CODE OF ORDINANCES

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of the County of Henrico, Virginia, of 2010," and may be so cited.

(Code 1980, § 1-1; Code 1995, § 1-1)

State law reference— Authority to codify ordinances, admissibility of Code as evidence in courts, Code of Virginia, § 15.2-1433.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the board of supervisors or the context clearly requires otherwise:

Board of supervisors. The term "board of supervisors" means the board of supervisors of the County of Henrico, Virginia.

State law reference— Definition of board of supervisors, Code of Virginia, § 15.2-102; general powers of board of supervisors under county manager form of government, Code of Virginia, § 15.2-604.

Code. The term "Code" means and refers to the Code of the County of Henrico, Virginia, of 2010, as designated in section 1-1.

Code of Virginia. The term "Code of Virginia" means the Code of Virginia, 1950, as amended, including the latest edition or supplement, unless otherwise indicated, and may be so cited.

Commonwealth. The term "commonwealth" means the Commonwealth of Virginia.

Computation of time. When a notice is required to be given, the day of such notice shall not be counted against the time allowed, but the day on which such act is performed may be counted as part of the time. When it is required that an act be performed within a prescribed amount of time after any event, the day on which the event occurred shall not be counted against the time allowed. When the last day for any act to be done falls on a Saturday, Sunday or legal holiday, or any day on which county offices are closed, the act may be done on the next day that is not a Saturday, Sunday or legal holiday, or day on which county offices are closed.

State law reference— "Computation of time" defined, Code of Virginia, § 1-210.

County. The term "county" means Henrico County, Virginia.

Designees. Whenever a county officer or county employee is authorized to act, his duly appointed designee shall have the same authority to act.

Gender. A word importing the masculine gender only may extend and be applied to females and to firms, partnerships and corporations as well as to males.

State law reference—"Gender" defined, Code of Virginia, § 1-216.

Highway; street. The terms "highway" and "street" include highways, streets, avenues, boulevards, roads, alleys, walkways, lanes, viaducts, bridges and approaches thereto and all other public ways in the county and shall mean the entire width thereof between the abutting property lines.

May. The term "may" is permissive.

Number. A word used in the singular includes the plural and a word used in the plural includes the singular.

State law reference—"Number" defined, Code of Virginia, § 1-227.

Oath. The term "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath.

State law reference—"Oath" defined, Code of Virginia, § 1-228.

Officers; employees; departments; boards; commissions; agencies. Any reference to an officer, employee, department, board, commission or agency is a reference to a county officer, county employee, county department, county board, county commission or county agency.

Person. The term "person" includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

State law reference—"Person" defined, Code of Virginia, § 1-230.

Preceding; following. The terms "preceding" and "following" mean next before and next after, respectively.

Shall. The term "shall" is mandatory.

State. The term "state" means the Commonwealth of Virginia.

Swear; sworn. The terms "swear" and "sworn" are equivalent to the terms "affirm" and "affirmed" in all cases in which by law an affirmation may be substituted for an oath.

State law reference—"Swear, sworn" defined, Code of Virginia, § 1-250.

Year. The term "year" means a calendar year.

State law reference—"Year" defined, Code of Virginia, § 1-223.

(Code 1980, § 1-2; Code 1995, § 1-2; Ord. No. 1098, § 1, 3-27-2007)

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, or any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(Code 1980, § 1-3; Code 1995, § 1-3)

State law reference—Headlines of sections of statutes, Code of Virginia, § 1-217.

Sec. 1-4. References to chapters, articles, divisions or sections.

All references in this Code to chapters, articles, divisions or sections shall be to those chapters, articles, divisions or sections of the Code of the County of Henrico, Virginia, of 2010, unless otherwise specified.

(Code 1995, § 1-4)

Sec. 1-5. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the sections.

(Code 1995, § 1-5)

Sec. 1-6. Editor's notes and reference notes.

The editor's notes and state law references in this Code are not intended to have any legal effect, but are merely intended to assist the user of this Code.

(Code 1995, § 1-6)

Sec. 1-7. Code not to affect prior offenses or rights.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(Code 1995, § 1-7)

Sec. 1-8. Provisions considered as continuation of existing Code and ordinances.

The provisions appearing in this and the following chapters and sections, so far as they are the same as those of ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

(Code 1980, § 1-4; Code 1995, § 1-8)

Sec. 1-9. Repeal of ordinance not to revive former ordinances.

When an ordinance that has repealed another ordinance shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

(Code 1995, § 1-9)

State law reference—Repeal not to affect liabilities, etc., Code of Virginia, § 1-239.

Sec. 1-10. Ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code shall affect the following when not in conflict with the Code:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

(2) Any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this Code.

(3) Any ordinance or resolution promising or guaranteeing the payment of money or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness or any contract or obligation assumed by the county.

(4) Any annual tax levy.

(5) Any right or franchise conferred by ordinance or resolution on any person.

(6) Any ordinance adopted for purposes which have been consummated.

(7) Any ordinance which is temporary, although general in effect, or special, although permanent in effect.

(8) Any ordinance relating to the compensation of the county's officers or employees.

(9) Any ordinance naming, renaming, opening, accepting or vacating streets, alleys, easements or rights-of-way in the county.

(10) Any ordinance relating to rezoning or the zoning map.

(11) Any ordinance not in conflict with this Code which:

a. Establishes a vehicular speed limit;

b. Establishes a one-way street or alley;

c. Designates a through street;

d. Designates a truck route to be followed by trucks passing through the county;

e. Designates intersections at which "stop" or "yield" signs are to be maintained;

f. Prohibits, limits or restricts the parking of vehicles in any respect;

g. Establishes any taxicab stand, bus stop, school zone or other zone relating to vehicular traffic or the stopping, standing or parking of vehicles;

h. Directs that any traffic control sign, signal or marking or other traffic control device be installed or maintained; or

(12) Any ordinance establishing fees or charges which are not set out in this Code.

(b) All such ordinances shall be on file in the county offices.

(Code 1995, § 1-10)

Sec. 1-11. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. In the case of repeal of chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the board of supervisors to make the addition or amendment a part of this Code, shall be deemed to be incorporated in the Code, so that a reference to the Code shall be understood and intended to include such additions and amendments.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of the County of Henrico, Virginia, of 2010, is hereby amended to read as follows:…." The new provisions shall then be set out in full as enacted.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of the County of Henrico, Virginia, of 2010, is hereby amended by adding a section, to be

numbered_____, which section reads as follows:…." The new section shall then be set out in full as enacted.

(d) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

(Code 1995, § 1-11)

Sec. 1-12. Severability of parts of Code.

It is hereby declared to be the intention of the board of supervisors that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and, if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1980, § 1-5; Code 1995, § 1-12)

State law reference—Severability of provisions of statutes, Code of Virginia, § 1-243.

Sec. 1-13. General penalty; continuing violations; injunctive relief.

(a) In this section, the term "violation of this Code" means:

(1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule, regulation or order authorized by ordinance;

(2) Failure to perform an act that is required to be performed by ordinance or by rule, regulation or order authorized by ordinance; or

(3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule, regulation or order authorized by ordinance.

(b) In this section, the term "violation of this Code" does not include the failure of a county officer or county employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the context that it is the intent to impose the penalty provided for in this section upon the officer or employee.

(c) Except as otherwise provided:

(1) A person convicted of a violation of this Code shall be punished by a fine or imprisonment not exceeding the penalty provided in general law of the Code of Virginia for the violation of a class 1 misdemeanor.

(2) Any violation of this Code that is declared to be a class 2 misdemeanor shall be subject to the penalty provided by general law for a class 2 misdemeanor.

(3) Any violation of this Code that is declared to be a class 3 misdemeanor shall be subject to the penalty provided by general law for a class 3 misdemeanor.

(4) Any violation of this Code that is declared to be a class 4 misdemeanor shall be subject to the penalty provided by general law for a class 4 misdemeanor.

(5) No fine or term of confinement for the violation of a violation of this Code shall exceed the penalty provided by general law of the Code of Virginia for like offenses.

(d) Each day a violation of this Code or any such ordinance, rule, regulation or order continues shall constitute, except where otherwise provided, a separate offense.

(e) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise or other administrative sanctions.

(f) The imposition of any penalty does not prohibit the county, in any proper case, from seeking equitable relief in any court of competent jurisdiction to enjoin the violation of any provision of this Code or other

county ordinance.
(Code 1980, § 1-6; Code 1995, § 1-13)

State law reference—Penalties for violation of county ordinances, Code of Virginia, § 15.2-1429; penalties for misdemeanors, Code of Virginia, § 18.2-11.

Sec. 1-14. Disposition of fines and costs.

(a) All fines and costs collected under the terms of this Code or other county ordinances shall be paid over to the director of finance of the county and credited by him to the county general revenue fund.
(b) Costs shall be taxed in prosecution under this Code or other county ordinances in the same amounts and in the same manner as prescribed by law in misdemeanor cases under the Code of Virginia, as amended.
(Code 1980, § 1-7; Code 1995, § 1-14)

State law reference—Fines paid to county, Code of Virginia, § 16.1-69.48; fines in traffic cases, Code of Virginia, § 46.2-1308.

Chapter 2 - ADMINISTRATION

*__Cross reference—__Division of police, § 15-19 et seq.; public procurement, ch. 16.

*__State law reference—__Administration of counties having county manager form of government, Code of Virginia, § 15.2-607 et seq.

ARTICLE I. IN GENERAL

Secs. 2-1—2-18. Reserved.

ARTICLE II. PLANNING COMMISSION

*__Cross reference—__Subdivisions, ch. 19; zoning, ch. 24; administration and enforcement of the zoning chapter, § 24-107 et seq.

*__State law reference—__Duty of county to create planning commission, Code of Virginia, § 15.2-2210; local planning generally, Code of Virginia, § 15.2-2200 et seq.

Sec. 2-19. Created; membership; term of members; staff.

(a) There is hereby created a county planning commission. The planning commission shall consist of six members appointed by the board of supervisors. All members shall be county residents, qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half of the members shall be owners of real property. There shall be one member from the board of supervisors and five citizen members. Each member shall take the oath of office in the form prescribed in Code of Virginia, § 49-1.

(b) The term of the board of supervisors member shall be coextensive with the term of office to which he has been elected or appointed, unless the board of supervisors, at its first regular meeting each year, appoints another to serve as its representative. The citizen members shall be appointed in January of each year for one-year terms.

(c) The director of planning shall serve as secretary to the planning commission and shall be responsible for maintaining the planning commission's records and for providing the staff support necessary for proper functioning of the planning commission.

(Code 1980, § 2-4; Code 1995, § 2-31)

State law reference—Planning commission required, Code of Virginia, § 15.2-2210; appointment of members of planning commission, Code of Virginia, § 15.2-2212; standards of conduct, Code of Virginia, § 2.2-3100 et seq.

Sec. 2-20. Officers; rules of procedure; records.

The planning commission shall elect a chairperson and vice-chairperson from among the citizen members for one-year terms. The planning commission shall adopt rules for the transaction of business and shall keep a record of its transactions. Such record shall be a public record.

(Code 1980, § 2-8; Code 1995, § 2-32)

State law reference—Officers and records of local planning commissions, Code of Virginia, § 15.2-2217.

Sec. 2-21. Powers and duties.

(a) The planning commission shall exercise all powers and perform all duties prescribed in the Code of Virginia.

(b) The planning commission shall perform all duties required by this Code, including review of every proposed amendment, supplement or change of the zoning and subdivision ordinances and every proposed change in district boundaries shown on county zoning maps. The planning commission may initiate changes in the district boundaries on its own motion.

(c) The planning commission may hold public hearings to consider amendments to the zoning ordinance or to make recommendations to the board of supervisors on any matter the board of supervisors refers.

(d) The planning commission shall exercise its powers and perform its duties only as funds are appropriated by the board of supervisors for such purpose.

(Code 1980, § 2-5; Code 1995, § 2-33)

State law reference—Duties of planning commission, Code of Virginia, § 15.2-2221; comprehensive planning, Code of Virginia, § 15.2-2223 et seq.

