

Town of Windsor

Memorandum

September 13, 2016

TO: The Honorable Mayor and Town Council

FROM: Michael Stallings, Town Manager *MS*

SUBJECT: Town Code Update

In accordance with the Town Code update schedule, I have completed my review of sections 92, 100, 104, and 107.

Chief Riddle and I have reviewed the ordinances and recommend the following changes:

Section 100 – Added the Planning & Zoning Administrator in two places and Chief of Police in one to clarify who is currently handling inoperative vehicles and doing investigations. Added section 11 to institute quite hours.

If Council is agreeable to these changes, we will add them to the previous batch for advertisement at a future date.

This is for Council's discussion and direction.

Chapter 92. LITTERING

§ 92-1. Definitions.

For the purpose of this chapter, the following terms and their derivations shall have the meanings ascribed to them herein:

AUTHORIZED PRIVATE RECEPTACLE

A litter storage and collection container constructed so as to reasonably confine and retain litter and trash.

GARBAGE

Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER

Garbage, refuse, and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

NEWSPAPER

Any newspaper of general circulation as defined by general law, any newspaper duly entered with the post office department of the United States, in accordance with federal statute or regulations, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

PARK

A park, reservation, playground, recreation center or any other public area in the Town, owned or used by the Town and its inhabitants, and devoted to active or passive recreation.

PRIVATE PREMISES

Any dwelling, house, building or other structure, designed or used wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE

Any street, sidewalk, boulevard, alley or other public way and any public park, square, space, or grounds or building.

REFUSE

All putrescible and nonputrescible solid waste (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned motor vehicles and solid market and industrial wastes.

RUBBISH

Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, plastic and similar materials.

VEHICLE

Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

§ 92-2. Placement in receptacles.

A. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the Town except in public receptacles, or in authorized receptacles for collection.

B. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 92-3. Sweeping litter into gutters; maintenance of sidewalks.

No person shall sweep into or deposit in any gutter, street, or other public place with the Town the accumulation of litter from any building or lot or from any private or public sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

§ 92-4. Merchants' duty to keep sidewalk free of litter.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the Town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the Town shall keep all premises, including sidewalks, service alleys and parking areas of their business, free of litter.

§ 92-5. Litter thrown from vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the Town, or upon private property.

§ 92-6. Truck loads causing litter.

No person shall drive or move any truck or other vehicle within the Town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place; nor shall any person drive or move any vehicle or truck within the Town, the wheels or tires of which carry onto or deposit in any street, alley or other public place mud, dirt, sticky substances, litter or foreign matter of any kind.

§ 92-7. Litter in parks.

No person shall throw or deposit litter in any park within the Town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

§ 92-8. Litter in lakes and fountains.

No person shall throw or deposit litter in any fountain, pond, lake, stream, ditch, canal or any other body of water in a park or elsewhere within the Town.

§ 92-9. Litter on occupied private property.

No person shall throw or deposit litter on any occupied or unoccupied property within the Town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

§ 92-10. Owner to maintain premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter on any open or vacant private property within the Town, whether owned by such person or not.

§ 92-11. Litter on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the Town, whether owned by such person or not.

§ 92-12. Violations and penalties.

A violation of the provisions of this chapter shall be punishable as a Class 3 misdemeanor.

Chapter 100. NUISANCES

Article I. General Provisions

§ 100-1. Nuisance prohibited within Town.

It shall be unlawful for any person to cause, harbor, commit or maintain, or to suffer to be caused, harbored, committed or maintained any nuisance as defined by the statute or common law of this state or as defined by this Code or other ordinance of the Town at any place within the Town.

§ 100-2. Certain nuisances enumerated.

A. The following acts when committed, or conditions when existing, within the Town are hereby defined and declared to be nuisances:

- (1) An act done or committed or aided or assisted to be done or committed by any person, or any substance, being or thing kept, maintained, placed or found in or upon any public or private place, which is injurious or dangerous to the public health or safety.
- (2) All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
- (3) All trees and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.
- (4) All ponds or pools of stagnant water, and all foul or dirty water or liquid when discharged through any drain, pipe or spout, or thrown into or upon any street, public place or lot to the injury or annoyance of the public.
- (5) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all stones, rubbish, dirt, filth, slops, vegetable matter or other articles thrown or placed by any person on or in any street, sidewalk or other public place, which in way may cause any injury or annoyance to the public.
- (6) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition, or out of repair.
- (7) All stables, cattle yards, sheep or cow pens or yards or structures for poultry, permitted by the owner thereof or the person responsible thereof or found to be harboring or breeding places for rodents or otherwise to be in such a condition as to become offensive, annoying or injurious to the public or to persons in the neighborhood thereof.
- (8) All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to a permit issued by competent authority.

