



**TOWN OF BLUEFIELD
TOWN COUNCIL MEETING
July 11, 2017
AGENDA**

- 7:30 p.m. **Call to Order**
- 7:31 p.m. **Invocation and Pledge of Allegiance**
- Steve Branch, Destiny Outreach Ministries
- 7:33 p.m. **Approval of Agenda**
- 7:34 p.m. **Consent Agenda**
- [June 27, 2017 Council Meeting Minutes](#)
 - [June 2017 Monthly Budget Report](#)
- 7:35 p.m. **Citizen Requests & Special Presentations**
- 7:36 p.m. **Committee Reports**
- 7:37 p.m. **Unfinished Business & Reports**
- 7:38 p.m. **New Business and Reports**
- [Nuisance Violation Appeal](#), **VOTE** – Kris Williams
- 7:41 p.m. **Town Manager's Report**
- [Bluefield Baseball Club Request](#)
 - Employee Night at the Ballpark – Saturday, July 29th @ 7 pm at Bowen Field
 - Field Fest – Thursday, July 13th
- 7:46 p.m. **Citizen Comments**
- 7:51 p.m. **Council Comments**
- 8:01 p.m. **Attorney Report**
- [Facility Use Agreement](#), 1st Reading, **VOTE**
 - [Town Managers Contract and Ordinance](#), 1st Reading, **VOTE**
 - [Draft Noise Ordinance Discussion](#)
- 8:11 p.m. **Adjourn**



TOWN OF BLUEFIELD

E-Mail: williams@bluefieldva.org

Town Web Site – www.bluefieldva.org

Office of Building, Zoning, and Property Maintenance

July 6, 2017

Re: Rubbish and Debris – 323 Tazewell Avenue

Dear Mike Watson,

I have received an appeal regarding a nuisance violation for 323 Tazewell Avenue. In the packet you will find pictures of the violation. Section 22-54 of the Town Code states any owner may appeal the decision to the Town Council who's decision is final.

Thank You,

Kris Williams
Zoning Administrator

RECEIVED
6/20/2017

P. Signing Below I Am
Appealing the Attached Notice
of Violation.



TOWN OF BLUEFIELD

E-Mail: williams@bluefieldva.org

Town Web Site – www.bluefieldva.org

Office of Building, Zoning, and Property Maintenance

Carolyn Sue Graves
P.O. Box 119
Bluefield, VA 24605
Tax Map #: 024A410 0001

To Whom it May Concern,

On June 20, 2017 our office conducted a site visit to your property located at 323 Tazewell Ave. in Bluefield, VA. The following was noted during the visit:

(1) Rubbish and debris located around your residence. Section 22-121(attached) states that the owner shall remove any and all trash, garbage, refuse, litter or other substances which may endanger the health or safety of other residents of the town. These items will need to be disposed of properly as soon as possible.

As stated in Section 22-127 (attached), please note that within 10 days of the postmark of this letter the above conditions must be corrected. You have the right to appeal this decision within 2 days from the service of this letter as stated in section 22-54 (attached).

Please contact our office with any questions or concerns you may have. I can be reached at (276) 322-4626 during the following office hours: Monday thru Friday from 8:00 am to 5:00 pm.

Thank you,

Kris Williams
Property Maintenance Official

cc: Mike Watson, Town Manager



Sec. 22-54. Notice to abate condition constituting nuisance; 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 ten 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. 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 town council, which shall be final. If the officer giving notice shall state in such notice that the condition which constitutes a nuisance is such as to be an immediate hazard to the health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, the addressee shall comply with the terms of such notice.
(Code 1984, § 10-24)

Sec. 22-121. Removal of trash, garbage, refuse; collection of costs when done by town.