Sec. 2-22. Preparation of comprehensive plan.

The planning commission shall prepare and recommend a comprehensive plan for the growth and development of the county in accordance with Code of Virginia, § 15.2-2223. Upon request, the county manager shall provide the planning commission copies of any consultant reports prepared for the county.

(Code 1980, § 2-7; Code 1995, § 2-34)

State law reference—Comprehensive planning, Code of Virginia, § 15.2-2223 et seq.

Secs. 2-23—2-47. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

***Cross reference—**Ordinances relating to compensation of officers or employees saved from repeal, § 1-10(a)(8); animal control supervisor, § 5-2; division of police, § 15-19 et seq.

***State law reference—**State and Local Government Conflict of Interests Act, Code of Virginia, § 2.2-3100 et seq.

Sec. 2-48. Bonds.

(a) *Director of social services.* The director of social services shall give bond with surety in the amount of $100,000.00, payable to the county, conditioned on the faithful discharge of such director's duties.

(b) *Director of finance.* The director of finance shall give bond with surety in the amount of $1,000,000.00, conditioned on the faithful discharge of his duties and the proper accounting for all funds coming into his possession, which shall be satisfied by his inclusion in the state self-insurance plan or a similar plan promulgated by the division of risk management of the state department of general services.

(c) *Other persons.* Persons holding the following positions shall give bond with surety in the amount of $100,000.00, payable to the county, conditioned on the faithful discharge of their duties and the proper accounting for all funds coming into their possession:

(1) The county manager and all deputy county managers;

(2) The purchasing director; and

(3) The registrar.

(d) *Payment of premium.* Except with respect to the director of finance, the county shall pay the premium for all such bonds.

(Code 1980, § 2-1; Code 1995, § 2-51; Ord. No. 897, § 1, 6-14-1995)

State law reference— Bond of certain employees, Code of Virginia, § 15.2-641; blanket bonding, Code of Virginia, § 2.2-1840.

Sec. 2-49. Deferred compensation accounts; use of deferred compensation funds.

The director of finance shall establish special accounts for the deferred compensation program. Funds retained by the county under such program shall be placed in such accounts and utilized only for purposes of defraying obligations which the county may incur as part of the program.

(Code 1980, § 2-20; Code 1995, § 2-52)

State law reference— Deferred compensation program, Code of Virginia, § 51.1-600 et seq.

Sec. 2-50. Criminal history record check and fingerprinting.

(a) *Finding.* The board of supervisors finds it necessary in the interest of public welfare and safety to determine whether the past criminal conduct of each person described in subsection (d) of this section is compatible with the nature of the county employment conditionally offered to such person.

(b) *Intent.* It is the intent of the board of supervisors in enacting this section to comply with the provisions of Code of Virginia, §§ 15.2-1503.1, 15.2-1505.1, 15.2-1505.3, and 19.2-389(A)7 to be able to access criminal history record information regarding those persons described in subsection (d) of this section conditionally offered county employment in order to determine whether the past criminal conduct of such persons would be compatible with the nature of such employment. Further, the provisions of this section are intended to be in addition to, and not in derogation of, all other federal and state statutes providing for access to criminal history record information concerning applicants for, and persons offered, county employment.

(c) *Definitions.*

(1) As used in this section, the term "conditionally offered employment" shall include a conditional offer of initial employment or a conditional offer to promote, demote, or laterally transfer an employee.

(2) As used in this section, the term "authorized position" means a position listed in the personnel complement as approved by the board of supervisors or the county manager, as the case may be, and assigned a unique position number by the department of human resources.

(3) As used in this section, the term "hourly safety-sensitive position" shall mean an hourly position, as defined in the County of Henrico, Virginia, Personnel Rules and Regulations, that the county manager, after consultation with the director of human resources, has determined is safety-sensitive. In determining whether an hourly position is safety-sensitive, the county manager shall consider whether the prospective employee would:

a. Be responsible for providing services directly to members of the public;

b. Be able to enter residences or businesses in the course of employment;

c. Have the capability of making changes to county technology systems;

d. Be permitted to operate a county vehicle in the course of employment;

e. Be permitted to handle cash, have the ability to effect transfers of funds of the county or others, or otherwise be accountable for funds of the county or others;

f. Have access to records containing identifying information of a personal, medical or financial nature; or

g. Be permitted to enter restricted or secure county facilities.

(4) For purposes of this section, the director of human resources must be a county employee.

(d) *Policy; authorized and hourly safety-sensitive positions.* All persons conditionally offered employment in an authorized or hourly safety-sensitive position shall, as a condition of employment, submit to fingerprinting and provide personal descriptive information to be forwarded to the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. All offers of employment in such positions shall be conditioned upon the person offered such employment submitting to fingerprinting and providing personal descriptive information as described above. Failure of the person conditionally offered employment in such a position to submit to fingerprinting and to provide personal descriptive information shall disqualify the person from employment in the position.

(e) *Responsibilities.*

(1) The county manager shall:

a. After consultation with the director of human resources, establish and maintain the list of hourly safety-sensitive positions that are subject to the provisions of this section. The county manager may, from time to time, add or remove positions from the list of hourly safety-sensitive positions.

b. Receive the report from the Central Criminal Records Exchange concerning whether the person conditionally offered employment in an authorized or hourly safety-sensitive position has no criminal history record information or the record of criminal history information. The county manager may designate the director of human resources to receive such reports.

(2) The director of human resources shall:

a. Ensure that potential applicants for authorized or hourly safety-sensitive positions are notified that the positions are subject to the provisions of this section.

b. Upon making a conditional offer of employment in an authorized or hourly safety-sensitive position, inform the applicant that, as a condition of employment, the applicant must submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints to the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information.

c. Upon receipt of a report from the Central Criminal Records Exchange concerning a person conditionally offered employment that indicates that the person has a criminal history record, determine whether the conviction contained in the record directly relates to the authorized or hourly safety-sensitive position, whether the past criminal conduct contained in the record is compatible with the nature of the employment in the authorized or hourly safety-sensitive position, and whether such conviction disqualifies the person from employment in that authorized or hourly safety-sensitive position. In determining whether a criminal conviction directly relates to an authorized or hourly safety-sensitive position, the director shall consider the following criteria:

1. The nature and seriousness of the crime;

2. The relationship of the crime to the work to be performed in the position applied for;

3. The extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

4. The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the position being sought;

5. The nature and extent of the person's past criminal activity;

6. The age of the person at the time of the commission of the crime;

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

8. The conduct and work activity of the person before and after the criminal activity; and

9. Evidence of the person's rehabilitation or rehabilitative efforts while incarcerated or following release.

d. Notify in writing all persons who are denied employment in an authorized or hourly safety-sensitive position because of the information appearing in their criminal history record that information obtained from the Central Criminal Records Exchange contributed to such denial and inform them of their right to obtain a copy of their criminal history record from the Central Criminal Records Exchange.

e. Issue procedural instructions and promulgate all forms necessary to carry out the provisions of this section.

(Ord. No. 1128, § 1(2-53), 12-9-2008)

Sec. 2-51. Bonuses for county employees.

The county manager is authorized and empowered to provide bonuses to county employees and to adopt personnel policies and procedures governing the provision of such bonuses. For purposes of this section, a "bonus" means a monetary payment to an employee that is in addition to, and not part of, the employee's hourly wage or salary.

Secs. 2-52—2-73. Reserved.

ARTICLE IV. CHECKS AND WARRANTS

***Cross reference—**Public procurement, ch. 16.

Sec. 2-74. Issuance of warrants by school board.

The county school board shall issue all warrants for expenditures approved by the board in accordance with the laws of the state. The form of the warrants shall be approved by the county attorney.

(Code 1980, § 2-9; Code 1995, § 2-80)

State law reference—Payment of claims by school board, Code of Virginia, § 22.1-122.

Sec. 2-75. Issuance of warrants by county manager and department heads.

The county manager, or, in his absence or inability to act, the acting county manager, is hereby authorized and empowered to issue and sign all orders and warrants on behalf of the board of supervisors for all expenditures other than expenditures by the county school board and the county board of social services. However, the county manager, or the acting county manager, is authorized and empowered to delegate to his assistants, or to heads of departments or their duly appointed deputies and assistants, the authority to issue and sign orders and warrants authorizing the expenditure of funds appropriated for the operation of their respective departments. The form of warrant shall be approved by the county attorney.

(Code 1980, § 2-10; Code 1995, § 2-81)

Sec. 2-76. Preparation of checks.

The county school board, the county board of social services and the county manager shall cause all warrants to be sent to the director of finance, who shall prepare all checks in payment of all warrants received. The director of finance shall not prepare any check in payment of a warrant without first having received a proper warrant issued by the proper authorities on the forms prescribed. The director of finance shall prepare any other checks which are permitted by law to be prepared without the issuance of a warrant.

(Code 1980, § 2-11; Code 1995, § 2-82)

Sec. 2-77. Signing of checks by county manager.

The county manager or his duly appointed deputy or assistants are hereby authorized to sign all checks prepared and issued by the director of finance in accordance with this article and the laws of the state.

(Code 1980, § 2-12; Code 1995, § 2-83)

Sec. 2-78. Countersigning of checks by director of finance.

The director of finance shall countersign all checks which have been issued by him and signed by the county manager.

(Code 1980, § 2-13; Code 1995, § 2-84)

State law reference— Director of finance to have charge of disbursement of county funds, Code of Virginia, § 15.2-617.

Sec. 2-79. Signing of checks in case of absence or inability of county manager or director of finance.

In the absence or inability of the county manager or his duly appointed deputy or assistants to act, the acting county manager shall sign all checks. In the absence or inability of the director of finance to act, the deputy director of finance shall perform his duties and shall countersign all checks. In the absence or inability of both the director of finance and the deputy director of finance to act, such one other assistant in the department of finance as the director of finance may designate shall perform the duties of the director of finance and shall countersign all checks. The county manager and the director of finance shall, in writing, inform the board of supervisors and its clerk of the identity of individuals whom they designate as authorized to sign checks in their absence.

(Code 1980, § 2-14; Code 1995, § 2-85)

Sec. 2-80. Signing of checks using signature plates.

The county manager and his duly appointed deputy or assistants, the acting county manager, the director of finance, the deputy director of finance and such other one assistant in the department of finance as the director of finance may designate may use individual signature plates to sign county checks. Each plate shall be kept in a secure and safe place by the respective person whose signature is carried on the plate, and such plate shall be used only with the approval and at the direction of such individual.

(Code 1980, § 2-15; Code 1995, § 2-86)

Sec. 2-81. Service charge on returned payments.

A person who tenders any check, draft, order, credit card, debit card, electronic funds transfer or other means of payment for the payment of taxes or any other sums due the county which is subsequently returned unpaid because of insufficient funds, because there is no account, or because the account has been closed, shall be subject to a service charge of $50.00 for the processing of the returned check, draft, order, credit card, debit card, electronic funds transfer or other means of payment. A drawer shall be charged a fee of $50.00 for return of a check, draft, or order on which the drawer placed a stop-payment order in bad faith.

(Code 1980, § 2-16; Code 1995, § 2-87; Ord. No. 1068, § 1, 8-10-2004)

State law reference— Fee for passing bad check to locality authorized, Code of Virginia, § 15.2-106.

Secs. 2-82—2-105. Reserved.

ARTICLE V. COUNTY PROPERTY

***Cross reference—** Parks and recreation, ch. 14; public procurement, ch. 16; streets, sidewalks and other public property, ch. 18.

Sec. 2-106. Use for private purposes.

(a) Vehicles, machinery, tools and other items of personal property owned by the county shall not be loaned or leased to any person; provided that the board of supervisors may by resolution provide rules and regulations whereby the county manager may authorize specified items of county-owned personal property to be used for private purposes when such use would not interfere with or delay any county work project, upon the payment of specified charges, and subject to such terms and conditions as may be stipulated by the county manager. If and when any such resolution is in effect, the provisions thereof and the provisions of this subsection shall be deemed to be incorporated in and made a part of any authorization made thereunder by the county manager, and all persons for whose benefit any county-owned personal property is used shall be bound thereby and shall likewise be bound by the stipulations of the county manager.