(9) All septic tanks, privies, cesspools and privy vaults of a type prohibited by state law or by rules and regulations promulgated by authority of state law, or which are maintained in any manner contrary to state law or rules and regulations promulgated by authority of state law or which otherwise constitute a menace to the health of, or are offensive to, persons in the neighborhood thereof.

B. The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state, when committed, omitted or existing within the Town limits, is hereby declared to constitute a nuisance.

§ 100-3. Responsibility of property owners, occupants and others.

Each owner, lessee, tenant, occupant or person in charge of any real property within the Town, and each agent or representative of any such person, is hereby charged with responsibility for the maintenance and use of such real property in such manner that no use of, or activity or condition upon or within, such real property shall constitute a nuisance; and all such persons are hereby charged with the duty of observing all of the provisions of this chapter, but such responsibility shall not be construed to permit any other person not charged with such responsibility to commit or maintain any nuisance upon or within any real property in the Town.

§ 100-4. Care of premises; storage of inoperative motor vehicles.

A. It shall be unlawful for the owner or occupant of a residential building, structure, or property to utilize the premises of such residential property for the open storage of any inoperative motor vehicle which is not housed within a garage or building completely obstructed from public view. It shall be the duty of and responsibility of every such owner or occupant to keep the premises of residential property clean and to remove from the premises all inoperative motor vehicles, iceboxes, refrigerators, stoves, glass, building material, building rubbish, or other debris, including but not limited to weeds, dead trees, trash and garage, etc., upon notice from an authorized agent of the Town.

B. For the purpose of this section, an "inoperative motor vehicle" is defined as one that is not in operating condition; or which, for a period of 60 days or longer, has been partially or totally disassembled by the removal of tires, wheels, the engine, or other essential parts required for operative of the vehicle; or which does not display both of the following: current valid license plate, current inspection sticker.

C. The owner or occupant of any residential property found to be in violation of Subsection A or B above shall, within 10 days of notice thereof, remove such inoperative motor vehicle or other item specified in Subsection A. Notice shall be made by certified, registered letter or personal delivery of notice by an authorized agent of the Town to the owner.

D. In the event that the owner of such inoperative motor vehicle(s) or other item specified in Subsection A, or the occupant of any residential property upon which such inoperative motor vehicle(s) or other item specified in Subsection A is located, fails to remove such inoperative vehicle or such other item specified in Subsection A within 10 days of notice thereof, employees or agents of the Town shall, upon

direction of the Chief of Police or Planning and Zoning Administrator, remove it from the premises of the owner. The costs of such removal shall be taxed to the owner of the real estate as provided in Article II of this chapter.

E. In the event that any inoperative motor vehicle is removed from the premises of the owner by employees or agents of the Town, then the Town may dispose of it, after giving the owner 10 days' additional notice of its intention to do so.

F. In the event the owner of such inoperative motor vehicle or such other item specified in Subsection A or the owner of the premises on which such motor vehicle or such other item specified in Subsection A was kept wishes to obtain the property before it is disposed of, such owner shall pay a removal fee of \$75 to the Town, or the towing and storage fee to any agent of the Town who has removed such vehicle or such other item specified in Subsection A from the premises, whichever is applicable.

G. For the purposes of this section, inoperative vehicles kept in any manner other than within a structural building shall be in violation of this chapter.

H. Fences, partially or totally obstructing views, or car covers shall not exempt any vehicle from being in violation of this section.

Article II. Abatement

§ 100-5. Inspections, investigations and complaints.

It shall be the duty of the ~~Mayer~~ Planning and Zoning Administrator and/or Chief of Police to cause inspections to be made from time to time of all portions of the Town to determine whether any condition exists or activity is being practiced which constitutes a nuisance; and he shall cause an investigation to be made upon complaint made by any responsible person.

§ 100-6. Right to enter private premises; duty of occupants.