The owner of property within the town shall remove therefrom any and all trash, garbage, refuse, litter or other substances which may endanger the health or safety of other residents of the town upon direction by the town or its agents after inspection as provided in section 22-54. If the owner of such property shall fail to comply with reasonable notice from the town to correct such condition, the town may have such trash, garbage, refuse, litter or other substances which may endanger the health or safety of other residents of the town removed by its employees or agents. The costs or expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the town as taxes and levies are collected.
(Code 1984, § 10-35; Ord. of 9-11-2006)

Cross References: Solid waste, ch. 42.

State Law References: Similar provisions, Code of Virginia, § 15.2-901.

Sec. 22-127. Notice.

The designated official of the town or his duly authorized agent may give notice in writing by certified mail to the owner of land in the town upon which is located trash, garbage, refuse, litter or other nuisance must be removed or that said weeds must be cut, within ten days from the postmark of the notice. Mailing to the last known mailing address, as indicated on tax records of town or county land books, shall constitute sufficient service upon owners. A copy of such notice shall be posted on the property. Any such notice, once given, shall be effective for a period of 12 months thereafter. In the event there is a further violation of this article within that 12-month period the town may proceed to enforce the provision of this article without further notice to the owner of the property.
(Ord. of 9-11-2006)



Bluefield Baseball Club/Bluefield Blue Jays

BOWEN FIELD

P.O. Box 356
Bluefield, West Virginia 24701
Phone (276) 326-1326
Fax (276) 326-1318

June 22, 2017

Mike Watson, Town Manager
Town of Bluefield Virginia
112 Huffard Drive
PO Box 1026
Bluefield, VA 24605

Re: Ongoing construction at Charles A. Peters Baseball Park

Dear Mr. Watson,

As you may know, the Bluefield Baseball Club leases the Charles A. Peters Baseball Park from the City of Bluefield, West Virginia, and is having certain renovation work performed at the ball park. This construction is both interior and exterior. On behalf of the Baseball Club, which is a non-profit organization, I ask that the Town of Bluefield consider waiving any and all permit fees which might otherwise be applicable to that construction work. All of the work is designed to enhance the facility so as to maintain a professional baseball team in our area, so that both communities may continue to enjoy the economic and recreational benefits associated with the baseball team.

The Baseball Club is grateful and very appreciative of the efforts that the Town of Bluefield, Virginia has made in the past in helping us maintain the ball park and the baseball team and hope that the town's generosity will continue in regard to this request. If you have any questions, you may contact me, George McGonagle, President of the Bluefield Baseball Club or Rocky Malamisura, General Manager.

Very Truly Yours,



David M. Kersey
Vice-President

VIRGINIA: AT A REGULAR MEETING OF THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA HELD AT THE COUNCIL CHAMBERS OF THE TOWN HALL IN BLUEFIELD, VIRGINIA ON THE 25TH DAY OF JULY, 2017.

**AN ORDINANCE ACCEPTING AND AUTHORIZING THE EXECUTION
OF A CERTAIN MEMORANDUM OF UNDERSTANDING & USE
AGREEMENT DATED JUNE 12, 2017, THAT IS BETWEEN THE
COMMONWEALTH OF VIRGINIA AND THE TOWN OF BLUEFIELD**

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Memorandum of Understanding & Use Agreement dated June 12, 2017, between the Commonwealth of Virginia and the Town of Bluefield, attached to this ordinance, is hereby accepted and shall be executed on behalf of the Town of Bluefield, a Virginia Municipal Corporation, by its Town Manager.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that this ordinance is hereby adopted on this 25th day of July, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that this ordinance shall be effective on the 25th day of July, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that Donald R. Harris, the Mayor of the Town of Bluefield, Virginia, shall execute this ordinance on behalf of the said Council.

IT IS SO ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA on this 25th day of July, 2017.