(b) This section shall not be construed so as to limit the authority of the board of supervisors to authorize the use of county-owned personal property by public entities or agencies of the state under mutually agreed-upon terms and conditions.

(Code 1980, § 2-3; Code 1995, § 2-106)

Cross reference—Streets, sidewalks and other public property, ch. 18.

Secs. 2-107—2-125. Reserved.

ARTICLE VI. COURT COSTS

***Cross reference—**Offenses, ch. 13; police, ch. 15; traffic and vehicles, ch. 22.

DIVISION 1. GENERALLY

Secs. 2-126—2-145. Reserved.

DIVISION 2. ASSESSMENTS

Sec. 2-146. Funding of law library.

(a) The purpose of this section is to provide a source of funding for the law library maintained by the county as authorized by Code of Virginia, § 42.1-70, such library being located in the Tuckahoe Library and open to the public.

(b) In addition to any other fees imposed by law, there is hereby imposed on each civil action filed in the circuit, general district and juvenile and domestic relations district courts of the county a fee of $4.00, which shall be assessed as part of the costs. Such fee shall not be imposed upon actions in which the state, or any political subdivision thereof, or the federal government is a party and in which the costs are assessed against such government.

(c) The fee imposed by this section shall be collected by the clerks of the respective courts and periodically transmitted by them to the director of finance of the county for deposit into the treasury of the county.

(d) The sums collected from the fee imposed in this section shall be used only for such purposes as are authorized by Code of Virginia, § 42.1-70.

(Code 1980, § 2-21; Code 1995, § 2-126)

State law reference—Assessment of court costs for law library, Code of Virginia, § 42.1-70.

Sec. 2-147. Funding of construction and maintenance of courthouse and jail facilities.

(a) The purpose of this section is to provide a source of funding for the construction, renovation or

maintenance of the county courthouse and jail and court-related facilities, and to defray increases in the cost of heating, cooling, electricity and ordinary maintenance.

(b) In addition to any other fees imposed by law, there is hereby imposed in each civil action and criminal and traffic case in the circuit, general district and juvenile and domestic relations district courts of the county a fee of $2.00, which shall be assessed as part of the fees taxed as costs in each such action and case.

(c) The assessment imposed by this section shall be collected by the clerks of the respective courts and remitted to the director of finance of the county and held by such director subject to disbursements by the board of supervisors of the county for the construction, renovation or maintenance of the county's courthouse and jail and court-related facilities and to defray increases in the cost of heating, cooling, electricity and ordinary maintenance.

(Code 1980, § 2-22; Code 1995, § 2-127)

State law reference— Assessment for courthouse construction, renovation or maintenance, Code of Virginia, § 17.1-281.

Sec. 2-148. Funding of courthouse security.

(a) The purpose of this section is to provide a source of funding of courthouse security.

(b) In addition to any other fees imposed by law, there is hereby assessed a fee of $10.00 as part of the costs in each criminal and traffic case in the circuit and district courts of the county in which the defendant is convicted of a violation of any statute or ordinance.

(c) The assessment imposed by this section shall be collected by the clerks of the respective courts and remitted to the director of finance of the county and held by such director to be appropriated by the board of supervisors solely for the purposes enumerated in Code of Virginia, § 53.1-120.

(Code 1995, § 2-128; Ord. No. 1030, § 1, 8-13-2002; Ord. No. 1047, § 1, 8-12-2003; Ord. No. 1071, § 1, 8-10-2004; Ord. No. 1087, § 1, 8-22-2006; Ord. No. 1107, § 1, 8-14-2007)

State law reference— Assessment for funding of courthouse security personnel authorized, Code of Virginia, § 53.1-120.

Sec. 2-149. Costs of processing arrested persons into jail following conviction.

(a) The purpose of this section is to provide a source of funding to defray the costs of processing arrested persons into the Henrico jail following conviction.

(b) In addition to any other fees imposed by law, there is hereby imposed in each case in the circuit, general district and juvenile and domestic relations district courts of the county after conviction a fee of $25.00 which shall be assessed as part of the fees taxed as costs in each such case.

(c) The assessment imposed by this section shall be collected by the clerks of the respective courts and remitted to the director of finance of the county and held by such director subject to disbursements by the board of supervisors of the county to defray the costs of processing arrested persons into the Henrico jail following conviction.

(Code 1995, § 2-129; Ord. No. 1030, § 2, 8-13-2002)

State law reference— Assessment for costs of processing arrested persons into jail following conviction authorized, Code of Virginia, § 15.2-1613.1.

Sec. 2-150. Funding of criminal justice training academies.

(a) The purpose of this section is to provide a source of funding for the training academies operated by the division of police and the sheriff.

(b) In addition to any other fees imposed by law, there is hereby imposed in each case in the circuit, general district and juvenile and domestic relations district courts of the county in which costs are assessable, pursuant to Code of Virginia, §§ 16.1-69.48:1, 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9, a fee of $5.00 to support the criminal justice training academies operated by the division of police and the sheriff.

(c) The assessment imposed by this section shall be collected by the clerks of the respective courts and remitted to the director of finance of the county and held by such director subject to disbursements by the board of supervisors of the county solely to support the criminal justice training academies operated by the division of police and the sheriff.

(Code 1995, § 2-130; Ord. No. 1055, § 1, 10-14-2003)

State law reference— Assessment for funding of criminal justice training academies, Code of Virginia, § 9.1-106.

Chapter 3 - ALARM SYSTEMS

ARTICLE I. IN GENERAL

Secs. 3-1—3-18. Reserved.

ARTICLE II. POLICE ALARM SYSTEMS

***Cross reference—** Police, ch. 15.

***State law reference—** Local regulation of alarm company operators authorized, Code of Virginia, § 15.2-911.

Sec. 3-19. Purpose.

The purpose of this article is to minimize unnecessary use of the county's law enforcement resources by reducing the number of false alarms and regulating the installation and maintenance of alarm systems.

(Code 1980, § 16-9; Code 1995, § 3-1)

Sec. 3-20. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm system.

(1) The term "alarm system" means any device or system that transmits a signal that indicates a hazard or occurrence requiring an emergency response.
(2) The term "alarm system" shall not include a personal, direct telephonic call requesting emergency services.

Alarm user or *user* means the occupant of the premises protected by an alarm system.

Answering service means a telephone answering service that receives emergency signals from alarm systems and informs the county public safety communications center.

Automatic dialing device means a device interconnected to a telephone line and programmed to indicate a need for emergency response.

Chief means the chief of police or his designee.

False alarm.

(1) The term "false alarm" means any alarm signal to the county public safety communications center which is not in response to actual or threatened criminal activity. False alarms include:
a. Negligently activated signals;
b. Signals due to faulty, malfunctioning or improperly installed or maintained equipment; and
c. Signals purposely activated to summon police personnel in nonemergency situations.
(2) The term "false alarm" shall not include a signal activated by unusually severe weather conditions, utility conditions or other causes which the chief determines were beyond the user's control.

Indirect alarm transmittal means any alarm system which causes a third party or answering service to notify the county public safety communications center of an alarm activation.

Installer means any person who installs, services, monitors, sells or leases any alarm system.

Interconnect means to connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, to transmit an emergency message upon the activation of the alarm system.

Negligently activated signals means signals transmitted due to carelessness or negligence in installation, maintenance or operation of an alarm system.

Nonemergency situations means situations where an immediate response to criminal activity by police personnel is not necessary.

(Code 1980, § 16-10; Code 1995, § 3-2)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 3-21. User data form.

Upon installing an alarm system, all users shall submit a county data form to the county public safety communications center with the following information:

(1) Name and location of the alarmed premises;
(2) Type of alarmed premises (residential or commercial);
(3) Normal operating hours, if commercial;
(4) Individuals designated by the user to respond when notified;
(5) Manufacturer, model and type of alarm system;
(6) Name, address and telephone number of the service company;
(7) Zone of alarm, if applicable; and
(8) Other applicable information.

(Code 1980, § 16-12; Code 1995, § 3-4)

Sec. 3-22. Training of persons using system; maintenance of system.

It shall be the responsibility of alarm system users to provide training to employees, tenants or other persons about activation of the alarm system in emergency situations and about proper operation of the alarm system, including setting, activating and resetting the alarm. All instructions about alarm systems and procedures shall be in writing and shall be available for inspection by the chief. The user shall also be responsible for maintaining the alarm system in proper working order.

(Code 1980, § 16-13; Code 1995, § 3-5)

Sec. 3-23. Automatic dialing devices.

It shall be unlawful for any person to install, sell, lease, use or cause or allow to be installed, sold, leased or used within the county automatic dialing devices or systems which are set or programmed to directly contact the county public safety communications center without the prior approval of the chief.

(Code 1980, § 16-11; Code 1995, § 3-6)

Sec. 3-24. Deliberate false alarms.

It shall be unlawful for any person to knowingly activate or cause to be activated an alarm system in a nonemergency situation without just cause. This shall not prohibit periodic testing of direct transmittal systems when the county public safety communications center has been notified in advance.

(Code 1980, § 16-14; Code 1995, § 3-7)

Sec. 3-25. Service fee for false alarms.

(a) *Amount.* Alarm system users shall pay a service fee for false alarms within 30 days of billing. The service fee shall be assessed for each false alarm during a 180-day period as follows:

(1) First false alarm: No charge.

(2) Second false alarm: $15.00.

(3) Third false alarm: $25.00.

(4) Fourth false alarm: $35.00.

(5) Fifth false alarm: $50.00.

(6) Sixth false alarm: $75.00.

(b) *Exceptions.* Service fees shall not be charged for false alarms from alarm systems in premises owned, leased, occupied or under the control of the United States, the state, political subdivisions of the state, or any of their officers, agents or employees while they are acting or are employed in their official capacity. However, all other requirements of this article shall apply to such systems.

(c) *Billing.* At the end of each month, the chief shall notify the director of finance of service fee assessments for false alarms. The chief shall provide the name of the alarm system user, the address of the false alarm, and the amount due for the false alarm. The director of finance shall bill the user and notify the chief when any account is more than 30 days in arrears.

(Code 1980, §§ 16-15—16-17; Code 1995, § 3-8)

Sec. 3-26. Termination and reinstatement of police response.

(a) The chief shall notify an alarm user whose account is more than 30 days in arrears that the division of police shall not respond to further alarm transmittals until the amount in arrears and a reinstatement fee is paid to the county.

(b) After seven false alarms have been transmitted during a 180-day period, the chief shall notify the alarm user that the division of police will not respond to alarm transmittals from the premises until service is reinstated. Police response shall not be reinstated until a licensed alarm company has inspected the alarm system and certifies that the system has been repaired and is operating correctly. The cost of inspection, repair and certification shall be paid by the alarm user.

(c) If the false alarm occurred because of negligence rather than mechanical failure, the user, its employees and all others having access to the alarm system shall complete a training program satisfactory to the chief.

(d) In all cases where police response has been terminated, the alarm user shall pay a $100.00 fee for reinstatement of service.

(Code 1980, §§ 16-15, 16-17; Code 1995, § 3-9)

Secs. 3-27—3-55. Reserved.

ARTICLE III. FIRE ALARM SYSTEMS

*__Cross reference—__False fire alarms, § 11-7.

*__State law reference—__Local regulation of alarm company operators authorized, Code of Virginia, § 15.2-911.

Sec. 3-56. Purpose.

The purpose of this article is to minimize unnecessary use of the county's emergency services by reducing the number of false alarms and regulating the installation and maintenance of alarm systems.

(Code 1980, § 10-23; Code 1995, § 3-21)

Sec. 3-57. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm system.

(1) The term "alarm system" means any device or system that transmits a signal that indicates a hazard or occurrence requiring an emergency response.
(2) The term "alarm system" shall not include a personal, direct telephonic call requesting emergency services.