Town officers shall have the right to enter upon private premises for the purposes specified in § 100-5, upon compliance with all applicable provisions of law. Unless it appears probable that advance warning would defeat the purpose of such entry, occupants of premises to be entered shall be given reasonable notice in advance, and in any case it shall be unlawful for any owner or occupant to prevent such entry which is sought to be made in compliance with law.

§ 100-7. Notice to cease activities constituting nuisances.

If at any time a Town officer shall find that an activity or practice which constitutes a nuisance is occurring with the Town, he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.

§ 100-8. Notice to abate conditions constituting nuisances; appeal.

If at any time a Town officer shall find that a condition which constitutes a nuisance exists within the Town, he shall give notice in writing to the owner, occupant or person in charge of the premises upon which such condition exists, stating therein the condition which constitutes a nuisance, and directing such addressee to remedy the condition within the time stated in such notice, which shall be not more than 10 days; and it shall be unlawful for any such owner, occupant or person in charge to fail to comply with the terms of such notice; provided that any owner, occupant or person in charge may, within two days from the service thereof, appeal to the Council, in which case the terms of such notice shall be stayed pending action of the Council, which shall be final; provided, further, that if the officer giving notice shall state in such notice that the condition which constitutes a nuisance is such as to be an imminent hazard to the health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, then the addressee shall comply with the terms of such notice.

§ 100-9. Recourse of Town when notice to abate is ignored.

A. Upon the failure of any person to whom notice has been given pursuant to § 100-8 to comply with the terms of such notice, or with the terms imposed by the Council on appeal, as the case may be, the officer giving such notice shall forthwith direct the appropriate Town officer to remedy the condition which is the subject of such notice, and the expense incurred by the Town in so doing shall be charged to the addressee of such notice, to be collected as Town taxes or in any other manner authorized by law.

B. Abatement by the Town of any condition which constitutes a nuisance and reimbursement to the Town of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance and shall not bar the Town Attorney from seeking an injunction for the abatement of such nuisance.

§ 100-10. Additional remedies.

Nothing in this article shall be construed to prohibit any police officer from arresting any person for committing or maintaining a nuisance when such arrest is made pursuant to law.

§ 100-11. Quiet Hours.

There shall be quiet hours from the hours of 11pm to 6am. During these hours no excessive or unnecessary noise should be created on any property within the Town of Windsor.

Article III. Penalties

§ 100-11. Violations and penalties.

A violation of the provisions of this chapter shall be punishable as a Class 2 misdemeanor.

Chapter 104. PARADES AND PROCESSIONS

§ 104-1. Definitions.

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

PARADE

Any parade, march, ceremony, show, exhibition, pageant or demonstration constituting or being a procession of any kind, or any similar display in or upon any street or municipally operated parking lot in the Town.

PARADE PERMIT

A permit as required by this chapter.

§ 104-2. Permit required; exceptions.

A. No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the Town Manager or his designee.

B. This chapter shall not apply to:

- (1) Funeral processions.
- (2) Students accompanied by and under the direction and supervision of adult school authorities going to and from school classes or participating in educational activities approved by school authorities; provided that this exception shall apply to a school band marching in formation.
- (3) A governmental agency acting within the scope of its functions.

§ 104-3. Permit application.

A. A person seeking issuance of a parade permit shall file an application with the Town Manager or his designee on forms provided by such officer.

B. An application for a parade permit shall be filed with the Town Manager or his designee not less than five days nor more than 60 days before the date on which it is proposed to conduct the parade.

C. The application for a parade permit shall set forth the following information:

- (1) The name, address and telephone number of the person seeking to conduct such parade.
- (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.
- (3) The name, address and telephone number of the person who will be the parade marshal and who will be responsible for its conduct.

- (4) The date when the parade is to be conducted.
- (5) The route to be traveled, the starting point and the termination point.
- (6) The location by streets of any assembly areas for such parade.
- (7) The hours when such parade will start and terminate.
- (8) The time at which units of the parade will begin to assemble at any assembly area or areas.
- (9) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and a description of the vehicles.
- (10) The interval of space to be maintained between units of such parade.
- (11) A statement as to whether the parade will occupy all or only a portion of the width of the streets, between the sidewalks, proposed to be traversed.
- (12) A statement as to whether the parade will occupy any portion of the width of the sidewalks of the streets proposed to be traversed and, if so, what portion thereof.
- (13) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the Town Manager or his designee a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.
- (14) Any additional information which the Town Manager or his designee shall find reasonably necessary to a fair determination as to whether a permit should be issued.