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PUBLIC HEARING: NONE
FIRST READING: July 11, 2017
SECOND READING: July 25, 2017
ADOPTION DATE: July 25, 2017
EFFECTIVE DATE: July 25, 2017
RECORDED VOTE: _____
MEMBERS PRESENT: _____
MEMBERS ABSENT: _____
RESULT OF VOTE: _____
AYES NAYES ABSTENTIONS

COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA

BY: _____
DONALD R. HARRIS, MAYOR DATE
TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

ATTEST:

LESLEY CATRON, TOWN CLERK DATE
TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

MEMORANDUM OF UNDERSTANDING

&

USE AGREEMENT

THIS MEMORANDUM OF UNDERSTANDING & USE AGREEMENT, hereinafter referred to as "this Agreement", is made and entered into on the 12th day of June, 2017, by and between the TOWN OF BLUEFIELD, a Virginia Municipal Corporation, hereinafter referred to as "Town", and the COMMONWEALTH OF VIRGINIA, acting by and through the Virginia Department of Corrections, hereinafter referred to as "Commonwealth", who are the two (2) parties to this Agreement.

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the terms, conditions, and provisions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Town and Commonwealth agree to the following:

1. Town hereby allows and permits Commonwealth to use one (1) office space and one (1) parking space at its Town Hall, located at 112 Huffard Drive in Bluefield, Virginia, for purposes of allowing and permitting Deirdre J. Hasty-Martin, hereinafter referred to as "Hasty-Martin", an employee of the Virginia Department of Corrections, to have a more central location to work within the Southwest Virginia area. This location will allow Hasty-Martin to more easily assist, access, and advocate for victims of crimes in the Southwest Virginia area. No compensation shall be paid to Town by Commonwealth for the use of such Town premises.
2. The term of this Agreement shall be on a month to month basis, and in no event shall such term exceed a total period of two (2) years. This Agreement shall be deemed effective as of the date first above written, and is subject to renewal.
3. This Agreement may be terminated at any time by either Town or Commonwealth so long as thirty (30) days prior written notice is provided. Such written notice shall be provided by mail to: the Director of Victim Services with the Virginia Department of Corrections for purposes of notifying Commonwealth and the Town Manager of Town for purposes of notifying Town. The official business addresses of Commonwealth and Town shall be acceptable mailing addresses for purposes of providing such notice.

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4. If either party hereto receives a request pursuant to Code of Virginia §2.2-3700 et seq. ("FOIA"), and it is determined that the other party is the custodian of the record requested, the party receiving the request will notify the requestor of the identity of the custodian pursuant to §2.2-3704(B)(3) of FOIA.
5. Commonwealth shall provide and maintain all insurance policies relevant to the employment of Hasty-Martin during the entire term of this Agreement. Such policies shall include, but not be limited to, general liability insurance, unemployment insurance, and worker's compensation insurance.
6. The terms, conditions, and provisions of this Agreement shall be interpreted in accordance with federal and Virginia law. Furthermore, this Agreement may be amended by a subsequent writing executed by the parties hereto.

Town, by ordinance of the Council of the Town of Bluefield, Virginia, adopted on the _____ day of _____, 2017, accepts this Agreement and authorizes its execution by its Town Manager on behalf of Town.

Commonwealth, by joining in this Agreement through signature of its authorized representative, accepts this Agreement.

IN WITNESS WHEREOF, the parties to this Agreement, or authorized agents on their behalf, have caused this Agreement to be executed in their name as of the day, month, and year first above written.

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WITNESS the following signatures and seals.

COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF CORRECTIONS

BY: *H. Clarke* (SEAL)
HAROLD CLARKE
DIRECTOR
VIRGINIA DEPARTMENT OF CORRECTIONS

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF Richmond, to wit:

The foregoing instrument was acknowledged before me this 21st day of June, 2017, by Harold Clarke, the Director of the Virginia Department of Corrections, who has been authorized to execute the same.

Barbara B Reyes
NOTARY PUBLIC
MY COMMISSION EXPIRES: 04/30/2021
REGISTRATION NUMBER: 7564727

Affix Stamp for Notary ID and Commission Expiration Date:



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(ADDITIONAL SIGNATURES SHOWN ON THE FOLLOWING PAGES)

**TOWN OF BLUEFIELD
A VIRGINIA MUNICIPAL CORPORATION**

BY: _____ (SEAL)
MICHAEL WATSON

ITS: TOWN MANAGER

COMMONWEALTH OF VIRGINIA
COUNTY OF TAZEWELL, to wit:

The foregoing instrument was acknowledged before me by Michael Watson, the Town Manager of the Town of Bluefield, a Virginia Municipal Corporation, on this _____ day of _____, 2017.