Alarm user or *user* means the occupant of the premises protected by an alarm system.

Answering service means a telephone answering service that receives emergency signals from alarm systems and informs the county public safety communications center.

Automatic dialing device means a device interconnected to a telephone line and programmed to indicate a need for emergency response.

Chief means the fire chief or his designee.

False alarm.

(1) The term "false alarm" means any alarm signal to the county public safety communications center which is not in response to an actual or possible emergency. False alarms include:
a. Negligently activated signals;
b. Signals due to faulty, malfunctioning or improperly installed or maintained equipment; and
c. Signals purposely activated to summon fire personnel in nonemergency situations.
(2) The term "false alarms" shall not include signals activated by unusually severe weather conditions, utility conditions or other causes which the chief determines were beyond the user's control.

Indirect alarm transmittal means any alarm system which causes a third party or answering service to notify the county public safety communications center of an alarm activation.

Installer means any person who installs, services, monitors, sells or leases any alarm system.

Interconnect means to connect an alarm system to a voice-grade telephone line, either directly or

through a mechanical device that utilizes a standard telephone, to transmit an emergency message upon the activation of the alarm system.

Negligently activated signals means signals transmitted due to carelessness or negligence in installation, maintenance or operation of an alarm system.

Nonemergency situations means situations where an immediate response by fire personnel is not necessary to protect life or property.

(Code 1980, § 10-24; Code 1995, § 3-22)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 3-58. User data form.

Upon installing an alarm system, all users shall submit a county data form to the county public safety communications center with the following information:

(1) Name and location of the alarmed premises;
(2) Type of alarmed premises (residential or commercial);
(3) Normal operating hours, if commercial;
(4) Individuals designated by the user to respond when notified;
(5) Manufacturer, model and type of alarm system;
(6) Name, address and telephone number of the service company;
(7) Zone of alarm, if applicable; and
(8) Other applicable information.

This requirement shall not be applicable to single-unit heat and smoke detectors four or less in number.
(Code 1980, § 10-26; Code 1995, § 3-24)

Sec. 3-59. Training of persons using system; maintenance of system.

It shall be the responsibility of alarm system users to provide training to employees, tenants or other persons about activation of the alarm system in emergency situations and about proper operation of the alarm system, including setting, activating and resetting the alarm. All instructions about alarm systems and procedures shall be in writing and shall be available for inspection by the chief. The user shall also be responsible for maintaining the alarm system in proper working order.

(Code 1980, § 10-27; Code 1995, § 3-25)

Sec. 3-60. Automatic dialing devices.

It shall be unlawful for any person to install, sell, lease, use or cause or allow to be installed, sold, leased or used within the county automatic dialing devices or systems which are set or programmed to directly contact the county public safety communications center without the prior approval of the chief of police.

(Code 1980, § 10-25; Code 1995, § 3-26)

Sec. 3-61. Deliberate false alarms.

It shall be unlawful for any person to knowingly activate or cause to be activated an alarm system in a

nonemergency situation without just cause. This shall not prohibit periodic testing of direct transmittal systems when the county public safety communications center has been notified in advance.

(Code 1980, § 10-28; Code 1995, § 3-27)

State law reference—False alarms, Code of Virginia, § 18.2-212(A).

Sec. 3-62. Service fee for false alarms.

(a) *Amount.* Alarm system users shall pay a service fee for false alarms within 30 days of billing. The service fee shall be assessed for each false alarm during a 180-day period as follows:

(1) First false alarm: No charge.

(2) Second false alarm: $15.00.

(3) Third false alarm: $25.00.

(4) Fourth false alarm: $35.00.

(5) Fifth false alarm: $50.00.

(6) Sixth and subsequent false alarms: $75.00.

(b) *Exceptions.* Service fees shall not be charged for false alarms from alarm systems in premises owned, leased, occupied or under the control of the United States, the state, political subdivisions of the state, or any of their officers, agents or employees while they are acting or are employed in their official capacity. However, all other requirements of this article shall apply to such systems.

(c) *Billing; interest on unpaid charges.* At the end of each month, the chief shall notify the director of finance of service fee assessments for false alarms. The chief shall provide the name of the alarm system user, the address of the false alarm, and the amount due for the false alarm. The director of finance shall bill the user and notify the chief when any account is more than 30 days in arrears. Any account more than 30 days in arrears shall be subject to interest at the legal rate provided by the Code of Virginia, commencing when the account is more than 30 days in arrears.

(Code 1980, §§ 10-29—10-31; Code 1995, § 3-28)

Chapter 4 - AMUSEMENTS

*__Cross reference—__Noise regulations, §0-67 et seq.; license tax generally, §-350 et seq.; license tax on certain amusements and entertainments, § 20-506 et seq.

*__State law reference—__Locality may regulate minors from frequenting amusements, Code of Virginia, § 15.2-926(B).

ARTICLE I. IN GENERAL

Secs. 4-1—4-30. Reserved.

ARTICLE II. BILLIARD PARLORS

*__Cross reference—__License tax, § 20-350 et seq.

Sec. 4-31. Hours of operation.

It is unlawful for any person owning, managing, or operating a billiard parlor, as defined and referred to in section 24-8405.F as a "pool or billiard hall," to keep open or operate such billiard parlor on any day between the hours of midnight and 6:00 a.m. of the following day, except on Sunday, when it is unlawful to open or operate a billiard parlor before 1:00 p.m. and after midnight, unless the operation of such establishment and hours of operation are specifically authorized by a provisional use permit approved by the board of supervisors in accordance with chapter 24. It is unlawful for any person, except its employees, to enter a billiard parlor during the hours in which it is closed.

(Code 1980, § 3-1; Code 1995, § 4-31)

Sec. 4-32. Minors.

(a) Except as otherwise provided in this section, it shall be unlawful for any person owning, managing or operating a billiard parlor to allow any minor to enter the billiard parlor except for the transaction of business. It shall be unlawful for any minor who is in a billiard parlor for the transaction of business to remain there after the business has been transacted, and it shall be unlawful for the owner, manager or operator to allow such minor to thereafter remain in the billiard parlor.

(b) Any person owning, managing or operating a billiard parlor may, in his discretion, allow minors to play or watch the play of billiards in the billiard parlor after the person owning, managing or operating the billiard parlor has ensured that:

(1) The minor is accompanied by a parent, person in loco parentis or legal guardian;

(2) A copy of this article is posted in plain and conspicuous view in the billiard parlor;

(3) The interior of the billiard parlor is lighted throughout at a level of 40 footcandles;

(4) No partitions, other than those for toilet facilities, are maintained in the billiard parlor; and

(5) No window in the billiard parlor is permanently covered or otherwise obstructed.

Failure to ensure that all these conditions are met shall be unlawful.

(c) It shall be unlawful for any person to accompany a minor in a billiard parlor unless such person is a parent, person in loco parentis, or legal guardian of the minor. It shall be unlawful for a parent, person in loco parentis, or legal guardian to permit a child under the age of 18 years to enter a billiard parlor unless the child is accompanied by such parent, person or guardian. It shall be unlawful for a parent, person in loco parentis, or legal guardian, having accompanied a child under the age of 18 years of age in a billiard parlor, to leave the billiard parlor without the child. It shall be unlawful for any minor to enter a billiard parlor

except in compliance with the provisions of this section. It shall be unlawful for any person owning, managing or operating a billiard parlor to knowingly permit any person to violate the provisions of this section.

(Code 1980, § 3-2; Code 1995, § 4-32)

State law reference— Authority to prohibit loitering by minors in public places of amusements, Code of Virginia, § 15.2-926(B).

Sec. 4-33. Gambling.

(a) *Prohibited.* It shall be unlawful for any person to bet or participate in unlawful gambling in any billiard parlor. No proprietor or person in charge of any billiard parlor shall permit betting or unlawful gambling on the premises.

(b) *Penalty.* Violations of this section shall be punishable by a fine not to exceed $2,500.00 or imprisonment in jail for up to 12 months, or both.

(Code 1980, § 3-3; Code 1995, § 4-33)

State law reference— Gambling prohibited, Code of Virginia, § 18.2-325 et seq.; authority to adopt ordinances prohibiting gambling, Code of Virginia, § 18.2-340.

Sec. 4-34. Penalty; revocation of provisional use permit.

Violation of any provision of this article is grounds for revocation of any provisional use permit for the operation of the billiard parlor by the board of supervisors in accordance with section 24-2306.C.7.(b). Violations of sections 4-31 and 4-32 shall be class 3 misdemeanors.

(Code 1980, § 3-4; Code 1995, § 4-34)

State law reference— Penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Secs. 4-35—4-60. Reserved.

ARTICLE III. DANCE HALLS

***Cross reference—** License tax, § 20-350 et seq.

***State law reference—** Authority to regulate dance halls, Code of Virginia, § 15.2-912.3.

Sec. 4-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public dance hall means any place open to the general public where dancing by patrons is permitted.

(Code 1980, § 3-4; Code 1995, § 4-61; Ord. No. 1093, § 1, 3-13-2007)

Sec. 4-62. Penalty.

Any person violating the provisions of section 4-63(a), 4-68 or 4-69 shall be guilty of a class 3 misdemeanor.

(Code 1980, § 3-9; Code 1995, § 4-62; Ord. No. 1093, § 1, 3-13-2007)

Cross reference— Definitions and rules of construction, § 1-2.

State law reference— Penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 4-63. Required permit; application and fee.

(a) No person shall operate or conduct a public dance hall in the county except in accordance with a permit issued by the chief of police and such other regulations in this article which may apply. Such permit shall be maintained on the premises of the dance hall and made available for inspection in accordance with section 4-67.

(b) Application for a permit under this article shall be made in writing on forms provided for this purpose and filed with the chief of police. Applicants shall provide the following:

(1) The name, street address and telephone number of the proposed public dance hall.

(2) The name, residential address, telephone number, date of birth, sex, race, hair and eye color, height and weight of the individual applicant or the individual applying on behalf of an entity.

(3) The name, address and telephone number of each individual who is an officer, director, partner, principal or manager of the proposed public dance hall, as well as any promoter involved in conducting the dances at the proposed public dance hall.

(4) Whether the applicant or any of the persons listed in subsection (b)(3) of this section has been convicted of any felony or misdemeanor and, if so, the nature of the offense, when and where convicted and the penalty or punishment assessed.

(5) Whether the applicant or any of the persons listed in subsection (b)(3) of this section has had a public dance hall permit denied or revoked by any jurisdiction in the last five years and, if so, when and where the denial or revocation occurred.

(6) The name, residential address and telephone number of two references who are neither minors nor relatives of the applicant or of any person listed in subsection (b)(3) of this section.

(7) If the applicant does not own the premises of the proposed public dance hall, a signed statement from the owner or owners authorizing use of the premises for a public dance hall.

(8) Written declaration, dated and signed by the applicant, certifying that the information contained in the application is true and correct and authorizing the chief of police to undertake a criminal background and reference check.

(c) Each such application for a permit shall be accompanied by a fee in the amount of $200.00.

(d) In addition to submitting the information required by subsection (b) of this section, applicants shall make the premises of the proposed public dance hall reasonably available for inspection pursuant to this article by representatives of the division of police, the division of fire, the department of building construction and inspections, and the department of planning of the county.

(Code 1980, § 3-5; Code 1995, § 4-63; Ord. No. 1093, § 1, 3-13-2007)

Sec. 4-64. Issuance or denial of permit.

(a) Within 30 days of the filing of an application completed in accordance with section 4-63, or a longer period if requested by the applicant, the chief of police shall issue a permit or provide a written decision of denial to the applicant.

(b) Upon receipt of a completed application, the chief of police shall provide relevant portions of the application to the fire chief, the building official and the director of planning of the county for their review. Within 20 days of receipt, or a longer period if the applicant has requested that the permit decision be rendered more than 30 days after filing:

(1) The fire chief shall inform the chief of police in writing whether the structure in which the proposed

dance hall is located meets all the provisions in the county's fire prevention code, including the Virginia Statewide Fire Prevention Code, and whether the parking facilities impede the approach of fire apparatus;

(2) The building official shall inform the chief of police in writing whether the structure in which the proposed dance hall is located meets all the applicable provisions in the Virginia Uniform Statewide Building Code; and

(3) The director of planning shall inform the chief of police in writing whether the zoning requirements have been fulfilled for the proposed dance hall.

