive or other rolling stock of a railroad, with intent to commit any crime, malicious mischief, or injury thereto, or

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who, while a vehicle, aircraft, boat, locomotive or other rolling stock of a railroad is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other device, brakes or mechanism thereof or to set into motion such vehicle, aircraft, boat, locomotive or other rolling stock of a railroad with intent to commit any crime, malicious mischief, or injury thereto, shall be guilty of a Class 1 misdemeanor, except that the foregoing provision shall not apply when such act is done in any emergency or in the furtherance of public safety of by or under the direction of an officer in the regulation of traffic or performance of any other official duty. (See VA Code 18.2-147)

Sec. 11-25 Devices for puncturing motor vehicle tires.

It shall be unlawful for any person to manufacture, distribute, have in his possession or place upon any highway or private property, jackrocks which are primarily designed for the purpose of disabling motor vehicles by the puncturing of tires. Any person convicted of unlawful manufacture, distribution, possession or use of such device shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-147.2)

Sec. 11-26 Stealing from or tampering with parking meter, vending machine, pay telephone, etc.

Any person who enters, forces or attempts to force an entrance into, tampers with, or inserts any part of an instrument into any parking meter, vending machine, pay telephone, money changing machine, or any other device designed to receive money, with the intent to steal therefrom, shall for the first conviction thereof be guilty of a Class 1 misdemeanor. (See VA Code 18.2-152)

Sec. 11-27 Diverting or wasting public water supply.

Any person who willfully and maliciously (i) diverts any public wastewater or sewer line or (ii) diverts or wastes any public water supply by tampering with any fire hydrant shall be guilty of a Class 2 misdemeanor. (Amended June 10, 1992) (See VA Code 18.2-162.1)

Sec. 11-28 Tampering with metering device; diverting service.

A. Any person who (i) tampers with any metering device, incident to the facilities set forth in 18.2-162 or otherwise intentionally prevents such a metering device from properly registering the degree, amount or quantity of service supplied, or (ii) diverts such service, except telephonic or electronic extension service not owned or controlled by any such company without authorization from the owner of the facility furnishing the service to the public, shall be guilty of a Class 1 misdemeanor.

B. The presence of any metering device found to have been altered, tampered with, or bypassed in a manner that would cause the metering device to inaccurately measure and register the degree, amount or quantity of service supplied or which would cause the service to be diverted from the recording apparatus of the meter shall be prima facie evidence of the intent to violate and of the violation of this section by the person whose benefit it is that such service be unmeasured, unregistered or diverted.

C. The court may order restitution for the value of the services unlawfully used and for all costs. Such costs shall be limited to actual expenses, including the base wages of employees acting as witnesses for the Commonwealth, and suit costs. However, the total amount of allowable costs granted hereunder shall not exceed \$250, excluding the value of the service. (See Va. Code 18.2-163) (Amended July 8, 1992)

Sec. 11-29 Unlawful use of, or injury to, telephone and telegraph line; copying or obstructing messages.

Any person who shall:

- (1) Maliciously injure, molest, cut down or destroy any telephone or telegraph line, wire, cable or pole, or property belonging thereto; or
- (2) Maliciously cut, break, tap or make any connection with any telephone or telegraph line, wire, cable or instrument of any telegraph or telephone company which has legally acquired the right-of-way by purchase, condemnation or otherwise; or
- (3) Maliciously copy in any unauthorized manner any message, either social, business, or otherwise, passing over any telephone or telegraph line, wire or cable in this Town; or
- (4) Willfully or maliciously prevent, obstruct or delay by any means or contrivance whatever the sending, conveyance or delivery in this Town of any authorized communication by or through any telephone or telegraph company doing business in this Town; or
- (5) Maliciously aid, agree with, employ or conspire with an unauthorized person or persons unlawfully to do or cause to be done any of the acts hereinbefore mentioned, shall be guilty of a Class 3 misdemeanor. (See VA Code 18.2-164)

Sec. 11-30.1 Tampering with or unlawful use of cable television service.

Any person who (i) shall knowingly obtain or attempt to obtain cable television service from another by means, artifice, trick, deception or device without the payment to the operator of such service of all lawful compensation for each type of service obtained; (ii) shall knowingly tamper or otherwise interfere with or connect to by any means whether mechanical, electrical, acoustical or other, cables, wires, or other devices used for the distribution of cable television service without authority from the operator of such service. If convicted under subdivision (i) or (ii) above and shall be guilty of a Class 1 Misdemeanor.

As used herein, cable television service shall include any and all services provided by or through the facilities of any cable television system or any microwave, satellite or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

In any prosecution under this section, the existence on property in the actual possession of the accused, of any connection, wire, conductor, or any device whatsoever, which the use of cable television service without the same being reported for payment to and specifically authorized by the operator of the cable television service shall be prima facie evidence of intent to violate the provisions of this section by the accused.

Nothing contained herein shall be construed so as to abrogate or interfere with any contract right or remedy of any person having a contract with the owner of a television coaxial cable, or a cablevision system, or a microwave radio system. (See VA Code 18.2-165) (Amended 8/14/1991)

ARTICLE III. CRIMES INVOLVING FRAUD

Sec. 11-36. Town officers and employees-Interfering with, etc.

No person shall carelessly or willfully interfere with, hinder or obstruct any officer or employee of the Town who is engaged in, enroute or returning from, the performance of official duty, whether such interference, hinderance or obstruction be by threat, assault or otherwise shall be deemed guilty of a Class 1 Misdemeanor. (11-38)

Sec. 11-37 Impersonation

Any person who falsely represents himself to be an officer or employee of the Town, or without proper authority wear or display any uniform, insignia or credential which identifies any Town officer or employee; nor shall any person without proper authority assume to act as an officer or employee of the Town, whether to gain access to premises, obtain information, perpetrate a fraud or for any other purpose, shall be deemed guilty of a Class 1 Misdemeanor. (See VA Code 18.2-174)

Sec. 11-37.1. Impersonating Certain Public Safety Personnel; Penalty.

Any person who willfully impersonates any certified emergency medical services personnel, fire fighter, fire or fire chief shall be guilty of a Class 3 Misdemeanor. (Adopted September 13, 1993) (See VA Code 18.2-174.1)

Sec. 11-38. Defrauding garage keeper.

