

ORDINANCE NO. 66A-5

AN ORDINANCE TO AMEND AND REORDAIN THE CODE OF THE COUNTY OF JAMES CITY BY AMENDING CHAPTER 11, MOTOR VEHICLES AND TRAFFIC, BY AMENDING THE FOLLOWING SECTIONS, TO WIT: ARTICLE I, IN GENERAL, SECTION 11-15, GLASS, ETC., TO BE REMOVED FROM HIGHWAY AT TIME WRECKED VEHICLE REMOVED: SECTION 11-22, DUTY OF DRIVER TO STOP, ETC., IN EVENT OF ACCIDENT: DUTY OF OCCUPANT; REPORTS ADDITIONAL TO OTHER ACCIDENT REPORTS REQUIRED BY STATE LAW: SECTION 11-27, PENALTIES NOT ELSEWHERE PROVIDED FOR CERTAIN VIOLATIONS WHICH ALSO CONSTITUTE MISDEMEANORS UNDER STATE MOTOR VEHICLE LAW: ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER INFLUENCE OF ANY DRUG: SECTION 11-28, DRIVING AUTOMOBILE, ENGINE, ETC., WHILE UNDER THE INFLUENCE OF WHISKEYS, DRUGS, ETC., PROHIBITED: SECTION 11-32, SAME, PENALTY, GENERALLY, SUBSEQUENT OFFENSE: PRIOR CONVICTION: SECTION 11-34, DRIVING AFTER FORFEITURE OF LICENSE: ARTICLE III, STOPPING, STANDING AND PARKING: SECTION 11-47, REMOVAL AND DISPOSITION OF UNATTENDED VEHICLES GENERALLY: ARTICLE IV, VEHICLE LICENSES, SECTION 11-60, PERSONS EXEMPTED.

BE IT ORDAINED by the Board of Supervisors of James City County, that the Code of the County of James City be and the same is, hereby, amended and reordained by amending Chapter 11, Motor Vehicles and Traffic, by amending and reordaining the following sections, to wit: Article I, In General, Section 11-15, Glass, etc., to be removed from highway at time wrecked vehicle removed; Section 11-22, Duty of driver to stop, etc., in event of accident; duty of occupant; reports additional to other accident reports required by state law; Section 11-27, Penalties not elsewhere provided for certain violations which also constitute misdemeanors under state motor vehicle law; Article II, Driving automobiles, etc., while intoxicated or under influence of any drug; Section 11-28, Driving automobile, engine, etc., while under the influence of whiskeys, drugs, etc., prohibited; Section 11-32, Same, penalty, generally, subsequent offense; prior conviction; Section 11-34, Driving after forfeiture of license; Article III, Stopping, standing and parking; Section 11-47, Removal and disposition of unattended vehicles generally; Article IV, Vehicle licenses, Section 11-60, Persons exempted.

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MOTOR VEHICLES AND TRAFFIC

Article I. In General

Section 11-15. REPEALED.

Section 11-22. Duty of driver to stop, etc., in event of accident; duty of occupant; reports additional to other accident reports required by state law.

(a) The driver of any vehicle involved in an accident in which a person is killed or injured or in which an attended vehicle or other attended property is damaged shall immediately stop as close to the scene of the accident as possible without obstructing traffic and report forthwith to the sheriff's office, and, in addition, to the person struck and injured if such person appears to be capable of understanding and retaining the information, or to the driver or some other occupant of the vehicle collided with or to the custodian of other damaged property, his name, address, operator's or chauffeur's license number and the registration number of his vehicle. The driver shall also render reasonable assistance to any person injured in such accident, including the carrying of such injured person to a physician, surgeon or hospital for medical treatment if it is apparent that such treatment is necessary or is requested by the injured person.

Where, as a result of the injuries sustained in the accident, the driver is prevented from complying with the above provisions, the driver shall, as soon as reasonably possible, make the required report to the police authority and make a reasonable effort to locate the person struck, or the driver or some other occupant of the vehicle collided with, or the custodian of the damaged property and report to such person or persons his name, address, operator's or chauffeur's license number and the registration number of his vehicle.

(b) If the driver fails to stop and make the report required by subsection (a) of this section, any person in the vehicle with the driver at the time of the accident who has knowledge of the accident shall report within twenty-four hours from the time of the accident to the sheriff's office, giving his name, address and such other information within his knowledge as the driver must report pursuant to subsection (a) of this section

(c) The driver of any vehicle involved in an accident in which no person is killed or injured but in which an unattended vehicle or other unattended property is damaged shall make a reasonable effort to find the owner or custodian of such property and shall report to the owner or custodian the information which the driver must report pursuant to subsection (a) of this section if such owner or custodian is found. If the owner or custodian of such damaged vehicle or property cannot be found, the driver shall leave a note in a conspicuous place at the scene of the accident and shall report the accident in writing within twenty-four hours to the sheriff's office. Such note and written report shall contain the information which the driver must report pursuant to subsection (a) of this section and such written report shall state in addition to the date, time and place of the accident and the driver's estimate of the property damage.