(c) The chief of police shall issue a permit if he finds that:

(1) The fire chief has determined that the structure in which the proposed dance hall is located meets all the provisions in the county's fire prevention code, including the Virginia Statewide Fire Prevention Code, and the parking facilities do not impede the approach of fire apparatus;

(2) The building official has determined that the structure in which the proposed dance hall is located meets all the applicable provisions in the Virginia Uniform Statewide Building Code;

(3) The director of planning has determined that the zoning requirements have been fulfilled for the proposed dance hall; and

(4) None of the following grounds for denial appears to exist:

a. The applicant or any person listed in section 4-63(b)(3) has been convicted within the past five years of a felony, or within the past three years of a misdemeanor involving moral turpitude, under the laws of any state or of the United States.

b. The applicant or any person listed in section 4-63(b)(3) has operated another dance hall or a business affiliated with the proposed dance hall that permitted repeated occurrences of disorderly, violent, obscene or other unlawful conduct or was declared a public nuisance.

c. The applicant or any person listed in section 4-63(b)(3) has had a public dance hall permit denied or revoked by another jurisdiction within the past five years for violating any local, state or federal law or permitting disorderly, violent, obscene or other unlawful conduct.

d. The application or any statement made in support of the application contains a material misrepresentation or omission of fact.

e. The proposed dance hall does not conform to applicable local, state and federal laws.

f. The proposed dance hall is not permitted under the terms of an applicable lease or real property covenant.

(d) The chief of police may attach conditions to a permit that are reasonably related to the preservation of peace and good order.

(e) Permits issued under this section shall not be transferable.

(Code 1995, § 4-64; Ord. No. 1093, § 3, 3-13-2007)

Sec. 4-65. Revocation of permit or license.

The chief of police may revoke any permit issued pursuant to this article for any of the following reasons:

(1) The dance hall does not conform to the requirements of the fire prevention code of the county, the Virginia Statewide Fire Prevention Code, or any other law concerning fire prevention or safety.

(2) The dance hall does not conform to the requirements of the Virginia Uniform Statewide Building Code.

(3) The dance hall does not conform to the requirements of the zoning code of the county.

(4) The application or any statement made in support of the application has been discovered to contain a material misrepresentation or omission of fact.

(5) The permittee has allowed, or failed to take reasonable measures to prevent, repeated occurrences of disorderly, violent, obscene or other unlawful conduct on its premises.

(6) The permittee has violated any term or condition of its permit.

(7) The permittee has violated any provision of this article.

(8) The permittee has assigned or otherwise transferred its permit to another person or entity.

(9) The permittee is in violation of a local, state or federal law, and such violation prohibits the continued operation of the dance hall.

(Code 1980, § 3-8; Code 1995, § 4-65; Ord. No. 1093, § 2, 3-13-2007)

Sec. 4-66. Procedure upon denial of an application or revocation of a permit.

(a) If the chief of police denies an application or revokes a permit, he shall notify the applicant or permittee in writing of such action, the reasons therefor, and the right to request a hearing. To receive a hearing, the applicant or permittee must make a written hearing request which must be received by the chief of police within ten days of the date of the notice of denial or revocation. If a timely hearing request is not received by the chief of police, his decision shall be final. If a hearing is properly requested, it shall be held within ten days from receipt of the hearing request. The hearing shall be presided over by the chief of police. The applicant or permittee shall have the right to present evidence and argument or to have counsel do so. Within five days of the hearing, the chief of police shall render his decision, which shall be final. A permittee must discontinue operation of its dance hall when the decision to revoke the permit becomes final.

(b) Any person operating such a public dance hall whose permit has been revoked shall have the right of appeal to the circuit court of the county in accordance with law.

(Code 1995, § 4-66; Ord. No. 1093, § 3, 3-13-2007)

Sec. 4-67. Right of entry.

In addition to any existing legal authority, representatives of county departments shall have the authority to enter and inspect any dance hall permitted under this article for the purpose of determining compliance with the provisions of this article.

(Code 1995, § 4-67; Ord. No. 1093, § 3, 3-13-2007)

Sec. 4-68. Hours of operation; prohibited conduct.

(a) It shall be unlawful for any person operating or conducting a public dance hall to have such dance hall open on Sunday between the hours of 1:00 a.m. and 1:00 p.m. or open on any other day between the hours of 1:00 a.m. and 9:00 a.m. In addition to the provisions of this subsection, permittees shall conform to all zoning code requirements concerning their hours of operation.

(b) It shall be unlawful for any person operating or conducting a public dance hall to permit, or fail to take reasonable measures to prevent, disorderly, violent, obscene or other unlawful conduct on its premises.

(Code 1980, § 3-6; Code 1995, § 4-68; Ord. No. 1093, § 2, 3-13-2007)

Sec. 4-69. Illumination of exterior signs.

Any person operating or conducting a public dance hall shall not allow exterior signs to be illuminated after 1:00 a.m., or to be illuminated during any hours prohibited for the operation of such dance hall.

(Code 1980, § 3-7; Code 1995, § 4-69; Ord. No. 1093, § 2, 3-13-2007)

Secs. 4-70—4-90. Reserved.

ARTICLE IV. MUSICAL OR ENTERTAINMENT FESTIVALS

***Cross reference—** License tax, § 20-350 et seq.

DIVISION 1. GENERALLY

Sec. 4-91. Purpose.

This article is enacted for the purpose of providing necessary regulation for the conducting of commercial musical or entertainment festivals out-of-doors and not within an enclosed structure for the purpose of listening to or participating in entertainment which consists primarily of musical renditions conducted out-of-doors and not within an enclosed structure, in the interest of the public health, safety and welfare of the citizens and inhabitants of the county.

(Code 1980, § 3-19; Code 1995, § 4-91)

Sec. 4-92. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the board of county supervisors.

Musical or entertainment festival means any commercial gathering of groups or individuals for the purpose of listening to or participating in entertainment which consists primarily of musical renditions or other entertainment conducted out-of-doors and not within an enclosed structure. Such activities shall be deemed commercial when a business license is obtained or is required to be obtained, or, if a business license is not required, when a charge is imposed for admission to the activity.

(Code 1980, § 3-20; Code 1995, § 4-92)

Sec. 4-93. Penalty; forfeiture of permit.

Any person, and the officers of any corporation, violating any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished according to the provisions of section 1-13. Each violation shall constitute a separate offense. Conviction for violation of any provision of this article shall result in a forfeiture of the annual permit and the privilege to obtain a permit for a period of five years following the date of conviction.

(Code 1980, § 3-27; Code 1995, § 4-93)

Sec. 4-94. Misleading advertising.

Any advertisement of a musical or entertainment festival which is reasonably calculated to imply that persons attending the festival will not be subject to full and complete compliance with all applicable laws shall forthwith void the application and, if already granted, the permit.

(Code 1980, § 3-23; Code 1995, § 4-94)

Sec. 4-95. Time limits on entertainment.

Music or entertainment at a festival regulated under this article shall not be rendered for more than eight hours during any calendar day. All performances shall end no later than 11:00 p.m., and no performance shall begin prior to 12:30 p.m. on any Sunday.

(Code 1980, § 3-24; Code 1995, § 4-95)

Sec. 4-96. Admission of persons under 12 years of age.

No person under the age of 12 years shall be admitted to any festival regulated by this article, unless accompanied by a parent or guardian. The parent or guardian shall remain with such person at all times.

(Code 1980, § 3-25; Code 1995, § 4-96)

Secs. 4-97—4-110. Reserved.

DIVISION 2. PERMIT

Sec. 4-111. Required.

No person shall stage, promote, conduct or participate as an entertainer in any musical or entertainment festival in the county unless there shall have been first obtained from the director of public safety a special entertainment permit for such festival.

(Code 1980, § 3-21(a); Code 1995, § 4-111)

Sec. 4-112. Application.

Application for a special entertainment permit required by this division shall be in writing on forms provided for the purpose and filed in duplicate with the director of public safety at least 45 days before the date of such festival. Such application shall have attached thereto and made a part thereof the plans, statements, approvals and other documents required by this division. A nonrefundable fee of $200.00 shall accompany each application. The director of public safety may, at his discretion and upon an applicant's showing of good cause, consider an application submitted less than 45 days before the date of the festival.

(Code 1980, § 3-21(b); Code 1995, § 4-112)

Sec. 4-113. Annual permit.

(a) *Eligibility.* The director of public safety may issue an annual permit under this division for multiple festivals at a site which is the subject of an approved plan of development, has a structure previously used for outdoor concerts, and has previously satisfied the requirements of this article.

(b) *Application; fee.* Application for an annual permit shall be in writing on forms provided for the purpose and filed in duplicate with the director of public safety at least 45 days before the date of the first festival to be held under the permit. The director of public safety may, at his discretion and upon an applicant's showing of good cause, consider an application submitted less than 45 days before the date of the festival. Except as provided in this subsection, the application shall have attached thereto and made a part thereof the plans, statements, approvals and other documents required by this division. An application for an annual permit need not contain the information described in section 4-115(a)(1) and (2), provided such information is submitted to the chief of police at least 15 days prior to each festival or as soon thereafter as such information becomes available. If such information is not submitted, the annual permit shall be null and void as to that particular festival. A nonrefundable fee of $2,000.00 shall accompany each application for an annual permit.

(c) *Duration.* Annual permits shall be issued for the period January 1 to December 31 of the same calendar year, except that, when the application is filed after January 1, the permit shall be effective from the date issued until December 31 of that same year.

(Code 1980, § 3-21(b1)—(b3); Code 1995, § 4-113)

Sec. 4-114. Granting or denial.

The director of public safety shall act on applications for permits under this division within 30 days from the filing of the application. If granted, the permit shall be issued in writing on a form for the purpose and mailed by the director of public safety to the applicant at the address indicated. If denied, the refusal shall be in writing and the reasons for such denial stated therein and mailed by the director of public safety to the applicant at the address indicated.

(Code 1980, § 3-21(c); Code 1995, § 4-114)

Sec. 4-115. Conditions for issuance.

(a) *Required information.* Except as provided in section 4-113(b), a permit required by this division shall be issued when the following conditions have been met and the following plans, statements and other items requiring approval have been submitted to the director of public safety with the application:

(1) The application for a special entertainment permit shall have attached to it a copy of the ticket or badge of admission to such festival, containing the date and time of such festival, together with a statement by the applicant of the total number of tickets to be offered for sale and the best reasonable estimate by the applicant of the number of persons expected to be in attendance.

(2) The applicant shall submit a statement of the name and address of the promoters of the festival, the financial backing of the festival and the names of all persons or groups who will perform at such festival.

(3) The applicant shall submit a statement of the location of the proposed festival, the name and address of the owner of the property on which such festival is to be held, the nature and interest of the applicant therein and documentation of the property owner's concurrence in the use of the facility.

(4) The applicant shall submit a plan for adequate sanitation facilities and garbage, trash and sewage disposal for persons at the festival. At a minimum, this plan shall meet the requirements of all pertinent state and local statutes, ordinances and regulations and shall be approved by the director of health of the county.

(5) The applicant shall submit a plan for providing food and water, if applicable, for the persons at the festival. At a minimum, this plan shall meet the requirements of all pertinent state and local statutes, ordinances and regulations and shall be approved by the director of health of the county. Lodging or overnight camping at the site shall not be permitted.

(6) The applicant shall submit a plan for emergency medical service, designating by name the rescue squad or commercial ambulance service to be made available for persons at the festival, approved by the fire chief of the county.

(7) The applicant shall submit a plan for adequate parking facilities, traffic control and crowd control in and around the festival area, approved by the chief of police and the traffic engineer of the county. Advance arrangements acceptable to the chief of police shall be made to ensure payment of all fees, salaries and charges incurred by the applicant in satisfying the provisions of this subsection.