Whoever stores a motor vehicle with any person, firm or corporation engaged in the business of conducting a garage for the:

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

Sec. 11-39. Calling or summoning ambulance or fire fighting apparatus without just cause; maliciously activating fire alarms in public buildings; venue.

- (1) Any person who without just cause therefore, calls or summons by telephone or otherwise, any ambulance, or fire fighting apparatus, or any person who maliciously activates a manual or automatic fire

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alarm in any building used for public assembly or for other public use, including but not limited to; schools, theaters, stores, office buildings, shopping centers and malls, coliseums and arenas, regardless of whether fire apparatus responds or not, shall be deemed guilty of a Class 1 Misdemeanor. (See VA Code 18.2-212)

Sec. 11-40 Unlawful for person not blind or incapacitated to carry white, white tipped with red or metallic cane.

It is unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway to carry in a raised or extended position a cane or walking stick which is metallic or white in color or white tipped with red. Any person violating any provisions of this section shall be guilty of a Class 4 misdemeanor. (See VA Code 18.2-212.1)

Sec. 11-41 Changing or removing, etc. trademarks, identification marks, etc.

Any person, firm, association or corporation who or which intentionally removes, defaces, alters, changes, destroys or obliterates in any manner or way or who causes to be removed, defaced, altered, changed, destroyed or obliterated in any manner or way any trademark, distinguishment or identification number, serial number or mark on or from any article or device in order to secrete it's identification with intent to defraud shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-214)

ARTICLE IV. CRIMES INVOLVING HEALTH AND SAFETY

Sec. 11-47. Driving while under the influence of Alcohol, Narcotics or other Drug.

In accordance with Section 46.1-1313 of the Code of Virginia (1989) as amended, the provisions, statutes, penalties and punishments found in Article 9 (Section 16.1-278 et seq.) of Chapter 11 of Title 6.1 and Article 2 (Section 18.2-266, et seq.) of Chapter 7 of Title 18.2 are hereby incorporated into this ordinance by reference.

CHAPTER 7

CRIMES INVOLVING HEALTH AND SAFETY

ARTICLE II. DRIVE MOTOR VEHICLES, ETC., WHILE INTOXICATED.

SECTION 18.2-266 Drive motor vehicle, engine, etc., while intoxicated, etc. (Amended July 8, 1992.

SECTION 18.2-267 Analysis of breath to determine alcoholic content of blood. Amended July 8, 1992

SECTION 18.2-268 Use of chemical test to determine alcoholic or drug content of blood; Procedure; Qualifications and liability of person withdrawing blood; Cost; Evidence; Suspension of license for refusal to submit to test. Amended July 8, 1992.

SECTION 18.2-268.1 Chemical testing to determine alcohol or drug content of blood - Definitions.

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Adopted July 8, 1992.

- SECTION 18.2-268.2** Implied consent to post arrest chemical test to determine drug or alcohol content of blood. Adopted July 8, 1992. Amended September 13, 1993.
- SECTION 18.2-268.3** Refusal of tests; procedures. Adopted July 8, 1992.
- SECTION 18.2-268.4** Appeal and trial; sanctions for refusal. Amended 9/13/93. As to future amendments see Town Code 16-2.
- SECTION 18.2-268.5** Qualifications and liability of persons authorized to take blood sample; procedure for taking sample. Adopted July 8, 1992.
- SECTION 18.2-268.6** Transmission of blood samples. Adopted July 8, 1992.
- SECTION 18.2-268.7** Transmission of blood test results; use as evidence. Adopted July 8, 1992. Amended September 8, 1993.
- SECTION 18.2-268.8** Fees. Adopted July 8, 1992.
- SECTION 18.2-268.9** Assurances of breath test validity; use of test results as evidence. Adopted July 8, 1992.
- SECTION 18.2-268.10** Evidence of violation of Sec. 18.2-266. Adopted July 8, 1992.
- SECTION 18.2-268.11** Substantial compliance. Adopted July 8, 1992.
- SECTION 18.2-269** Presumption from alcoholic content of blood. Amended July 8, 1992.
- SECTION 18.2-270** Penalty for driving while intoxicated; subsequent offense; prior conviction. Amended July 8, 1992.
- SECTION 18.2-27** Forfeiture of driver's license for driving while intoxicated. Amended July 8 1992.
- SECTION 18.2-271.1** Probation, education and rehabilitation of person convicted; person convicted under law of another state. Amended September 8, 1993.
- SECTION 18.2-272** Drive after forfeiture of license.
- SECTION 18.2-273** Report of conviction to Department of Motor Vehicles.

Sec. 11-48. Discharge of firearms or other weapons.
(Repealed September 9, 1992 See Va. Code 18.2-279.)

Sec. 11-49. Pointing, holding or brandishing firearm or object similar in appearance.

A. It shall be unlawful for any person to point, hold or brandish any firearm, as hereinafter described,

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or any object similar in appearance to a firearm, whether capable of being fired or not, in such a manner as to reasonably induce fear in the mind of another or hold a firearm in a public place in such a manner as to reasonably induce fear in the mind of another of being shot or injured. However, this section shall not apply to any person engaged in excusable or justifiable self defense. Persons violating the provisions of this section shall be guilty of a Class 1 Misdemeanor.

B. Any police officer, in the performance of his duty in making an arrest under the provisions of this section shall not be civilly liable in damages for injuries or death resulting to the person being arrested if he had reason to believe that the person being arrested was pointing, holding, or brandishing such firearm, or object which was similar in appearance to a firearm, with intent to induce fear in the mind of another.

C. For purposes of this section the word "firearm" shall mean any weapon in which ammunition may be used or discharged, by explosion, or pneumatic pressure. The word "ammunition, as used herein, shall mean cartridge, pellet, ball, missile or projectile adapted for use in a firearm. (See Va. Code 18.2-282.)

Sec. 11-50 Carrying dangerous weapon into place of religious worship.

If any person carries any gun, pistol, bowie knife, dagger or other dangerous weapon, without good and sufficient reason, to a place of worship while a meeting for religious purposes is being held at such place he shall be guilty of a Class 4 Misdemeanor. (See VA Code 18.2-283)

Sec. 11-51. Selling or giving toy firearms.