Where, as a result of the injuries sustained in the accident, the driver is prevented from complying with the above provisions, the driver shall, as soon as reasonably possible, make the required report to the sheriff's office and make a reasonable effort to find the owner or custodian of the unattended vehicle or property and report to such person or persons such information as is required to be reported pursuant to paragraph (c) of this section.

(d) If the driver fails to stop and make a reasonable search for the owner or custodian of an unattended vehicle or property or to leave a note for such owner or custodian as required by subsection (c) of this section, any person in the vehicle with the driver at the time of the accident who has knowledge of the accident shall report within twenty-four hours from the time of the accident to the sheriff's office, his name, address and other such facts within his knowledge as are required by subsection (c) of this section to be reported by the driver.

(e) The reports required by this section are in addition to other accident reports required by state law and shall be made irrespective of the amount of property damage involved.

(f) The provisions of this section shall apply irrespective of whether such accident occurs on the public streets or highways or on private property.

Section 11-27. Penalties not elsewhere provided for certain violations which also constitute misdemeanors under state motor vehicle law.

Any person convicted of an act or omission in violation of any provision of this chapter, which act or omission also constitutes a misdemeanor under any provision of chapters 1 through 4, inclusive, of title 46.1 of the Code of Virginia, and for which no other penalty is provided in this chapter or in title 46.1 of the Code of Virginia, shall be deemed guilty of a traffic infraction punishable by a fine of not more than one hundred dollars.

Article II, Driving Automobiles, Etc.,
While Intoxicated or Under
Influence of Any Drug.

Section 11-28. Driving motor vehicle while intoxicated.

It shall be unlawful for any person to drive or operate any motor vehicle while under the influence of alcohol, or while under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature. For purposes of this section, the term "motor vehicle" shall include automobiles, trucks, engines, trains, motorcycles, and pedal bicycles with helper motors, while operated on the public highways.

Section 11-32. Same -- Penalty -- Generally; subsequent offense; prior conviction.

Any person violating any provision of section 11-28 shall be guilty of a misdemeanor and shall be punished, for a first offense by a fine of not less than two hundred dollars nor more than five hundred dollars or by confinement in jail for not less than one month nor more than six months, either or both in the discretion of the jury or the court trying the case without a jury.

Any person convicted within any period of ten years of a second or subsequent offense under section 11-28 shall be punishable by a fine of not less than two hundred dollars nor more than one thousand dollars and by confinement in jail for not less than one month nor more than one year. For the purposes of this section, a conviction or finding of not innocent in the case of a juvenile under the provisions of section 11-28 of this code or section 18.2-266 of the Code of Virginia, (former §18.1-54, former §18-75), or the ordinance of any county, city or town in this state or the laws of any other state substantially similar to the provisions of section 18.2-266 of the Code of Virginia shall be considered a prior conviction.

Section 11-34. Same -- Same -- Driving after forfeiture of license.

If any person convicted pursuant to sections 11-32 and 11-33 shall, during the time for which he is deprived of his right to do so, drive or operate any motor vehicle or self-propelled machine or equipment in this county, he shall for the first offense be confined in jail not less than ten days nor more than six months; and may in addition be fined not less than one hundred dollars nor more than two hundred dollars; and for the second or any subsequent offense be confined in jail not less than two months nor more than one year; and may in addition be fined not less than two hundred dollars nor more than one thousand dollars. The court shall not suspend the entire jail sentence in any case, but may in its discretion suspend a portion thereof, provided that this provision, in the discretion of the court, shall not apply if the operation of the motor vehicle was due to an emergency involving danger to the health or life of any person, or to property; and provided further that the court may in its discretion prescribe that the jail sentence shall be served at such time or times as the court may direct after considering the circumstances of the person convicted of violating sections 11-32 or 11-33.

In addition, the court shall suspend or revoke such person's license, permit or privilege to drive for the same period for which it had been previously suspended or revoked when such person violated this section. In the event such person has violated this section by driving during a period of suspension or revocation which was not for a definite period of time, the court shall suspend or revoke such person's license, permit or privilege to drive for an additional period not to exceed ninety days. Any additional suspension ordered under the provisions of this section shall commence upon the expiration of the previous suspension or revocation unless such previous suspension or revocation has expired prior to the ordering of an additional suspension or revocation.