§ 104-4. Standards for permit issuance.

The Town Manager or his designee shall issue a permit as provided for under this chapter when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

- A. The conduct of the parade will not substantially interrupt the safe and orderly movement of other pedestrian and vehicular traffic contiguous to its route.
- B. The conduct of the parade will not require the diversion of so great a number of police officers of the Town to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the Town.
- C. The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the Town other than that to be occupied by the proposed line of march and areas contiguous thereto.
- D. The concentration of persons, animals and vehicles at assembly and termination points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.

E. The conduct of such parade will not interfere with the movement of fire-fighting equipment en route to a fire.

F. The conduct of the parade is not reasonably likely to cause physical injury to persons at the assembly areas, termination point or on the route to be traveled.

G. The parade is scheduled to move from its point of origin to its termination expeditiously and without unreasonable delays en route.

H. The parade is not designed to be held purely for the private profit of the person holding the same or for the sole purpose of advertising any product or goods of such person.

§ 104-5. Notice of rejection.

The Town Manager or his designee shall act upon the application for a parade permit within three days after the filing thereof. If the Town Manager or his designee disapproves the application, he shall mail to the applicant, within three days after the date upon which the application was filed, a notice of his action, stating the reasons for his denial of the permit.

§ 104-6. Notice to Town and other officials of permit issuance.

Immediately upon the issuance of a parade permit, the Town Manager or his designee shall send a copy thereof to the following:

A. The police officer of the Town.

B. The Fire Chief.

C. The general manager or reasonable head of each public transportation utility, the regular routes of whose vehicles will be affected by the route of the proposed parade.

§ 104-7. Permit contents.

Each parade permit shall state the following information:

A. Assembly time.

B. Starting time of parade.

C. Minimum speed.

D. Maximum speed.

E. Maximum interval of space to be maintained between the units of the parade.

F. The portions of the streets to be traversed that may be occupied by the parade.

G. The maximum length of the parade in miles or fractions thereof.

H. The assembly area.

I. The termination area.

J. Such other information as the Town Manager or his designee shall find necessary to the enforcement of this chapter.

§ 104-8. Permit not assignable.

No permit issued pursuant to the provisions of this chapter shall be assigned to another person by the permittee.

§ 104-9. Permit revocation.

The Town Manager or his designee shall have the authority to revoke a parade permit issued under this chapter upon application of the standards for issuance as set forth in this chapter.

§ 104-10. Alternate permit.

The Town Manager or his designee, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within one day after notice of the action of the Town Manager or his designee, file a written notice of acceptance with the Town Manager or his designee. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this chapter.

§ 104-11. Duties of permittee; possession of permit.

A. A permittee under this chapter shall comply with all permit directions and conditions and with all applicable laws and ordinances.

B. The parade marshal or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade.

§ 104-12. Interference with parade prohibited.

No person shall unreasonably hamper, obstruct or impede, or interfere with any parade, or parade assembly or with any person, vehicle or animal participating or used in a parade.

§ 104-13. Driving through parades.

No driver of any vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

§ 104-14. Parking on parade route.

The Town Manager or his designee shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a

parade. The Town Manager or his designee shall cause to be posted signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

§ 104-15. Appeals.

Any person who shall be aggrieved by the denial of the Town Manager or his designee to issue the permit which such person requests shall have the right, within 10 days after the notice of rejection given to such person pursuant to § 104-5, to appeal the decision of the Town Manager or his designee to the Town Council, to be considered by it at its next regular meeting to be held after notice of appeal is given in writing by the person claiming to be aggrieved. Any person desiring to appeal from the decision rendered by the Town Council on the appeal from the decision of the Town Manager or his designee shall have the right to appeal the same to the circuit court of the county; provided that notice of appeal is given within 10 days after the decision of the Town Council in writing is given to the person.

Chapter 107. PEACE AND GOOD ORDER

§ 107-1. Assault and battery.

Any person who shall commit a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor in accordance with § 18.2-57, Code of Virginia.

§ 107-2. Attempts.

Every person who attempts to commit an offense which is a misdemeanor under the provisions of this Code shall be punishable by the same punishment prescribed for the offense the commission of which was the object of the attempt in accordance with § 18.2-27, Code of Virginia. In no event shall the punishment for an attempt to commit an offense exceed the maximum punishment had the offense been committed, in accordance with § 18.2-28, Code of Virginia.