No person shall sell, barter, exchange, furnish, or dispose of by purchase, gift or in any manner any toy gun, pistol, rifle or other toy firearm, if the same shall, by means of powder or other explosive, discharge blank or ball charges. Any person violating the provisions of this section shall be guilty of a Class 4 Misdemeanor. Each sale of any of articles hereinbefore specified to any person shall constitute a separate offense. Nothing in this section shall be construed to as preventing the sale of what are commonly known as cap pistols. (See VA Code 18.2-284)

Sec. 11-51.1. Shooting in or along road or in street

If any person discharges a firearm, crossbow or bow and arrow in or across any road, or within the right-of-way thereof, or in any street of the town, he shall for each offense, be guilty of a Class 4 misdemeanor. The provisions of this section shall not apply to firing ranges or shooting matches maintained, and supervised or approved, by law-enforcement officers and military personnel in the performance of their lawful duties. (Adopted September 13, 1993 (Amended August 10, 1994) See VA Code 18.2-286)

Sec. 11-52 (Repealed November 12, 1997.)

Sec. 11-53 Possession of Stun Weapon, or Other Weapon on School Property Prohibited.

If any person has in his possession any (i) stun weapon or taser as defined in this section or (ii) weapon, other than a firearm, designated in subsection A of 18.2-308 upon the property of any public, private or parochial elementary, middle, or high school, including buildings and grounds, (iii) that portion of any property open to the public used for school functions or extracurricular activities while such functions or activities are taking place, or (iv) any school bus owned or operated by any such school, he shall be guilty of a

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Class 1 misdemeanor.

The exemptions set out in 18.2-308 shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to persons who possess such weapon or weapons as part of the curriculum or other programs sponsored by the school or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such. In addition, this section shall not apply to possession of an unloaded firearm which is a closed container or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle.

As used in this section:

"Stun weapon" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of charge that exceeds the equivalency of a five milliamp sixty hertz shock and (ii) used for the purpose of temporarily incapacitating a person; and

"Taser" means any mechanism that is (i) designed to emit an electronic, magnetic; or other type of charge or shock through the use of a projectile and (ii) used for the purpose of temporarily incapacitating a person. (See Va. Code Sec. 18.2-308.1)

Sec. 11-54 Furnishing certain weapons to minors.

A. If any person sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor a dirk, switchblade knife or bowie knife, having good cause to believe him to be a minor, such person shall be guilty of a Class 4 misdemeanor

B. If any person sell, barter, give or furnish, or cause to be furnished to any minor a handgun, having good cause to believe him to be a minor, such person shall be guilty of a Class 1 misdemeanor. This subsection shall not apply to any transfer made between family members for the purpose of engaging in any sporting event or activity. (See Va. Code 18.2-309) Amended June 29, 1992.

Sec. 11-55. Prohibiting the selling or having in possession blackjacks, etc.

If any person sells or barter, or exhibits for sale or for barter, or gives or furnishes, or causes to be sold, bartered, given or furnished, or has in his possession, or under his control, with the intent of selling, bartering, giving or furnishing, any blackjack, brass or metal knucks, any disc of whatever configuration having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, switchblade knife or like such person shall be guilty of a Class 4 misdemeanor. The having in one's possession of any such weapon shall be prima facie evidence, except in the case of a conservator of the peace of his intent to sell, barter, give or furnish the same. (See VA Code 18.2-311)

Sec. 11-56. Removing, altering, etc., serial number or other identification on firearm.

Any person, firm, association or corporation who or which intentionally removes, defaces, alters, changes, destroys or obliterates in any manner or way or who or which causes to be removed, defaces, altered, changed, destroyed or obliterated in any manner or way or the name or the maker, model, manufacturer's or serial number, or any other mark or identification on any pistol, shotgun, rifle, machine gun or any other firearm shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-311.1)

Sec. 11-57. Handling or using snakes so as to endanger human life or health.

It shall be unlawful for any person, or persons to display, exhibit, handle or use any poisonous or dangerous snake or reptile in such a manner as to endanger the life or health of any person. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor. (See VA Code 18.2-313)

Sec. 11-58. Failing to secure medical attention for injured child.

Any parent or other person having custody of a minor child which child shows evidence of need for medical attention as the result of physical injury inflicted by an act of any member of the household, whether the injury was intentional or unintentional, who knowingly fails or refuses to secure prompt and adequate medical attention, for such minor child, shall be guilty of a Class 1 misdemeanor; provided, however that any parent or other person having custody of a minor child that is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not, for that reason alone, be considered in violation of this section. (See VA Code 18.2-314)

Sec. 11-59. Discarding or abandoning iceboxes, etc. precautions required.

It shall be unlawful for any person, firm or corporation to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two cubic feet of clear space which is airtight, without first removing the door or doors or hinges from such icebox, refrigerator, container, device or equipment.

This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any compartment thereof.

Any violation of the provisions of this section shall be punishable as a Class 3 misdemeanor. (See VA Code 18.2-319)

Sec. 11-60. Sale, etc., of plastic bags; warning required.

A. No person shall sell, offer for sale, or deliver, or offer for delivery, or give away any plastic bag or partial plastic bag intended to enclose freshly cleaned clothing, the length of which totals twenty-five inches or more and the material of which is less than one mil (1/1000 inch) in thickness; unless such plastic bag bears the following warning statement, or a warning statement which the Commissioner of Health has approved as the equivalent thereof: **"WARNING: To avoid danger of suffocation, keep this plastic bag away from babies and children. Do not use this bag in cribs, beds, carriages or playpens."**

B. Such warning statement shall be imprinted in a prominent place on the plastic bag or shall appear on a label securely attached to the bag in a prominent place, and shall be printed in legible type of at least thirty-six point type.

C. Violators of this section shall be guilty of a Class 3 misdemeanor. (See VA Code 18.2-320)

Sec. 11-61. Expectorating in public places.

No person shall spit, expectorate, or deposit any sputum, saliva, mucus, or any form of saliva or sputum upon the floor, stairways, or upon any part of any public building or place where the public assembles, or upon the floor or any part of any public conveyance, or upon any sidewalk abutting any public street, alley or lane.