Article III. Stopping, Standing and Parking.

Section 11-47. Removal and disposition of unattended vehicles generally.

(a) It shall be unlawful for any person to leave any motor vehicle, trailer or semitrailer, or part thereof, on the paved or improved surface of any highway or adjacent thereto, unaccompanied by the owner or operator.

thereof, if such motor vehicle, trailer or semitrailer constitutes a hazard in the use of the highway by reason of its position thereon, or has been unattended longer than twenty-four hours. The sheriff discovering or having a report of same shall remove it or have it removed to the nearest storage garage for safekeeping, and that fact shall be immediately reported to the division of motor vehicles (division) or some officer or agent of the division and to the owner of such motor vehicle, trailer or semitrailer, as promptly as possible, and such owner, before obtaining the possession of such motor vehicle, trailer or semitrailer, shall pay to the parties entitled thereto all reasonable, necessary costs incidental to the removal or storage of such motor vehicle, trailer or semitrailer. In any case of a violation of the provisions of this section the owner of such motor vehicle, trailer or semitrailer, or part thereof, shall be presumed to be the person committing the violation; provided that such presumption shall be rebuttable by competent evidence; provided further that where it is shown to the satisfaction of the court that such vehicle was stolen or illegally used by a person other than the owner without authorization of the owner thereof, expressed or implied, such vehicle shall be forthwith returned to its innocent owner who shall be relieved of any costs under the requirements of this section. In any case in which the identity of the person violating this section cannot be determined, or where it is found by a court of competent jurisdiction that this section was not violated, the costs incidental to the removal and storage of such vehicle shall be paid out of the county treasury. Should any owner found guilty of violating this section fail or refuse to pay such costs or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made or after notice to such owner at his address as indicated by the records of the division and to the holder of any lien of record in the principal office of the division against such motor vehicle, trailer or semitrailer, the sheriff or other officer designed by the governing body of the county may, after thirty days and after having the value of such motor vehicle, trailer or semitrailer determined by three disinterested dealers or garagemen dispose of the same by public or private sale and the proceeds accruing from such sale shall be forthwith paid by him into the county treasury. The treasurer shall pay from the proceeds of the sale the cost of removal, storage, investigation as to ownership and liens and notice of sale, and the balance of such funds shall be held by him for the owner and paid to the owner upon satisfactory proof of ownership.

(b) If no claim has been made by the owner for the proceeds of such sale, after the payment of the abovementioned costs, the funds may be deposited to the general fund or any special fund of the county. Any such owner shall be entitled to apply to the county within three years from the date of such sale and if timely application is made therefor, the county shall pay the same to the owner without interest or other charges. No claim shall be made nor shall any suit, action or proceeding be instituted for the recovery of such funds after three years from the date of such sale.

(c) It shall be presumed that any such motor vehicle, trailer or semitrailer, or part thereof, is abandoned if (1) it does not bear a current license plate or a valid state inspection certificate or sticker and (2) it has been in a specific location for ten days without being moved.

(d) Whenever any motor vehicle, trailer or semitrailer, part thereof, is stalled or rendered immobile as the result of adverse weather conditions or other emergency situations, on the paved or improved surface of any highway or right-of-way, the sheriff upon discovering or having a report of same may move or have such vehicle removed to some reasonably accessible portion of the adjacent right-of-way; handling and disposition thereafter shall be affected by the authorities, and pursuant to the conditions, provided by the provisions of subsection (a) of this section.

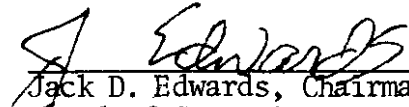
Article IV. Vehicle Licenses.

Section 11-60. Persons exempted.

Every licensed dealer in motor vehicles shall be exempt from the tax for such vehicles as are used solely for demonstration purposes, and every non-domiciliary member of the armed forces residing in this county in compliance with military or naval orders are exempt from the tax.


No license fee shall be imposed for any one motor vehicle owned and used personally by any veteran who holds a current state motor vehicle registration card establishing that he has received a disabled veteran's exemption from the division of motor vehicles and has been issued a disabled veteran's motor vehicle license plate as prescribed in section 46.1-149.1 of the Code of Virginia.

This ordinance shall be in full force and effect from the date of its adoption.



Jack D. Edwards, Chairman
Board of Supervisors

ATTEST:



James B. Oliver, Jr.
Clerk to the Board

Adopted by the Board of Supervisors, James City County, Virginia, on this 23rd day of October, 1978.