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____
REGISTRATION NUMBER: _____

ATTEST:

LESLEY CATRON, TOWN CLERK

COMMONWEALTH OF VIRGINIA
COUNTY OF TAZEWELL, to wit:

The foregoing instrument was acknowledged before me by Lesley Catron, the Town Clerk of the Town of Bluefield, a Virginia Municipal Corporation, on this _____ day of _____, 2017.

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____
REGISTRATION NUMBER: _____

VIRGINIA: AT A REGULAR MEETING OF THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA HELD AT THE COUNCIL CHAMBERS OF THE TOWN HALL IN BLUEFIELD, VIRGINIA ON THE 25TH DAY OF JULY, 2017.

**AN ORDINANCE ACCEPTING AN AGREEMENT FOR THE
CONTINUED EMPLOYMENT OF THE TOWN MANAGER
OF THE TOWN OF BLUEFIELD, VIRGINIA**

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia, on this 25th day of July, 2017, accepts the agreement attached hereto dated the 25th day of July, 2017, on behalf of the Town of Bluefield, a Virginia Municipal Corporation, which outlines the contractual terms and conditions for the continued employment of Michael A. Watson, the Town Manager for the Town of Bluefield, a Virginia Municipal Corporation.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that Donald R. Harris, the Mayor of the Town of Bluefield, Virginia, shall execute the aforesaid agreement on behalf of the Town of Bluefield, a Virginia Municipal Corporation, and on behalf of the Council of the Town of Bluefield, Virginia.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that this ordinance is hereby adopted on this 25th day of July, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that this ordinance shall become effective the 25th day of July, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that Donald R. Harris, the Mayor of the Town of Bluefield, Virginia, shall execute this ordinance on behalf of the said Council.

IT IS SO ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA on this 25th day of July, 2017.

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PUBLIC HEARING:	NONE		
FIRST READING:	July 11, 2017		
SECOND READING:	July 25, 2017		
ADOPTION DATE:	July 25, 2017		
EFFECTIVE DATE:	July 25, 2017		
RECORDED VOTE:			
MEMBERS PRESENT:			
MEMBERS ABSENT:			
RESULT OF VOTE:			
	AYES	NAYES	ABSTENTIONS

COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA

BY: _____
 DONALD R. HARRIS, MAYOR DATE
 TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

ATTEST:

 LESLEY CATRON, TOWN CLERK DATE
 TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION



TOWN OF BLUEFIELD

THIS AGREEMENT, hereinafter “this agreement”, is made and entered into on this 25th day of July, in the year 2017, by and between MICHAEL A. WATSON, hereinafter “Employee”, the TOWN OF BLUEFIELD, a Virginia Municipal Corporation, hereinafter “Town”, and the COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA, hereinafter “Town Council”, who are the three (3) parties to this agreement.

WHEREAS, Town Council desires to continue to employ Employee as Town Manager of Town, and Employee desires to continue to serve as Town Manager of Town.

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the covenants, terms, provisions, and conditions contained herein this agreement, the parties hereto agree as follows:

1. Town Council shall continue to employ Employee as Town Manager of Town, and requires Employee to a) perform the functions and duties as set forth in Sec. 11 and Sec. 12 of the Charter of Town; b) perform all the duties of the Town Manager as forth in the Code of Ordinances, Town of Bluefield, Virginia; c) administer the day to day operations of Town; and d) perform such other duties and functions as Town Council may from time to time assign.
2. The term of employment for Employee under this agreement shall be for a period of three (3) years from the date this agreement is accepted by ordinance of Town Council. Nothing in this agreement shall limit the right of Town Council to terminate the employment of Employee with Town, at any time, subject to the provisions of this agreement. Nothing in this agreement shall limit the right of Employee to resign from employment with Town, at any time, subject to the provisions of this agreement.
3. Employee shall serve at the will and pleasure of Town Council, and may be dismissed at any time pursuant to the provisions of Sec. 11 of the Charter of Town. In the event Employee's employment with Town is terminated by Town Council before the expiration of the term described in this agreement, then Town shall pay Employee his then existing salary and maintain his existing medical insurance policy for a period of four (4) months beginning the date Employee's employment is terminated by Town