Any person violating any provision of this section shall be guilty of a Class 4 misdemeanor. (See VA Code 18.2-322)

Sec. 11-62. Leaving disabled or dead animal in road, allowing animal to remain unburied.

If any person cast any dead animal into a road knowingly permit any dead animal to remain unburied upon his property when offensive to the public or, having in custody any maimed, diseased, disabled or infirm animal, leave it to lie or be in street, road or public place, he shall be guilty of a Class 3 misdemeanor. (See VA Code 18.2-323)

Sec. 11-63. Throwing or depositing certain substances upon highway; removal of such substances.

No person shall throw or deposit or cause to be deposited upon any highway any glass bottle, glass, nail, tack, wire, can, or any other substance likely to injure any person or animal, or damage any vehicle upon such highway, nor shall any person throw or deposit or cause to be deposited upon any highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public. Any person who drops or permits to be dropped or thrown upon any highway any destructive, hazardous or injurious material shall immediately remove the same or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. Any persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

This section shall not apply to the use, by a law enforcement officer while in the discharge of official duties, of any device designed to deflate tires. The Division of Purchase and Supply shall, pursuant to subsection 2.1-446, set minimum standards for such devices and shall give notice of such standards to law enforcement offices in the commonwealth. No such devices shall be used which do not meet or exceed the standards. (Amended November 12, 1997; See VA Code 18.2-324)

Sec. 11-64 Crossing established police lines, perimeters or barricades.

It shall be unlawful for any person to cross or remain within police lines or barricades which have been established pursuant to section 15.2-1714, Code of Virginia, without proper authorization.

Any person violating the provisions of this section shall be guilty of a Class 3 misdemeanor. (See Va Code 18.2-414.2)

Sec. 11-65 Drinking while operating a motor vehicle; Penalty.

It shall be unlawful for any person to consume an alcoholic beverage while driving a motor vehicle upon a public highway of this Town. A violation of this section is punishable as a class 4 misdemeanor. (See Va. Code 18.2-323.1)

Sec. 11-66. Access to loaded firearms by children restricted; Penalty.

It shall be unlawful for any person to recklessly have a loaded, unsecured firearm in such a manner as to endanger the life or limb of any child under the age of fourteen. Any person violating the provisions of this section shall be guilty of a class 3 misdemeanor. (See Code of Virginia 18.2-56.2) Adopted 08/14/1991.

Sec. 11-67 When manufacture, transportation, sale, etc., of fireworks unlawful.

(A) Except as otherwise provided in this section, it shall be unlawful for any person, firm or corporation to transport, manufacture, store, sell, offer for sale, expose for sale, or to buy, use, ignite or explode any firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air, other than sparks or those fireworks under subsection (B).

(B) This section shall not apply to the use or sale of sparklers fountains, Pharaohs serpents, caps for pistols, or to pinwheels commonly known as whirligigs or spinning jennies; Provided however, these fireworks may only be used, ignited or exploded on private property with the consent of the owner of such property.

(C) The Amherst Town Manager shall have the power to issue permits for the display of fireworks, upon application in writing, by fair associations, amusement parks, or by any organization or group of individuals, under such terms as he may prescribe. After such permit has been issued sales of fireworks may be made for use under such permit, and the association, organization or group to which it is issued may make use of such fireworks under the terms and conditions of such permit. (See Va Code 59.1-143).

(D) Any person violating this section shall be guilty of a misdemeanor and, upon conviction thereof, be punished by confinement in jail not to exceed twelve months, or by a fine not exceeding \$1000, or both fine and imprisonment. (See Va Code 59.1-145) Adopted 08/14/1991.

Sec. 11-68. Possession of loaded firearms by juveniles; Prohibited; Penalty.

No person under the age of eighteen shall carry or have in his possession while in any public place or upon any public highway within the Town of Amherst a loaded firearm.

This section shall not apply to any person (i) in his own home or curtilage thereof, (ii) acting at the time in lawful defense of persons or property, (iii) engaged in lawful hunting, nor (iv) engaged in marksmanship practice at established firing ranges. A violation of this section is punishable by a fine of not more than \$100.00 and in the discretion of the court, the weapon may be forfeited to the Commonwealth. Adopted 08/14/1991

ARTICLE V. CRIMES INVOLVING MORALS AND DECENCY

Sec. 11-69. Fornication.

Any person, not being married, who voluntarily shall have sexual intercourse with any other person, shall be guilty of fornication, punishable as a Class 4 misdemeanor. (See VA Code 18.2-344)

Sec. 11-70. Lewd and lascivious cohabitation.

If any person, not married to each other, lewdly and lasciviously associate and cohabit together, or, whether married or not, be guilty of open and gross lewdness and lasciviousness, each of them shall be guilty of a Class 3 misdemeanor; and upon a repetition of the offense, and conviction thereof, each of them shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-345)

Sec. 11-71 Keeping, residing in or frequenting a bawdy place; "bawdy place" defined.

It shall be unlawful for any person to keep any bawdy place, or to reside in or at or visit, for immoral purposes, any such place. Each and every day such bawdy place shall be kept, resided in or visited, shall constitute a separate offense. In prosecution under this section the general reputation of the place may be proved.

As used in this Code, "bawdy place" shall mean any place within or without any building or structure which is used or is to be used for lewdness, assignation or prostitution. (See VA Code 18.2-347)

Sec. 11-72 Aiding prostitution or illicit sexual intercourse.

It shall be unlawful for any person or any officer, employee, or agent of any firm, association or corporation, with knowledge of, or good reason to believe, the immoral purpose of such visit, to take, or transport or assist in taking or transporting, or offer to take or transport on foot or in any way, any person to a place, whether within or without any building or structure, used or to be used for the purpose of lewdness, assignation or prostitution within this Town, or procure or assist in procuring for the purpose of illicit sexual intercourse, or to give any information or direction to any person with intent to enable such person to commit an act of prostitution. (See VA Code 18.2-348)

Sec. 11-73. Using vehicles to promote prostitution or unlawful sexual intercourse.

It shall be unlawful for any owner or chauffeur of any vehicle, with knowledge or reason to believe the same is to be used for such purpose, to use the same or allow the same to be used for the purpose of prostitution or unlawful sexual intercourse, or to aid or promote such prostitution or unlawful intercourse by the use of any such vehicle. (See VA Code 18.2-349)

Sec. 11-74 Confinement of convicted prostitutes and persons violating 11-71 through 11-73.