§ 107-3. Disorderly conduct.

A. Any person who shall do or engage in any of the following shall be guilty of disorderly conduct:

- (1) Any person who shall act in a violent or tumultuous manner toward another, whereby any person is placed in danger to the safety of his life, limb or health.
- (2) Any person who shall act in a violent or tumultuous manner toward another, whereby public property or property of any person is placed in danger of being destroyed or damaged.
- (3) Any person who shall endanger lawful pursuits of another by acts of violence or threats of bodily harm.
- (4) Any person who shall cause, provide or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property.
- (5) Any person who shall assemble or congregate with another or others and cause, provide or engage in any fight or brawl.
- (6) Any person who shall collect in bodies or in crowds and engage in unlawful activities.
- (7) Any person who shall assemble or congregate with another or others and do bodily harm to another.
- (8) Any person who shall, by acts of violence, interfere with another's pursuit of a lawful occupation.
- (9) Any person who shall congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuse to clear such public way when ordered to do so by a peace officer or other person having authority.

B. Any person convicted of disorderly conduct, as defined in this section, shall be guilty of a Class 1 misdemeanor as provided in § 1-3 of this Code.

§ 107-4. Gambling.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

GAMBLING DEVICE

Includes:

- (1) Any device, machine, paraphernalia, equipment or other thing, including books, records and other papers, which are actually used in an illegal gambling operation or activity; and
- (2) Any machine, apparatus, implement, instrument, contrivance, board or other thing, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided, further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape or color shall not be deemed gambling devices within the meaning of this subsection. Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations, nor are they any less a gambling device because, apart from their use of adaptability as such, they may also sell or deliver something of value on a basis other than chance.

ILLEGAL GAMBLING

The making, placing or receipt of any bet or wager in the Town of money or other things of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or any other event the outcome of which is uncertain or a matter of change, whether such game, contest or event, occurs or is to occur inside or outside the limits of the state, shall constitute illegal gambling.

OPERATOR

Includes any person who conducts, finances, manages, supervises, directs or owns all or part of an illegal gambling enterprise, activity or operator.

B. Violations and penalties.

- (1) Except as otherwise provided in this chapter, any person who illegally gambles shall, upon conviction, be guilty of a Class 3 misdemeanor. If an association or pool of persons illegally gambles, each person therein shall be guilty of illegal gambling.
- (2) Owners of gambling places who permit continuance. If the owner, lessee, tenant, occupant or other person in control of any place or conveyance knows, or reasonably should know, that it is being used for illegal gambling, and permits such gambling to continue without having notified

a law enforcement officer of the presence of such illegal gambling activity, he shall, upon conviction, be guilty of a Class 1 misdemeanor.

(3) Accessories to gambling activity. Any person, other than those persons specified in other sections of this chapter, who knowingly aids, abets or assists in the operation of an illegal gambling activity, shall upon conviction be guilty of a Class 1 misdemeanor.

C. Illegal possession of gambling device. A person is guilty of illegal possession of a gambling device when he manufactures, sells, transports, rents, gives away, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing or having reason to believe that the same is to be used in the advancement of unlawful gambling activity. Any person violating any provision of this subsection shall, upon conviction, be guilty of a Class 1 misdemeanor.

§ 107-5. 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 obstruct 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, upon conviction, be guilty of a Class 2 misdemeanor.

§ 107-6. Alcoholic beverages; drinking in public.

No person shall take a drink of alcoholic beverages or shall tender a drink of alcoholic beverages to another, whether accepted or not, at or in any public place. This section shall not apply to the drinking, or tendering of a drink, of beer sold in a legally licensed establishment.

§ 107-7. Petit larceny.

Any person who commits larceny from the person of another of money or other thing of value of less than \$5, or commits simple larceny not from the person of another of goods and chattels of the value of less than \$200 shall, upon conviction, be guilty of a Class 1 misdemeanor, in accordance with § 18.2-96, Code of Virginia.

§ 107-8. Throwing or depositing certain substances upon highway or street; removal of such substances.

No person shall throw or deposit or cause to be deposited upon any highway or street 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 or street, nor shall any person throw or deposit or cause to be deposited upon any highway or street 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 or street any destructive, hazardous or injurious material shall immediately remove same or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway or street shall remove any glass or other injurious substance dropped upon the highway or street from such vehicle. Any

persons violating the provisions of this section shall, upon conviction, be guilty of a Class 1 misdemeanor.