Council. If during that four (4) month period, Employee obtains other employment, then the net amount of compensation from such other employment shall be deducted from the net amount payable to Employee under this paragraph. Furthermore, in the event Employee is entitled to medical insurance from any other employment at the same cost as the cost of medical insurance provided by Town or at no cost to himself as compared to the medical insurance provided by Town during the said four (4) month period, then the requirement for medical insurance coverage by Town, as provided in this paragraph, shall terminate.

4. If Employee, at any time, is convicted of any felony or crime of moral turpitude, then Employee's employment with Town shall immediately be terminated by Town Council and Employee shall not be entitled to the benefits described in paragraph #3 of this agreement.
5. Employee shall be entitled to any and all benefits on termination of employment to which he may be otherwise be entitled under the personnel policy of Town that exists at the time of Employee's employment termination date. In the event Employee chooses to voluntarily resign from his employment as Town Manager of Town, then Employee shall give Town and Town Council at least sixty (60) days advanced written notice of said resignation. In the event Employee voluntarily resigns from his employment as Town Manager of Town, he shall not receive the benefits described in paragraph #3 of this agreement, and shall only retain the benefits he may otherwise be entitled to under the personnel policy of Town existing at the time of the said resignation.
6. In the event Employee is unable to perform his duties as Town Manager due to sickness, injury, mental incapacity, or ill health (collectively "incapacity or inability"), as certified by a duly licensed physician or psychiatrist, and such incapacity or inability continues for a period of at least sixty (60) days, then Town Council may terminate Employee's employment and this agreement, subject to the right of Employee to only retain the benefits he may otherwise be entitled to under the personnel policy of Town existing at the time of the said termination.
7. Town shall pay Employee, for his services rendered as Town Manager, an annual salary in the amount of \$84,406.40. This amount is subject to increase from time to time as deemed appropriate by Town Council, and is subject to increase as part of any annual budget adopted by Town Council.
8. In addition to any retirement benefit Employee may receive under Town policy, and so long as Employee remains employed by Town, Town shall match any payment made by Employee, up to five percent (5%) of Employee's gross salary, to any qualified retirement program established by Employee and on file with Town.
9. Town Council may from time to time review and evaluate the performance of Employee under criteria established by Town Council. Town Council shall provide Employee with a written summary of any evaluation concerning Employee's

performance, and shall afford Employee an opportunity to respond to such in writing. Town Council and Employee shall, at least annually, define such goals and objectives which they determine are necessary for the proper operation of Town.

10. Employee shall receive all benefits afforded under the personnel policy of Town, including reasonable compensation time, in the event Employee devotes time to the business of Town outside the normal business hours of Town. For purposes of this agreement, normal business hours shall be Monday - Friday, 8:00 a.m. – 5:00 p.m.
11. Employee shall be entitled to the benefit of all the provisions of the Code of Ordinances, Town of Bluefield, Virginia, Charter of Town, rules and policies of Town relating to medical insurance, retirement, pension system contribution, and all other fringe benefits that now exist for the benefit of the employees of Town or as may be added thereto subsequent to the date of this agreement.
12. This agreement represents the entire agreement between the parties to this agreement. If any provision of this agreement is held to invalid by any court of competent jurisdiction, then that provision shall be severable, and the remainder of this agreement shall not be affected thereby and shall remain in full force and effect.
13. This agreement shall be interrupted in accordance with federal and Virginia law.