Every person convicted of being a prostitute and every person convicted of violating any of the provisions of 11-71 through 11-73 shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-350)

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Sec. 11-75. Adultery defined; penalty.

Any person, being married, who voluntarily shall have sexual intercourse with any person not his or her spouse shall be guilty of adultery, punishable as a Class 4 misdemeanor. (See VA Code 18.2-365)

Sec. 11-76 Indecent exposure.

Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor. No person shall be deemed to be in violation of this section for breastfeeding a child in any public place or any place where others are present. (See VA Code 18.2-387) Amended August 10, 1994.

Sec. 11-77. Profane swearing and public drunkenness in public; penalty.

If any person profanely curse or swear or be drunk in public he shall be guilty of a Class 4 misdemeanor. (See VA Code 18.2-388)

ARTICLE VI. CRIMES AGAINST PEACE AND ORDER

Sec. 11-83. Obstructing free passage of others.

Any person or persons who in any public place or on any private property open to the public unreasonably or unnecessarily obstructs the free passage of other persons to and from or within such place or property and who shall fail or refuse to cease such obstruction or move on when requested to do so by the owner or lessee or agent or employee of such owner or lessee or by a duly authorized law enforcement officer shall be guilty of a Class 1 misdemeanor. Nothing in this section shall be construed to prohibit lawful picketing. (See VA Code 18.2-404)

Sec. 11-84 What constitutes a riot; punishment.

Any unlawful use, by three or more persons acting together, of force or violence which seriously jeopardizes the public safety, peace or order is riot.

Every person convicted of participating in any riot shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-405)

Sec. 11-85. What constitutes an unlawful assembly; punishment.

Whenever three or more persons assembled share the common intent to advance some lawful or unlawful purpose by the commission of an act or acts of unlawful force or violence likely to jeopardize seriously public safety, peace or order, and the assembly actually tends to inspire persons of ordinary courage with well-grounded fear of serious and immediate breaches of public safety, peace or order, then such assembly is an unlawful assembly. Every person who participates in an unlawful assembly shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-406)

Sec. 11-86. Remaining at place of riot or unlawful assembly; punishment.

Every person, except the owner or lessee of the premises, his family and nonrioting guests, and public officers and persons assisting them, who remains at the place of any riot or unlawful assembly after having been lawfully warned to disperse, shall be guilty of a Class 3 misdemeanor. (See VA Code 18.2-407)

Sec. 11-87. Obstructing members of rescue squad in performance of mission.

Any person or persons who unreasonably or unnecessarily obstruct a member or members of a rescue squad, whether governmental, private or volunteer, in the performance of their mission or who shall fail or refuse to cease such obstruction or move on when requested to do so by a member of a rescue squad going to or at the site of a rescue mission, shall be guilty of a Class 4 misdemeanor. (See VA Code 18.2-414.1)

Sec. 11-88. Crossing established police lines, perimeters, or barricades.

It shall be unlawful for any person to cross police lines or barricades which have been established pursuant to Section 15.2-1714, Code of Virginia, without proper authorization.

Any person violating the provision of this section shall be guilty of a Class 3 misdemeanor. (See VA Code 18.2-414.2)

Sec. 11-89. Disorderly conduct in public places.

A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

A. In any street, highway, public building, or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this title; or

B. Willfully or being intoxicated, whether willfully or not, disrupts any meeting of the governing body of any political subdivision of this Town or a division or agency thereof, or of any school, literary society or place of religious worship, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, such disruption is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise mad punishable under this title.

The person in charge of any such building, place, conveyance or meeting may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

Any person violating any provision of this section shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-415)

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Sec. 11-90. Punishment for using abusive language to another.

If any person shall, in the presence or hearing of another, curse or abuse such other person, or use any violent abusive language to such person concerning himself or any of his relations, or otherwise use such language, under circumstances calculated to provoke a breach of the peace, he shall be guilty of a Class 3 misdemeanor. (See VA Code 18.2-416)

Sec. 11-91. Slander and libel.

Any person who shall falsely utter and speak, or falsely write and publish, of and concerning any female of chaste character, any words derogatory of such female's character for virtue and chastity, or imputing to such female acts not virtuous and chaste, or who shall falsely utter and speak, or falsely write and publish, of and concerning another person, any words which from their usual construction and common acceptance are construed as insults and tend to violence and breach of the peace or shall use grossly insulting language to any female of good character and reputation, shall be guilty of a Class 3 misdemeanor.

The defendant shall be entitled to prove upon trial in mitigation of the punishment, the provocation which induced the libelous or slanderous words, or any other fact or circumstance tending to disprove malice, malice, or lessen the criminality of the offense. (See VA Code 18.2-417)

Sec. 11-92. Giving certain false information to another by telephone.

If any person maliciously advises or informs another over any telephone in this Town of the death of, accident to, injury to, illness of, or disappearance of some third party, knowing same to be false, he shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-428)

Sec. 11-93. Causing telephone to ring with intent to annoy.

Any person who, without intent to converse but with intent to annoy any other person, causes any telephone not his own to ring, and any person who permits or condones the use of any telephone under his control for such purpose shall be guilty of a Class 3 misdemeanor. (See VA Code 18.2-429)

Sec. 11-94. Venue for offenses under Sections 11-92 & 11-93.

Any person violating the provisions of Sections 11-92 and 11-93 may be prosecuted either in the jurisdiction from which he called or in which the call was received. (See VA Code 18.2-430)

Sec. 11-95 Resisting or obstructing execution of legal process.

Every person acting jointly or in combination with any other person to resist or obstruct the execution of any legal process shall be guilty of a Class 1 misdemeanor. (See VA Code 18.2-409)

ARTICLE VII. CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

Sec. 11-101. Obstructing justice by threats or force.

- (a) If any person, by threats, or force, knowingly attempts to intimidate or impede a judge,

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magistrate, justice, juror, witness, or any law-enforcement officer, in the performance of his duties as such, or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, witness, or law-enforcement officer he shall be deemed to be guilty of a Class 4 misdemeanor.