(8) The applicant shall submit a plan for adequate fire protection. At a minimum, this plan shall meet the requirements of all pertinent state and local statutes, ordinances and regulations and shall be approved by the fire chief. Advance arrangements acceptable to the fire chief shall be made to ensure payment of all fees, salaries and charges incurred by the applicant in satisfying the provisions of this subsection.

(9) The applicant shall submit a statement specifying whether any outdoor lights or lighting is to be utilized and, if so, a plan shall be submitted showing the location of such lights and shielding devices or other equipment to prevent unreasonable flow beyond the property on which the festival is located, approved by the chief of building construction and inspections and the director of planning of the county.

(10) The applicant shall submit a statement from the director of planning of the county, specifying whether the festival may be lawfully held in the proposed location in accordance with applicable zoning restrictions.

(11) The applicant shall submit a statement that no music shall be played, either by mechanical device or live performance, in such a manner that the sound emanating therefrom shall exceed 65 decibels at the property lines of the property on which the festival is located.

(b) *Security personnel.* If the applicant intends to employ or does employ security forces to work at the site, such individuals must be licensed as security personnel by the state and, while on duty at the site, must wear uniforms identifying them as security personnel.

(c) *Inspection of structures and electrical system.* The office of building construction and inspections shall inspect and approve all temporary seating and stage facilities erected on the site and all electrical and lighting installations, power sources and electrical wiring.

(Code 1980, § 3-22; Code 1995, § 4-115; Ord. No. 936, 10-23-1996)

Sec. 4-116. Consent to inspections; revocation.

No permit shall be issued under this division unless the applicant shall furnish to the director of public safety written permission for the director of public safety, the county's lawful agents or duly constituted law enforcement officers to go upon the property at any time for the purpose of determining compliance with the provisions of this article. The director of public safety shall have the right to revoke any permit issued under this article upon noncompliance with any of its provisions and conditions.

(Code 1980, § 3-26; Code 1995, § 4-116)

Secs. 4-117—4-140. Reserved.

ARTICLE V. CONCESSION STANDS AT YOUTH ATHLETIC FACILITIES

***State law reference—** Hotels, restaurants, summer camps and campgrounds, Code of Virginia, § 35.1-1 et seq.; authority to exempt youth athletic activities from provisions of title 35.1, Code of Virginia, § 35.1-26(2).

Sec. 4-141. Exemption from state law.

The provisions of Code of Virginia, title 35.1 (Code of Virginia, § 35.1-1 et seq.), as amended, pertaining to the regulation of restaurants, shall not apply to concession stands at youth athletic activities, when such stands are promoted or sponsored by either a youth athletic association or by any charitable nonprofit organization or group thereof which has been recognized by an ordinance or resolution of the county as being part of its youth recreational program.

(Code 1980, § 3-28(a); Code 1995, § 4-141)

State law reference— Authority to exempt youth athletic activities from provisions of title 35.1, Code of Virginia, § 35.1-26(2).

Sec. 4-142. Supervision by director of health.

It shall be the duty of the county's director of health, or a qualified person designated by him, to provide education and consultation, establish advisory standards and exercise appropriate supervision regarding the safe preparation, handling, protection and preservation of food at concession stands at youth athletic activities, to protect the public health.

(Code 1980, § 3-28(b); Code 1995, § 4-142)

Chapter 5 - ANIMALS

*__Cross reference—__Rat control, § 10-164 et seq.; protection of wildlife in parks, § 14-37; animals in parks, § 14-45.

*__State law reference—__Animal welfare, Code of Virginia, § 3.2-6500 et seq.; authority of counties to adopt animal control ordinances parallel to numerous state law provisions, Code of Virginia, § 3.2-6543.

ARTICLE I. IN GENERAL

Sec. 5-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adoption means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

At large means off the premises of the owner and not under the control of the owner or his agent, either by leash, cord or chain, or not under the owner's or custodian's immediate control.

Companion animal means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird or any feral animal or any animal under the care, custody or ownership of a person, or any animal which is bought, sold, traded or bartered by any person. Agricultural animals, game species or any animal regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

Director of health means the health director of the county or his duly authorized representative.

Dog means an animal of the canine species, including every dog, regardless of age.

Humane society means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

Kennel means any establishment in which five or more canines, felines or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling or showing.

Livestock means and includes all domestic or domesticated: bovine animals, equine animals, ovine animals, porcine animals, Cervidae animals, Capradae animals, animals of the genus Lama, ratites, fish or shellfish in aquaculture facilities, as defined in Code of Virginia, § 3.2-2600, enclosed domesticated rabbits or hares raised for human food or fiber, or any other individual animal specifically raised for food or fiber, except companion animals.

Owner means any person who has a right of property in an animal, keeps or harbors an animal, has an animal in his care, or acts as a custodian of an animal.

Poultry means all domestic fowl and game birds raised in captivity.

Releasing agency means a pound, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

Serious injury means an injury having a reasonable potential to cause death or any injury other than a sprain or strain, including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

Vaccinate, vaccinated and *vaccination* mean the immunization of a dog or cat against rabies, whether by inoculation, vaccination or any other method of treatment approved by the director of health.

Veterinarian means any licensed veterinarian authorized to practice veterinary medicine in the state.

(Code 1980, § 4-1; Code 1995, § 5-1; Ord. No. 1039, § 1, 10-22-2002; Ord. No. 1048, § 1, 8-12-2003; Ord. No. 1050, § 1, 9-9-2003; Ord. No. 1088, § 1, 8-22-2006)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Definitions, Code of Virginia, §§ 3.2-6500, 3.2-6540.

Sec. 5-2. Appointment of animal protection supervisor; powers and duties generally.

An animal protection police officer supervisor shall be appointed by the county manager. The animal protection police officer supervisor shall have all the powers and duties provided for in Code of Virginia, title 3.2, ch. 65 (Code of Virginia, § 3.2-6500 et seq.) in the enforcement of the provisions of this chapter and the animal laws of the county and state and such other duties as may be prescribed by this Code, the Code of Virginia, or other ordinances or laws of the county or State.

(Code 1980, § 4-3; Code 1995, § 5-2)

Cross reference—Officers and employees, § 2-48 et seq.

Sec. 5-3. Animal protection police officers.

The county manager shall appoint as many animal protection police officers as may be necessary in the enforcement of this chapter. Animal protection officers shall have all the powers and duties of the animal protection police officer supervisor.

(Code 1980, § 4-4; Code 1995, § 5-3)

Sec. 5-4. Disposal of dead companion animals.

The owner of any companion animal which has died from disease or other cause shall forthwith cremate, bury or sanitarily dispose of the animal. If, after notice, any owner fails to do so, the animal protection police officer supervisor or other officer shall bury or cremate the companion animal, and he may recover on behalf of the county from the owner his cost for this service. It shall be unlawful for any owner to fail to dispose of the body of his companion animal in violation of this section. Violation of this section shall be punishable as a class 4 misdemeanor.

(Code 1980, § 4-2; Code 1995, § 5-4)

State law reference—Similar provisions, Code of Virginia, § 3.2-6554; violation to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)5; leaving dead or disabled animals in road or not burying dead animals, Code of Virginia, § 18.2-323; burial or cremation of dead animals, Code of Virginia, § 18.2-510; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Secs. 5-5—5-26. Reserved.

ARTICLE II. DOGS AND CATS

***State law reference—** General authority to control dog dogs and cats, Code of Virginia, §, 3.2-6524 et seq.

DIVISION 1. GENERALLY

Sec. 5-27. Dogs killing or injuring livestock or poultry.

It shall be the duty of the animal protection police officer supervisor or other officer who may find a dog in the act of killing or injuring livestock or poultry to seize or kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight, as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. If the animal protection police officer supervisor has reason to believe that a dog is killing livestock or poultry, he is empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned in this section. The animal protection police officer supervisor or any other person who has reason to believe that any dog is killing livestock or committing any of the depredations mentioned in this section shall apply to any magistrate of the county for a warrant requiring the owner or custodian, if known, to appear before the county general district court at a time and place named therein, at which time evidence shall be heard.

(Code 1980, § 4-19; Code 1995, § 5-31)

State law reference— Similar provisions, Code of Virginia, § 3.2-6652.

Sec. 5-28. Compensation for livestock and poultry killed by dogs; false claims.

(a) The county hereby waives the provisions of Code of Virginia, § 3.2-6553(ii) and (iii). The animal protection police officer shall conduct an investigation of claims under Code of Virginia, § 3.2-6553, and, in order for the claim to be paid, the investigation must support the claim.

(b) Claims filed pursuant to Code of Virginia, § 3.2-6553 shall be paid from the fund established under section 5-52 or such other funding as may be available.

(c) Any person who presents a claim or receives any money on a false claim under the provisions of this section shall be guilty of a misdemeanor.

(Code 1980, § 4-20; Code 1995, § 5-32)

State law reference— Compensation for livestock and poultry killed by dogs, Code of Virginia, § 3.2-6553.

Sec. 5-29. Unlawful acts; animals running at large.

The following shall be deemed unlawful acts and constitute a class 4 misdemeanor:

(1) *Diseased dogs or cats off of owner's premises.* It shall be unlawful for the owner of any dog or cat with a contagious or infectious disease to permit such dog or cat to stray from his premises if such disease is known to the owner.

(2) *Female dogs in season off of owner's premises.* It shall be unlawful for the owner of any female dog to permit such dog to stray from his premises while such dog is known to such owner to be in season.

(3) *Removing license tag.* It shall be unlawful for any person, except the owner or custodian, to remove a legally acquired license tag from a dog.

(4) *Concealing unlicensed or rabid dog.* It shall be unlawful for any person to conceal or harbor any dog on which the license tax has not been paid, or to conceal a mad dog to keep it from being destroyed.

(5) *Poisoning, injuring or killing dogs.* It shall be unlawful for any person, except the owner or his authorized

agent, to administer poison to any dog under four months of age or any dog licensed pursuant to this article, or to expose poison where it may be taken by any such dog, or to injure, disfigure or kill any such dog except as otherwise provided in this article.

(6) *Dogs running at large.* It is prohibited for any dog, except dogs used for hunting, to run at large within the county at any time during any month of the year. For the purposes of this subsection, a dog shall be deemed to run at large while roaming or running off the property of its owner or custodian and not under its owner's or custodian's immediate control. A dog shall not be deemed to be running at large if it and its owner or custodian are within a county-designated off-leash, fenced dog exercise area. Any owner who permits his dog to run at large in the county shall be deemed to have violated the provisions of this subsection. The owner or custodian of any dog found running at large in a pack shall be subject to a civil penalty of $100 per dog so found, in addition to the criminal penalty. For purposes of this subsection, a dog shall be deemed tobe running at large in a pack if it is running at large in the company of one or more other dogs that are also running at large. A civil penalty collected pursuant to this subsection shall be deposited by the director of finance pursuant to the provisions of Code of Virginia, § 3.2-6534.

(Code 1980, § 4-21; Code 1995, § 5-34; Ord. No. 1039, § 2, 10-22-2002)

State law reference— Authority to prohibit dogs from running at large, Code of Virginia, § 3.2-6539; violation to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)3; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-30. Reserved.

Sec. 5-31. Reserved.

Secs. 5-32—5-48. Reserved.

DIVISION 2. DOG LICENSES

***Cross reference—** Taxation, ch. 20.

***State law reference—** Dog licenses, Code of Virginia, § 3.2-6524 et seq.

Sec. 5-49. Required; tax year; amount of tax; exemptions from tax.

(a) It shall be unlawful for any person residing in the county, other than a releasing agency that has registered as such with the division of police, animal protection unit, to own a dog four months of age or older unless such dog is licensed as required by this division. The licensing period for an individual dog license issued after November 14, 2017, shall be equal to the dog's lifetime, but the license shall remain valid only as long as the dog's owner resides in the county and the dog's rabies vaccination is kept current. The licensing period for a kennel shall be for the calendar year, from January 1 to December 31. A dog license issued under this division is nonrefundable, nontransferable, and will not be prorated. The license tax is in addition to any fee due under this chapter for a dangerous dog registration certificate. The license tax shall be payable to the office of the director of finance or at such substation as shall be designated by the director of finance, and shall be in the following amounts:

(1) For each dog, $10.00.