§ 107-9. 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, in accordance with § 18.2-387, Code of Virginia.

§ 107-10. Prohibited noises.

A. Generally. It shall be unlawful for any person to make or cause any unreasonable, excessive, unnecessary or unusually loud noise, annoying or injuring the comfort, repose, health, peace or safety of others at any location within the Town, or to allow the creation of any such noise upon property such person owns, leases, occupies or otherwise controls, within the Town limits.

B. Prohibited acts enumerated. The following acts are declared to be noise disturbances in violation of this section, but such enumeration shall not be deemed exclusive:

(1) Construction equipment. Operating or causing to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, streets, alleys or appurtenances thereto, in the outdoors between the hours of 9:00 p.m. and 6:00 a.m. the following day.

(2) Vehicle repair. Repairing, rebuilding or modifying any motor vehicle or other mechanical device in residential zoning districts between the hours of 9:00 p.m. and 6:00 a.m. the following day.

(3) Exhausts. The discharge into open air of the exhaust of any steam or diesel engine, stationary internal combustion engine, chain saw, power mower, motor boat or motor vehicle, except through a muffler or other device which will effectively reduce the noise or sound.

(4) Trash collection. The collection of trash, refuse or garbage in residential and business zoning districts between the hours of 9:00 p.m. and 6:00 a.m. the following day.

(5) Loading and unloading. Loading and unloading trucks outdoors within 100 yards of a residence between the hours of 10:00 p.m. and 6:00 a.m. the following day.

(6) Vehicle horns. Sounding the horn or warning device of a motor vehicle, except when necessary as a warning during the operation of the vehicle.

(7) Music, television, radio, etc. The playing of any television set, radio, tape player, phonograph, or any musical instrument or any other device for the production of sound in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of reasonable persons and also more specifically operating or permitting the use or operation of any television set, radio, tape player, musical instrument, phonograph or any other device for the production of sound in such a manner as to be plainly audible across property boundaries or through partitions common to two residences within a building or plainly audible at 50 feet from such

device, when operated within a motor vehicle driving or parked on a public right-of-way or in a public place.

(8) Animals. Owning, keeping, possessing or harboring any animal which frequently or habitually howls, barks, meows, squawks or makes such other noise as is plainly audible across property boundaries or through partitions common to two residences within a building.

(9) Unusually loud conversation. Any unreasonably loud or raucous conversation, yelling, shouting, whistling or singing that is plainly audible across property boundaries, through partitions common to two residences within a building or in any public place.

C. Exemptions. This section shall have no application to the following:

(1) Fire, rescue, police, ambulance or other emergency vehicles, to any noise or sound created thereby or by any person to sound a warning or call attention to a bona fide emergency or to any sound made in the performance of emergency work.

(2) Noise or sound which customarily accompanies parades, sporting events, public functions or commemorative events except to the extent that such activities are subject to conditions set forth in any required permits therefor.

(3) Noise or sound which customarily accompanies activities conducted in any gymnasium, theater, swimming pool, stadium or similar sporting facility.

(4) Any agricultural activities.

(5) Any industrial activity in an industrially-zoned area.

D. Any person violating any provision of this section shall be deemed guilty of a Class 2 misdemeanor. Each day such violation is committed shall constitute a separate offense and shall be punishable as such hereunder.

§ 107-11. Trick or treat activities.

A. If any person 13 years of age or older shall engage in the activity commonly known as "trick or treat" or any other activity of similar character or nature under any name whatsoever, he or she shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$25 nor more than \$100 or by confinement in jail for not more than six months, or both. Nothing herein shall be construed as prohibiting any parent, guardian or other responsible person having lawfully in his custody a child less than 13 years old, from accompanying such child who is playing "trick or treat" for the purpose of caring for, looking after or protecting such child. However, no accompanying parent or guardian shall wear a mask of any type.

B. If any person shall engage in the activity commonly known as "trick or treat" or any other activity of similar character or nature under any name whatsoever after 8:00 p.m., he or she shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$10 nor more than \$100 or by confinement in jail for not more than 30 days or both.

11. Public Works Building

- Revised plans have been received from the contractor and have been resubmitted to Isle of Wight for review.

12. Water Fountain in Centennial Park

- Currently working with Public Works and the Library to determine the best location for the fountain.