(b) If any person, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, witness, or law-enforcement officer, lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, he shall be deemed guilty of a Class 1 misdemeanor. (See VA Code 18.2-460)

Sec. 11-102. Giving false reports to police officers.

It shall be unlawful for any person knowingly to give a false report as to the commission of any crime to any law enforcement official with intent to mislead. Violation of the provisions of this section shall be punishable as a Class 1 misdemeanor. (See VA Code 18.2-461)

Sec. 11-103. Refusal to aid officer in execution of his office.

If any person on being required by any sheriff or other officer refuse or neglect to assist him: (1) in the execution of his office in a criminal case, (2) in the preservation of the peace, (3) in the apprehending or securing of any person for a breach of the peace, (4) in any case of escape or rescue, he shall be guilty of a Class 2 misdemeanor. (See VA Code 18.2-463)

ARTICLE VIII. OFFENSES – MISCELLANEOUS

Sec. 11-109. Halloween

It shall be unlawful for any person above the age of twelve years to appear on the streets, sidewalks, private homes or public places in the Town for trick or treat visitations, and such visitations shall be unlawful only on Halloween night.

A special curfew hour of 11:00 P.M. on Halloween evening of any year is hereby established, and the Town Police are hereby authorized to see that all Town streets, sidewalks, and public areas are cleared of all pedestrians except those engaged in necessary business and travel. (10-17-71)

Sec. 11-110. Noise
(Repealed December 12, 1997.)

Sec. 11-110.1 Noise

(A) Declaration of findings and policy

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

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(B) Definitions

- (1) *Device* means any mechanism which is intended to, or actually produces noise when operated or handled.
- (2) *Excessive noise* means any sound which annoys or disturbs humans, or which causes or tends to cause an adverse psychological or physiological effect on humans. Specific examples of prohibited excessive noise are set forth in section 10-29 of this chapter.
- (3) *Emergency work* means work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from immediate exposure to danger, including work performed by public service companies when emergency inspection, repair of facilities, or restoration of services is required for the immediate health, safety or welfare of the community.
- (4) *Vehicle* means any vehicle including, but not limited to, passenger cars, trucks, truck-trailers, semitrailers, and any type or drawn trailer, campers, motorboats and racing vehicles; and any motorcycle (including but not limited to motor scooters and mini bikes) as defined in the Code of Virginia, Section 46.2-100.
- (5) *Noise* means any sound which may cause or tend to cause an adverse psychological or physiological effect on human beings.
- (6) *Person* means any individual, corporation, cooperative, partnership, firm, association, trust, estate, private institution, group agency, or any legal successor, representative, agent or agency thereof.
- (7) *Public right-of-way* means any street, avenue, boulevard, highway, alley or public space which is owned or controlled by any public government entity.
- (8) *Residential area* means any street or highway within the town where sixty percent or more of the improved property is occupied by dwellings not used for business purposes.
- (9) *Sound* means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
- (10) *Sound pressure* means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space.
- (11) *Stationary noise source* means any equipment or facility, fixed or moveable, that is capable of emitting a sound beyond the property boundary of the property on which it is used.
- (12) *Zoning district classification* refers to the Town of Amherst Zoning Ordinance.

(C) Specific prohibitions. The following acts are declared to be excessive noise in violation of this section, provided that the acts so specified shall not be deemed to be an exclusive enumeration of

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those acts which may constitute a excessive noise under paragraph (c) and provided that the acts so specified below may still constitute a noise disturbance under paragraph (c) independently of the hours of the day the acts take place.

- (1) Operating or permitting the use or operation of any radio, receiving device, musical instrument, television, phonograph, or any other similar device producing sound between the hours of 7:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) residences within a building.
- (2) The operation of equipment or other devices making noise between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) residences within a building.
- (3) Yelling, shouting, hooting and hollering, whistling or singing on public or private property in such a manner as to be plainly audible across property boundaries or through partitions common to two (2) residences within a building between the hours of 10:00 p.m. and 7:00 a.m.

(D) Prohibited vehicle noise.

- (1) It shall be unlawful for any person while operating a motor vehicle within the town on public or private property to create in the operation thereof any prohibited noise. In operating such vehicle the following acts are considered a violation of this section, but shall not be deemed to be exclusive:
 - a. The practice of unnecessarily retarding the spark to the motor of a vehicle and thereby causing excessive noise from the motor that is plainly audible at a distance of fifty (50) feet or more from its source.
 - b. In starting a vehicle from a standing position, the practice of gaining speed in a manner which is unnecessarily rapid and thereby causing excessive noise from the motor and the screeching of tires or either of such noises; or in such a manner as to be plainly audible at a distance of fifty (50) feet or more from its source.
 - c. The practice of coming to an unreasonably rapid stop with a vehicle and thereby causing excessive grinding of brakes and screeching of tires or either of such noises; or in such a manner as to be plainly audible at a distance of fifty (50) feet or more from its source.
 - d. The operating of vehicles off road, creating excessive noise plainly audible across a residential real property boundary in such a manner that causes a noise complaint to be filed by any nearby property owner or resident; or in such a manner as to be plainly audible at a distance of fifty (50) feet or more from its source.
 - e. Operating or permitting the use or operation of any radio receiving set or any other device producing sound in motor vehicles within the town in such a manner as to be plainly audible at a distance of fifty (50) feet or more from such motor vehicle.

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- f. Operation of a motor vehicle or operation of a motorcycle within the town with a gutted muffler, muffler cutout, straight exhaust, or without an exhaust in good working order, as provided by Code of Virginia, 46.2-1047 and 46.2-1049.

(E) Sound-amplifying equipment.