(2) For each duplicate tag, $1.00.

(3) For each kennel for up to 50 dogs, $50.00.

(b) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing impaired person, or that is trained and serves as a service dog for a mobility impaired person. As used in this subsection, the term "hearing dog" means a dog

trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond, and the term "service dog" means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.
(Code 1980, § 4-6; Code 1995, § 5-51; Ord. No. 1108, § 1, 8-14-2007)

State law reference— License tax, Code of Virginia, § 3.2-6528.

Sec. 5-50. Due date for payment of tax.

(a) The license tax for an individual dog is due not later than 30 days after a dog has reached the age of four months, or not later than 30 days after an owner acquires a dog four months of age or older. Subsequently, the license tax for an individual dog is due within 30 days of the expiration date on the license receipt, if the license is not a lifetime license. No subsequent license tax is due for a dog with a valid lifetime license. If the owner of a dog with a lifetime license removes his residency from the county, no license tax is due and the lifetime license is considered to be valid if the owner subsequently resumes residency in the county. If the owner of a dog with a lifetime license fails to keep current the dog's rabies vaccination, the license tax is due within 30 days of the expiration of the dog's rabies vaccination and a renewal of rabies vaccination after expiration shall not relieve the dog's owner of the obligation to pay the license tax or cause the license to become valid.

(b) The license tax for a kennel shall be due on January 1 and not later than January 31 of each year.
(Code 1980, § 4-7; Code 1995, § 5-52)

State law reference— Due date for payment of license tax, Code of Virginia, § 3.2-6530.

Sec. 5-51. Failure to pay tax.

(a) Any person convicted of failure to pay the dog license tax as provided in this division on any dog owned by him shall be guilty of a class 4 misdemeanor. Such person shall be required to obtain the proper license forthwith. Unless the fine and license tax are paid immediately, the court shall order the proper disposition of such dog by the animal protection police officer supervisor or some other officer, but the disposition of such dog shall not relieve its owner of the payment of the fine and the license tax already due.
(b) Payment of the license tax provided for in this division subsequent to a summons to appear before the general district court or other court for failure to pay within the time required shall not operate to relieve such owner from the penalties provided in subsection (a) of this section.

(Code 1980, §§ 4-8, 4-10; Code 1995, § 5-53)

State law reference— Penalty to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)(4); penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-52. Separate account for funds.

The funds collected for dog license taxes shall be paid into a separate account.

(Code 1980, § 4-9; Code 1995, § 5-54)

State law reference— Disposition of funds, Code of Virginia, § 3.2-6534.

Sec. 5-53. Application for license; issuance.

(a) Any person may obtain a dog license required by this division by making application to the director of finance of the county accompanied by the amount of license tax and certificate of vaccination as required in Code of Virginia, § 3.2-6521. The director of finance shall only have authority to license dogs of resident

owners or custodians who reside within the boundary limits of the county, and may require information to this effect from any applicant. Upon receipt of proper application and the certificate of vaccination, the director of finance shall issue a license receipt for the amount of the license tax. The receipt shall state (i) the name and address of the owner or custodian of the dog, (ii) the date of payment, (iii) the serial number of the tag, and (iv) whether the license is for a male, unsexed female, female or kennel. The metal license tags or plates for kennels shall be delivered with the receipt to the owner. The metal license tag issued for an individual dog is a permanent tag. Once a permanent tag has been issued to an individual dog, additional metal license tags for that dog will be issued only pursuant to § 5-55. The information thus received shall be retained by the director of finance open to public inspection during the period for which such license is valid.

(b) The director of finance may establish agencies for the purpose of issuing county dog license tags subject to the restrictions and regulations provided by this division. The director of finance may designate agents to issue dog tags and shall prescribe the forms and methods of reporting for such agents.

(c) Any person who shall make a false statement in order to secure a dog license to which he is not entitled shall be guilty of a class 4 misdemeanor.

(Code 1980, § 4-11; Code 1995, § 5-55)

State law reference—Similar provisions, Code of Virginia, § 3.2-6587; evidence of rabies inoculation to be furnished, Code of Virginia, § 3.2-6526; false statement in order to secure license to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)1; penalty for class for misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-54. License tags generally.

A dog license shall consist of a license receipt and a metal tag, as authorized pursuant to Code of Virginia, § 3.2-6526. The tag shall be stamped or otherwise permanently marked to show the county issuing the license and a serial number. The license tag for a kennel shall show the number of dogs authorized to be kept under such license and have attached thereto a metal identification plate for each of such dogs, numbered to correspond with the serial number of the license tag.

(Code 1980, § 4-13; Code 1995, § 5-57; Ord. No. 1089, § 1, 8-22-2006)

State law reference—Form of license, Code of Virginia, § 3.2-6526.

Sec. 5-55. Duplicate tags.

If a dog license shall become lost, destroyed or stolen, the owner or custodian shall at once apply to the director of finance or his agent who issued the license for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the director of finance or his agent that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag, which the owner or custodian shall immediately affix to the collar of the dog. The director of finance or his agent shall endorse the number of the duplicate license tag and the date issued on the face of the original license receipt.

(Code 1980, § 4-14; Code 1995, § 5-58)

State law reference—Similar provisions, Code of Virginia, § 3.2-6532.

Sec. 5-56. Display of receipt; wearing of collar and tag.

(a) Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal protection police officer or other law enforcement officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. It shall be unlawful for any person to permit any licensed dog four months of age or over to be off the premises of the owner at any time without wearing the license tag, except that the owner of the dog may remove the collar and license tag required by this section when the dog:

(1) Is engaged in lawful hunting;
(2) Is competing in a dog show;
(3) Has a skin condition which would be exacerbated by the wearing of a collar;
(4) Is confined; or
(5) Is under the immediate control of the owner.
(b) Any violation of this section shall be punishable as a class 4 misdemeanor.
(Code 1980, § 4-15; Code 1995, § 5-59)

State law reference—Similar provisions, Code of Virginia, § 3.2-6531; violations to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)(9); penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-57. Dogs not wearing tag presumed unlicensed.

Any dog not wearing a collar bearing a license tag shall, prima facie, be deemed to be unlicensed. In any proceedings under the provisions of this chapter, the burden of proof of the fact that such dog has been licensed or is otherwise not required to bear a tag at the time shall be on the owner of the dog.

(Code 1980, § 4-16; Code 1995, § 5-60)

State law reference—Similar provisions, Code of Virginia, § 3.2-6533.

Sec. 5-58. Display of kennel tags; allowing dogs out of kennel.
(a) The owner of a kennel in the county shall securely fasten the license tag to the kennel enclosure in full view and keep one of the identification plates provided therewith attached to the collar of each dog authorized to be kept enclosed in the kennel. Any identification plates not so in use must be kept by the owner or custodian and promptly shown to the animal protection police officer supervisor or other officer upon request. A kennel dog shall not be permitted to stray beyond the limits of the enclosure, but this shall not prohibit removing dogs therefrom temporarily while under the control of the owner or custodian for the purpose of exercising, hunting, breeding, trial or show. The animal protection police officer supervisor may, in his discretion, issue a permit allowing kennel dogs to run at large during such months as he may deem proper; provided that such permit shall not authorize such dogs to run at large contrary to any other provisions of this Code or other ordinance of the county. Every permit shall state the months that such dogs may run at large and the rules and regulations that must be complied with, and the animal protection police officer supervisor may revoke any such permit at any time. Forms of application blanks and permits shall be supplied by the animal protection police officer supervisor. A kennel shall not be operated in such a manner as to defraud the county of the license tax applying to dogs which cannot be legally covered thereunder or to in any manner violate other provisions of this chapter.
(b) If a dog is found running and roaming at large at any time of the year in violation of the provisions of this section or section 5-56, such violation by its owner shall be punishable as a class 4 misdemeanor. If it is a kennel dog, the license may be revoked if the law appears to the court to have been violated by reason of carelessness or negligence on the part of the owner, who shall thereupon be required to secure an individual license for each dog.
(Code 1980, § 4-17; Code 1995, § 5-61)

State law reference—Violations to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)9; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Secs. 5-59—5-89. Reserved.

DIVISION 3. RABIES VACCINATION

Sec. 5-90. Required; certificate.

(a) It shall be unlawful for any person to own, keep or harbor any dog or cat four months of age or older within the county unless such dog or cat has been vaccinated with a species-appropriate vaccine approved by the United States Department of Agriculture and administered by a licensed veterinarian, and has received any required revaccination against rabies as specified in the certificate of vaccination.

(b) Upon vaccination or revaccination of a dog or cat as required by this section, a suitable and distinctive rabies tag and a certificate of vaccination, properly executed and signed by the licensed veterinarian performing the vaccination, shall be issued to the animal's owner by the veterinarian, who shall retain a copy of the certificate for his records.

(c) The certificate issued pursuant to subsection (b) of this section shall be NASPHV Form No. 50, or its equivalent, and shall certify that the dog or cat has been vaccinated in accordance with this division, and shall include the following information:

(1) The date of the vaccination;

(2) The date for required revaccination;

(3) The rabies tag number;

(4) A brief description of the dog or cat and its age, sex and breed; and

(5) The name and address of the animal's owner.

(d) The certificate issued pursuant to subsection (b) of this section shall be preserved by the owner of the dog or cat and exhibited promptly on request for inspection by any animal protection police officer or other law enforcement officer.

(e) Any person owning, keeping or harboring any dog or cat four months of age or older shall have the required vaccination performed within 30 days from the day on which the dog or cat is first owned, kept, harbored or moved into the county by the person.

(Code 1980, § 4-23; Code 1995, § 5-81)

State law reference—Rabies inoculation of dogs and cats, Code of Virginia, § 3.2-6521.

Sec. 5-91. Exemption for animals temporarily brought into county.

This division shall not apply to any dogs or cats temporarily brought into the county, for a period not to exceed 30 days, for showing or breeding purposes, if such dogs or cats remain confined at all times.

(Code 1980, § 4-23.1; Code 1995, § 5-82)

Sec. 5-92. Wearing of rabies tag.

The owner of any dog or the owner's agent shall attach to the collar of such dog the current rabies tag supplied by the veterinarian. Such collar and tag shall be worn by the dog at all times such dog is out-of-doors, whether on or off the premises of the owner. Cat owners are encouraged to tag their cats similarly, but are not required to do so.

(Code 1980, § 4-23.3; Code 1995, § 5-83)

Secs. 5-93—5-112. Reserved.

DIVISION 4. STERILIZATION OF ADOPTED DOGS AND CATS

***State law reference—**Sterilization of dogs and cats, Code of Virginia, § 3.2-6574.

Sec. 5-113. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

New owner means an individual who is legally competent to enter into a binding agreement pursuant to section 5-114 and who adopts or receives a dog or cat from a releasing agency.

Sterilize and *sterilization* mean a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

(Code 1980, § 4-22.4; Code 1995, § 5-101; Ord. No. 1050, § 2, 9-9-2003)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 3.2-6500.

Sec. 5-114. Sterilization required.

(a) *Duty of new owner.* Every new owner of a dog or cat adopted from a releasing agency shall cause such dog or cat to be sterilized pursuant to the agreement required by subsection (b)(2) of this section.

(b) *Requirements for release of animal.* A dog or cat shall not be released for adoption from a releasing agency unless:

(1) The animal has already been sterilized; or

(2) The individual adopting the animal signs an agreement to have the animal sterilized by a licensed veterinarian within 30 days of the adoption if the animal is sexually mature, or within 30 days after the animal reaches six months of age if the animal is not sexually mature at the time of adoption.