The parties to this agreement agree to be bound by all the terms, provisions, conditions, and covenants contained herein in this agreement.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)
(SIGNATURES SHOWN ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto, or authorized agents on their behalf, have caused this agreement to be executed in their name as of the date first above written.

WITNESS the following signatures and seals.

SIGNATURE: _____ (SEAL) _____
EMPLOYEE DATE

PRINTED NAME: MICHAEL A. WATSON
EMPLOYEE

TOWN OF BLUEFIELD
A VIRGINIA MUNICIPAL CORPORATION

BY: _____ (SEAL) _____
DONALD R. HARRIS DATE

ITS: MAYOR

COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA

BY: _____ (SEAL) DATE: _____
DONALD R. HARRIS, MAYOR
TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

ATTEST: _____ DATE: _____
LESLEY CATRON, TOWN CLERK
TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

VIRGINIA: AT A REGULAR MEETING OF THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA HELD AT THE COUNCIL CHAMBERS OF THE TOWN HALL IN BLUEFIELD, VIRGINIA ON THE _____ DAY OF _____, 2017.

AN ORDINANCE TO CREATE, BY CREATING ARTICLE IX (NOISE) OF CHAPTER 30 (OFFENSES) OF THE CODE OF ORDINANCES, TOWN OF BLUEFIELD, VIRGINIA

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that Article IX of Chapter 30 of the Code of Ordinances, Town of Bluefield, Virginia is hereby created to read as follows:

ARTICLE IX. NOISE

Sec. 30-256. Purpose.

The purpose of this article and the sections therein is to provide a means of reasonably regulating certain noise within the corporate limits of the Town of Bluefield in order to preserve the health, safety, and welfare of the citizens of the Town of Bluefield.

Sec. 30-257. Authority.

This article and the sections therein are adopted pursuant to the authority described in sections 15.2-980, 15.2-1102, 15.2-1429, and 15.2-1700 of the Code of Virginia (1950) as amended.

Sec. 30-258. Definitions.

The term "device", when used in this article, shall mean any object which is designed, intended, or in fact does produce any noise when operated or used.

The term "instrument", when used in this article, shall mean any musical instrument, radio, compact disc player, amplifier, television set, or other similar device which produces or reproduces noise of any type.

The term "moped", when used in this article, shall have the same meaning as defined in section 46.2-100 of the Code of Virginia (1950) as amended.

The term "motorcycle", when used in this article, shall have the same meaning as defined in section 46.2-100 of the Code of Virginia (1950) as amended.

The term "motor vehicle", when used in this article, shall have the same meaning as defined in section 46.2-100 of the Code of Virginia (1950) as amended.

The term “noise”, when used in the article, shall mean the intensity, frequency, duration, or character of sounds from single or multiple sources.

The term “person”, when used in this article, shall mean any individual, partnership, corporation, association, society, club, group of people acting in concert, entity, or organization. The term “person” shall not include any governmental entity, governmental agency, or governmental institution.

The term “plainly audible”, when used in this article, shall mean when noise can be heard by the human ear without the aid of any hearing aid or faculty.

The term “public property”, when used in this article, shall mean any property maintained by a governmental entity, governmental agency, or governmental institution within the corporate limits of the Town of Bluefield. Such term shall be deemed to include, but not be limited to, streets, highways, alleys, walkways, sidewalks, sitting areas, parks, transits, parking lots, buildings, structures, doorways, and monuments.

The term “public activity”, when used in this article, shall mean any activity on behalf of or sponsored by a governmental entity, governmental agency, or governmental institution within the corporate limits of the Town of Bluefield.

The terms “religious service”, “religious act”, or “religious event”, when used in this article, shall mean any service, action, activity, or event connected to any religion which is supported by a sincere belief of any person or persons.

The term “sound”, when used in this article, shall mean an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at a finite speed. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.

Sec. 30-259. Prohibited conduct; penalty.