- (1) Except pursuant to a permit issued by the office of the town manager, the use in, on or attached to any motor vehicle operating on any highway or parking lot which is open to the public within the town, of any radio, phonograph, musical instrument, bell, whistle, loudspeaker, amplifier or device of any kind whatsoever whereby sound is cast on any highway, street or parking lot which is open to the public to promote the sale of goods, wares, or merchandise or for the purpose of advertising auction sales, sporting events or other business or things advertised thereby is prohibited. The use of a loudspeaker on a motor vehicle for making auction sales on streets or highways or on any property then being sold shall not be construed as a violation of this paragraph when such use is limited strictly to the selling of such property.
- (2) Except pursuant to a permit issued by the office of the town manager, the use of any radio, phonograph, musical instrument, bell, whistle, loudspeaker, amplifier or device of any kind whatsoever whereby sound is cast on any highway, street or across property boundaries is prohibited. The use of a loudspeaker for making auction sales on the property being sold shall not be construed as a violation of this paragraph when such use is limited strictly to the selling of such property.
- (3) Any permit issued by the office of the town manager for the use of any sound amplifying equipment shall be subject to the following regulations:
 - a. The only sound permitted is music and human speech.
 - b. May only operate during the hours specified within the permit.
 - c. Human speech and music amplified shall not be lewd, indecent, slanderous or tend to incite riotous or other unlawful conduct.
 - d. Must operate within any restrictions as specified on the permit.
- (4) A fee of twenty five dollars (\$25.00) shall be imposed for each permit issued.

(F) The following specific activities are exempt from the provisions of this section.

- (1) The use of intercoms or paging systems by businesses located in commercial areas shall not be construed as a violation of this paragraph provided that the sound systems are used for paging purposes only.
- (2) Sound amplifying equipment used at public parks, recreation fields or schools are exempt from the provisions of this section.
- (3) Fireworks utilized under permit.

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- (4) Clock chimes, bells and music played for a call to worship between the hours of 8:00 a.m. and 9:00 p.m.
- (5) Motor vehicles or instruments used during duly authorized parades or wedding processions shall be exempt from the provisions of this section.
- (6) All motor vehicles or devices used for the purpose of sweeping, blowing or cleaning business parking lots between the hours of 6:00 a.m. and 12:00 midnight shall be exempt from the provisions of section (I) subsection (2)(c) only, provided such business is located in a properly zoned district.
- (7) All motor vehicles or equipment owned or contracted by a government entity, including volunteer emergency services, or other public utility, or contractor thereof being operated on an emergency basis, or for the purposes of necessary repairs or maintenance of highways or other public utilities shall be exempt from the provisions of this section.

(G) Penalties. The provisions of this article shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00).

(H) Enforcement. The provisions of this section shall be enforceable by the police department.

(I) Emergency exception. The provisions of this section shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, nor to the emission of sound in the performance of emergency work.

(Adopted December 10, 1997; amended October 12, 2011.)

Sec. 11-111. (Repealed June 14, 2006; effective July 1, 2006.)

Sec. 11-112. Public pool or billiard rooms.

(A) No minor under the age of eighteen years shall be allowed in any public pool or billiard room in the Town of Amherst. The proprietor or manager of each such place shall have posted conspicuously at the entrance of said place a sign in bold letters, not less than two inches in height, as follows:

"NO MINORS UNDER 18 YEARS OF AGE ALLOWED."

In the case of a second or subsequent conviction, the license of the proprietor of such tables may be revoked, in addition to the fine imposed. In any prosecution for a violation of this section, proof of the presence of such minor in such pool or billiard room shall constitute prima facie evidence of knowledge on the part of the proprietor or other person in charge.

(B) The restrictions on minors entering pool rooms or billiard rooms, as set forth hereinabove, shall not apply to establishments, known as family billiard centers, which are further defined as follows:

A *"family billiard center"* is defined as a licensed establishment for the playing of billiards, when such place of business:

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- (1) Is not licensed under the alcoholic beverage control board laws of the state, and is not operated in conjunction with any other licensed dispenser of alcoholic beverages.
- (2) Is illuminated throughout its interior at a level of forty foot candles.
- (3) Has no partitioned or closed off areas other than those for toilet facilities, office space or storerooms; and all playing areas and billiard tables shall be visible from the public way or street.
- (4) Has a window open to view from a public way or street, having a minimum of one hundred square feet of glass area, which window shall not be permanently covered or otherwise obstructed.
- (5) Contains only regulation size (minimum measurements: 4-1/2' x 9') billiard tables, which shall not be of the coin operated type, and such center contain a minimum of five such tables.
- (6) Has separate restroom facilities for both sexes.
- (7) No minor, sixteen years of age, or under, shall be permitted in such center after 10:00 P.M., unless accompanied by a parent or guardian.

(C) All pool and billiard rooms within the Town of Amherst shall be closed from 12:00 midnight until 8:00 A.M. the following day; provided that on Sunday the establishment or business shall not be open before 1:00 P.M.

(D) A violation of this section shall be punishable as a Class 4 misdemeanor.

Sec. 11-113.1. Prohibiting purchase or possession of tobacco products by minors or sale of tobacco products to minors.

(A) No person shall sell to, distribute to or purchase for any person less than eighteen years of age, knowing or having reason to believe that such person is less than eighteen years of age, any tobacco product, including but not limited to cigarettes and cigars. However, the provisions of this subsection shall not apply to the sale of any tobacco product from a vending machine provided notice is posted on the machine in a conspicuous manner and place indicating that the purchase or possession of tobacco products by minors is unlawful.

(B) No person less than eighteen years of age shall purchase or possess any tobacco product including but not limited to cigarettes and cigars. The provisions of this subsection shall not be applicable to the possession of tobacco products by a person less than eighteen years of age making a delivery of tobacco products in pursuance of his employment.

(C) A violation of subsection A or B by an individual or by a separate retail establishment shall be punishable by a civil penalty not to exceed fifty dollars for a first violation and a civil penalty of \$100 for any subsequent violation. Any attorney for the Commonwealth of Amherst County, where an alleged violation occurred in the Town may bring an action to recover the civil penalty, which shall be paid into the state treasury. Any law enforcement officer may issue a summons for a violation of subsection A or B.

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(D) The proprietor of every retail establishment which offers for sale any tobacco product, including but not limited to cigarettes and cigars, shall post in a conspicuous manner and place a sign or signs indicating that the sale of tobacco products to any person under eighteen years of age is prohibited by law. Any attorney for the Town of Amherst, when an alleged violation of this subsection occurred may enforce this subsection by civil action to recover a civil penalty not to exceed fifty dollars. The civil penalty shall be paid into the town treasury. No filing fee or other fee or cost shall be charged to the Town of Amherst.

(E) Nothing in this section shall be construed to create a private cause of action. (See Va. Code 18.2 371.2). (Amended August 10, 1994)

Sec. 11-114. Removal of warning lights, barriers, etc.