It shall be unlawful for any person, within the corporate limits of the Town of Bluefield, to:

- (1) use, operate, utilize, or play any instrument or similar device, between the hours of 9:00 p.m. and 7:00 a.m. eastern standard time, in such a manner (i) that noise produced or reproduced thereby is plainly audible from the inside of a dwelling of another or (ii) that noise produced or reproduced thereby is plainly audible from a distance of at least one hundred and fifty (150) feet;
- (2) use or operate any instrument from the inside of a moped, motor vehicle, or motorcycle when such instrument produces or reproduces noise and is plainly audible from a distance of at least one hundred and fifty (150) feet;
- (3) yell, shout, whistle, or sing, between the hours of 9:00 p.m. and 7:00 a.m. eastern standard time, in such a manner that such yelling, shouting, whistling, or singing (i) is plainly

audible from the inside of a dwelling of another or (ii) is plainly audible from a distance of at least one hundred and fifty (150) feet; or

- (4) use, utilize, or operate any pneumatic hammer, chainsaw, or lawnmower, between the hours of 9:00 p.m. and 7:00 a.m. eastern standard time, in such a manner that such pneumatic hammer, chainsaw, or lawnmower (i) is plainly audible from the inside of a dwelling of another; or (ii) is plainly audible from a distance of at least one hundred and fifty (150) feet.

A violation of this section shall constitute a Class 3 misdemeanor.

In lieu of the criminal penalty set forth in this section, a violation of this section may be punishable by a civil penalty of \$50.00.

Each day a violation of this section occurs or continues shall constitute a separate and distinct offense, and may be punishable as such.

Sec. 30-260. Exceptions.

The prohibitions set forth in this article shall not apply to (i) any noise or sound produced or reproduced that is necessary to protect or preserve the property, health, safety, life, or limb of any person; (ii) any noise or sound produced or reproduced that is connected to any public speaking, public assembly, or public expression on public property; (iii) any noise or sound produced or reproduced by any police, fire, emergency, or government employee performing their duties during the course of their employment; (iv) any noise or sound produced or reproduced at a public activity; (v) any noise or sound produced or reproduced during a religious service, religious act, or religious event; (vi) any noise or sound produced or reproduced by a locomotive, railroad equipment, or aircraft; (vii) any noise or sound produced or reproduced by military activities of the Commonwealth of Virginia or the United States of America; (viii) any noise or sound produced or reproduced by a business upon property being actively used for business purposes, manufacturing purposes, or industrial purposes; and (ix) any noise or sound emanating from any area permitted by the Virginia Department of Mines, Minerals and Energy or any division thereof.

Sec. 30-261. Enforcement.

It shall be the duty of the Police Department of the Town of Bluefield to enforce this article.

Sec. 30-262. Severability.

If any section, provision, or portion of this article is held to be invalid by a court of competent jurisdiction, then that decision shall in no way affect the remaining sections, provisions, or portions of this article. The invalid section, provision, or portion thereof shall be severable.

Secs. 30-263—30-293. Reserved.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia adopts this ordinance on this _____ day of _____, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that this ordinance shall be effective on the _____ day of _____, 2017.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA that the Council of the Town of Bluefield, Virginia authorizes Donald R. Harris, the Mayor of the Town of Bluefield, Virginia, to execute this ordinance on behalf of said Council.

IT IS SO ORDAINED BY THE COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA on this _____ day of _____, 2017.

PUBLIC HEARING:

FIRST READING:

SECOND READING:

ADOPTION DATE:

EFFECTIVE DATE:

FINAL RECORDED VOTE: _____

MEMBERS PRESENT: _____

MEMBERS ABSENT: _____

RESULT OF VOTE:

AYES

NAYES

ABSTENTIONS

COUNCIL OF THE TOWN OF BLUEFIELD, VIRGINIA

BY: _____

DONALD R. HARRIS, MAYOR

DATE

TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION

ATTEST:

LESLEY CATRON, TOWN CLERK

DATE

TOWN OF BLUEFIELD, A VIRGINIA MUNICIPAL CORPORATION