No unauthorized person shall remove any lantern, rope, light, sign or barrier lawfully hung, stretched or erected in the streets of the Town of Amherst or elsewhere for the purpose of safeguarding the public. A violation of this section shall be punishable as a Class 4 misdemeanor.

Sec. 11-115. Town property - Tampering with, etc., personal property generally.

No person shall, without proper authority, knowingly use, tamper with, render inoperative, destroy, damage, remove, deface, molest or otherwise interfere with any books, records, furniture, equipment, gear, apparatus, tools or other items of personal property belonging to, leased to or used by the Town or any agency thereof. A violation of this section shall be punishable as a Class 1 misdemeanor.

Sec. 11-116. Damage, etc., to and trespass upon real property.

No person shall, without proper authority, knowingly destroy damage, deface, molest or otherwise interfere with of trespass upon, any real property belonging to, leased to or used by the Town or any agency thereof. (11-42)

Sec. 11-117. Reward for information leading to conviction of violations of the two preceding sections.

A standing reward of ten dollars shall be paid to any person except officers of the Town, for information leading to the arrest and conviction of any person willfully destroying, mutilating, defacing or injuring in any way whatsoever any property of any description belonging to the Town. (11-43)

Sec. 11-118. Courtesy, etc., due to and from; prohibited acts.

(A) Town officers and employees shall be courteous in their official transactions with the public, and they shall conduct themselves in the performance of their official duties so as to not knowingly deprive any person, at the time and under the circumstances then and there existing, of any lawful right or benefit to which such person may be entitled.

(B) Any person who feels aggrieved by the conduct of any town officer or employee in violation of this subsection is hereby invited to bring such matter to the attention of such officer's or employee's department head or to the mayor without prejudice to any other recourse to which such aggrieved person may be entitled.

(C) Members of the public, in turn, should be courteous in their transactions with town officers and employees, and it shall be unlawful for any person to knowingly taunt, deride, jeer or otherwise debase or insult, whether by act, word, or gesture, any town officer or employee at any time or place while such officer or employee is lawfully engaged in the performance of official duty. (11-42)

Sec. 11-119. Governmental functions of town not to be hampered by "sit ins" or other methods.

The Town Council takes cognizance of reported activities of organized groups of individuals in other municipalities in the United States, such as so-called "sit-ins" held in the offices and hallways of buildings in which governmental business is transacted; disruption of vehicular and pedestrian traffic, designed to prevent or delay governmental personnel from reaching their places of duty; failing or refusing to obey they lawful orders of police officers and others in authority, et cetera, and as is generally known to all who read the newspapers, all for the avowed purpose of preventing public officers and employees from performing their duties and thereby preventing altogether, or hindering and delaying, the transaction of governmental business and nullifying important functions of government.

The Town Council takes further cognizance of the fact that this town is a municipal corporation existing under the laws of the state, with a representative form of government in harmony with the Constitutions of the United States and the Commonwealth of Virginia, and that the primary purpose of the town government is to serve the people of the town; and the Town Council finds that activities of groups of individuals which are intended and designed to prevent, delay, hinder or otherwise impair the lawful transaction of business or functions of the town government constitute a clear and present danger to the good order and government of the town for it's established purposes;

For though but one such organized effort may not be wholly effective, nevertheless, if it is not promptly and firmly dealt with, other such efforts may be expected to follow, so that any one such organized effort does in fact constitute a clear and present danger (1) to the ability of the town government to serve the people of the town, and (2) to the very survival of the town as a lawful municipal corporation.

Therefor, and in view of the foregoing findings, it shall unlawful for any person, acting alone or in concert with one or more other persons, to commit any act or omission, otherwise lawful, with intent to prevent, delay, confuse, disrupt pervert or render ineffective the orderly and timely transaction of any town business or any governmental or proprietary function of the town. (11-14)

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Sec. 11-120. Unlawful wearing of officer's uniform or insignia; unlawful use of vehicle with word "Police" shown thereon.

No person, not such an officer referred to in Va Code Sec. 19.2-78, shall wear any such uniform as is designated pursuant to the provisions of such section or wear an insignia or markings containing the Seal of the Commonwealth, Town of Amherst or the insignia of any such officer's uniform, nor shall any person not such an officer or not authorized by such officer, or not authorized by the military police of the armed forces or of the National Guard, or not authorized by the military police of other government agencies, use or cause to be used on the public roads or highways of this Town any motor vehicle bearing markings with the word "Police" shown thereon. However the prohibition against wearing an insignia or markings containing the seal of the Commonwealth or Town of Amherst shall not apply to any certified firefighter or to any certified or licensed emergency medical personnel. Any violation of this section shall be a Class 1 misdemeanor. (See Va. Code 18.2-175, 19.2-78).

ARTICLE IX. OFFENSES CONCERNING HIGHWAYS OR TRAVELERS THEREON.

Sec. 11-125. "Road" construed.

In this article, the word "**road**" shall be construed to mean any street, avenue or road within the corporate limits of the Town of Amherst. (See VA Code 33.1-344)

Sec. 11-126. Dumping trash, etc., on highway, right-of-way or private property.

(A) Any person shall be guilty of a Class 1 misdemeanor who dumps or otherwise disposes of trash, garbage, refuse, litter or other unsightly matter, on public property, including a public highway, right-of-way, property adjacent to such highway or right-of-way, or on private property without the written consent of the owner thereof or his agent.

(B) When any person is arrested for a violation of this section, and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle, the arresting officer may comply with the provisions of Section 46.2-936 in making such arrest.

(C) When a violation of the provisions of this section has been observed by any person, and the matter illegally dumped or disposed of has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting the matter; however, such presumption shall be rebuttable by competent evidence.

(D) Any person convicted of such violation shall be guilty of a Class 1 misdemeanor. (See Va Code 33.1-346) (Amended July 13, 1988)

Sec. 11-127. PENALTIES FOR VIOLATION OF SECTION 11-126

Upon conviction of any person for a violation of section 11-126, the court may suspend the imposition of any sentence on condition that the defendant volunteer his services for such period of time as the court may designate to remove litter from the streets, avenues, and roads in the Town of Amherst.

Any such sums collected shall be paid into the court and forwarded to the Town Treasurer. (See Va. Code 33.1-346.1)