(c) *Extension of time.* A releasing agency may extend for 30 days the date by which a dog or cat must be sterilized on presentation of a written report from a veterinarian stating that the life or health of the adopted animal may be jeopardized by sterilization. In cases involving extenuating circumstances, the veterinarian and the releasing agency may negotiate the terms of an extension of the date by which the animal must be sterilized.

(d) *Sterilization of immature animals.* Nothing in this section shall preclude the sterilization of a sexually immature dog or cat upon the written agreement of the veterinarian, the releasing agency and the new owner.

(e) *Order to comply.* Upon the petition of the animal protection police officer supervisor, an investigator or the state veterinarian or his designee to the district court where a violation of this division occurs, the court may order the new owner to take any steps necessary to comply with the requirements of this division. This remedy shall be exclusive of and in addition to any civil penalty which may be imposed under this division.

(f) *Civil penalty.* Any person who violates subsection (a) or (b) of this section shall be subject to a civil penalty not to exceed $150.00.

(Code 1980, § 4-22.5; Code 1995, § 5-102; Ord. No. 987, § 1, 7-13-1999)

State law reference—Similar provisions, Code of Virginia, § 3.2-6574; civil penalty authorized, Code of Virginia, § 3.2-6543(B).

Sec. 5-115. Confirmation of sterilization.

(a) *Required; contents.* Each new owner who signs a sterilization agreement pursuant to this division shall, within seven days of the sterilization, cause to be delivered or mailed to the releasing agency written confirmation signed by the veterinarian who performed the sterilization. The confirmation shall briefly describe the dog or cat, include the new owner's name and address, certify that the sterilization was performed, and specify the date of the procedure.

(b) *Civil penalty.* Any person who violates this section shall be subject to a civil penalty not to exceed $50.00.

(Code 1980, § 4-22.6; Code 1995, § 5-103)

State law reference—Similar provisions, Code of Virginia, § 3.2-6576; civil penalty authorized, Code of Virginia, § 3.2-6543(B).

Sec. 5-116. Notification of releasing agency of death or disappearance of animal.

(a) *Required.* If an adopted dog or cat is lost or stolen or dies before the animal is sterilized and before the date by which the dog or cat is required to be sterilized, the new owner shall, within seven days of the animal's disappearance or death, notify the releasing agency of the animal's disappearance or death.
(b) *Civil penalty.* Any person who violates this section shall be subject to a civil penalty not to exceed $25.00.
(Code 1980, § 4-22.7; Code 1995, § 5-104)

State law reference—Similar provisions, Code of Virginia, § 3.2-6577; civil penalty authorized, Code of Virginia, § 3.2-6543(B).

Sec. 5-117. Exemptions from division.

This division shall not apply to:

(1) An owner reclaiming his dog or cat from a releasing agency;
(2) A local governing body which has disposed of an animal by sale or gift to a federal agency, state-sponsored institution, agency of the state, agency of another state, or licensed federal dealer having its principal place of business located within the state;
(3) A place or establishment which is operated under the immediate supervision of a duly licensed veterinarian as a hospital or boarding kennel where animals are harbored, boarded and cared for incident to the treatment, prevention or alleviation of the disease processes during the routine practice of the profession of veterinary medicine; or
(4) Animals boarded under the immediate supervision of a duly licensed veterinarian.
(Code 1980, § 4-22.8; Code 1995, § 5-105)

State law reference—Exemptions, Code of Virginia, §§ 3.2-6578, 3.2-6506.

Secs. 5-118—5-147. Reserved.

ARTICLE III. IMPOUNDMENT

***State law reference—**Confinement and disposition of animals in county pound, Code of Virginia, § 3.2-6546.

Sec. 5-148. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal does not include agricultural animals.

Rightful owner means a person with a right of property in the animal.

(Code 1980, § 4-22.1(l); Code 1995, § 5-131)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(A).

Sec. 5-149. Operation of pound.

There shall be constructed and maintained a pound or enclosure, which shall be of a type approved by the county health department in accordance with guidelines issued by the state department of agriculture and consumer services, for the confinement of impounded animals. The pound or enclosure shall be accessible to the public at reasonable hours during the week.

(Code 1980, § 4-22.1(a); Code 1995, § 5-132)

State law reference—Pound required, Code of Virginia, § 3.2-6546(B).

Sec. 5-150. Impoundment generally; holding period.

(a) The animal protection police officer supervisor or other officer who finds a dog without the tags required by this chapter, or a dog running at large in violation of section 5-29(6), or any other animal in violation of the provisions of this chapter shall impound such animal in the pound.

(b) Except as otherwise provided, all impounded animals shall be kept for a period of not less than five days. Such period shall commence on the day immediately following the day the animal is initially confined in the facility.

(c) Impounded animals may be released at any time and the five-day holding period shall not apply to:

(1) Any impounded animal claimed by its rightful owner;

(2) Any impounded animal, if the animal's rightful owner has surrendered all property rights in such animal and has read and signed a statement as required by section 5-156.

(Code 1980, § 4-22.1(b); Code 1995, § 5-133; Ord. No. 987, § 2, 7-13-1999)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(C), (F).

Sec. 5-151. Disposition of animals bearing tag or other identification; notification of owner.

(a) The custodian of the pound shall make a reasonable effort to ascertain if an impounded animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, a reasonable effort shall be made to return the animal to its owner or place the animal for adoption before humanely destroying the animal. Such identified animal shall be held for five days more than the holding period prescribed in section 5-150(b), unless sooner claimed by the rightful owner.

(b) If the rightful owner of any confined animal may be readily identified, the custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next 48 hours following its confinement.

(Code 1980, §§ 4-22.1(f), (g), 4-22.2(a); Code 1995, § 5-135; Ord. No. 987, § 3, 7-13-1999)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(C).

Sec. 5-152. Redemption of animals.

Either a custodian of an animal or an individual who has found an animal may qualify as owner and may claim the animal by expressing his desire in writing to claim the animal at the expiration of the period set out in section 5-150(b) after payment of the required fees. The rightful owner may redeem any animal confined pursuant to this article by producing an authorized current valid vaccination certificate, if required by this chapter, and a current dog license receipt or tag, if required by this chapter, and by paying to the animal protection police officer supervisor the board and redemption fees set out in section 5-159. Payment of the charges provided for in this section shall not relieve any person from prosecution for a violation of this chapter.

(Code 1980, § 4-22.1(d); Code 1995, § 5-136; Ord. No. 987, § 4, 7-13-1999)

Sec. 5-153. Disposition of unclaimed animals.

(a) If an animal confined pursuant to this article has not been claimed upon expiration of the appropriate holding period, it shall be deemed abandoned and become the property of the pound. Such animal may be euthanized in accordance with the methods approved by the state veterinarian or disposed of by the methods set forth in subsections (a)(1) through (a)(5) of this section. No pound shall release more than two animals or a family of animals during any 30-day period to any one person under subsection (a)(2), (a)(3) or (a)(4) of this section. The methods of disposal include the following:

(1) Release to any humane society, animal shelter, or other releasing agency within the state, provided that each humane society, animal shelter, or other releasing agency obtains a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment and updates such statements as changes occur;

(2) Adoption by a resident of the county who will pay any required fees, if any, on such animal, provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

(3) Adoption by a resident of an adjacent political subdivision of the state who will pay any required fees, provided the resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

(4) Adoption by any other person who will pay any required fees, provided that such person has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment, and provided that no dog or cat may be adopted by any person who is not a resident of the county, or of an adjacent political subdivision, unless the dog or cat is first sterilized at the expense of the person adopting the dog or cat; or

(5) Release for the purposes of adoption or euthanasia only to an animal shelter, or any other releasing agency located in and lawfully operating under the laws of another state, provided that such animal shelter, or other releasing agency:

a. Maintains records that would comply with Code of Virginia, § 3.2-6557;

b. Requires that adopted dogs and cats be sterilized;

c. Obtains a signed statement from each of its directors, operators, staff, and animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and updates such statement as changes occur; and

d. Has provided to the pound a statement signed by an authorized representative specifying the entity's compliance with subsections (a)(5)a through (a)(5)c of this section and the provisions of adequate care and performance of humane euthanasia, as necessary in accordance with the provisions of Code of Virginia, title 3.2, ch. 65.

(b) For purposes of recordkeeping, release of an animal by the pound to a pound, animal shelter or other releasing agency shall be considered a transfer and not an adoption. If the animal is not first sterilized, the responsibility for sterilizing the animal transfers to the receiving entity.

(c) Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the director of finance. No part of the proceeds shall accrue to any individual.

(Code 1980, § 4-22.1(e), (k); Code 1995, §§ 5-137, 5-142; Ord. No. 987, § 5, 7-13-1999; Ord. No. 1050, § 3, 9-9-2003)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(C).

Sec. 5-154. Destruction of feral dogs or cats.

Any feral dog or feral cat not bearing a collar, tag, tattoo or other form of identification which, based on the written certification of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, may be euthanized after being kept for a period of not less than three days, at

least one of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The certification of the disinterested person shall be kept with the animal as required by Code of Virginia, § 3.2-6557. For purposes of this section, a disinterested person shall not include a person releasing or reporting the animal.

(Code 1980, § 4-22.1(c); Code 1995, § 5-138)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(G).

Sec. 5-155. Destruction of injured, diseased or unweaned animals.

No provision in this article shall prohibit the immediate destruction of a critically injured, or critically ill animal for humane purposes. No provision of this article shall prohibit the immediate destruction, for humane purposes, of any animal not weaned, whether or not the animal is critically injured or critically ill.

(Code 1980, § 4-22.1(h); Code 1995, § 5-139)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(E).

Sec. 5-156. Voluntary delivery of animal by owner; surrender of owner's rights in animal.

Nothing in this article shall prohibit the immediate euthanasia or disposal by the methods listed in section 5-153(a)(1) through (a)(5) of an animal that has been released to the pound or animal protection police officer supervisor by the animal's rightful owner after the rightful owner has read and signed a statement:

(1) Surrendering all property rights in such animal;
(2) Stating that no other person has a right of property in the animal; and
(3) Acknowledging that the animal may be immediately euthanized or disposed of in accordance with section 5-153(a)(1) through (a)(5).

(Code 1980, § 4-22.1(i); Code 1995, § 5-140; Ord. No. 1050, § 4, 9-9-2003)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(F).

Sec. 5-157. Seizure and impoundment of stolen or unlawfully held dogs or cats.

The animal protection police officer supervisor or other officer finding a stolen dog or cat or a dog or cat held or detained contrary to the law shall have the authority to seize and hold such animal pending court action. If no such action is instituted within seven days, the animal protection police officer supervisor or other officer shall deliver the animal to its owner. The presence of a dog or a cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner of the property, and the animal protection police officer supervisor may take such animal in charge and notify its legal owner to remove it. The legal owner shall pay to the animal protection police officer supervisor a fee in the amount of $10.00 for each day that such animal has been confined.

(Code 1980, § 4-22.1(j); Code 1995, § 5-141)

State law reference—Similar provisions, Code of Virginia, § 3.2-6585.

Sec. 5-158. Method of euthanization.

Any animal destroyed pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the state veterinarian.

(Code 1980, § 4-22.1(k); Code 1995, § 5-142)

State law reference—Similar provisions, Code of Virginia, § 3.2-6562.

Sec. 5-159. Amount of fees.

(a) Service fees will be charged for services rendered by the county under this article as follows:
(1) Redemption fee: $25.00.
(2) Board after the first 24 hours: $10.00 per day.
(3) Adoption fee: $25.00 for a dog or cat requiring sterilization; $10.00 for all other animals.
(4) Voluntary surrender fee: $25.00.
(b) No service fee shall be charged for animals donated to an agency approved to perform medical research.
(Code 1980, § 4-22.3; Code 1995, § 5-143)

Sec. 5-160. Use of fees.

Any funds collected in the enforcement of this article shall be disposed of in the same manner as dog license taxes.

(Code 1980, §§ 4-22.1(m), 4-22.2(b); Code 1995, § 5-144)

Secs. 5-161—5-188. Reserved.

ARTICLE IV. RABIES CONTROL

***State law reference—**Authority to provide for rabies control, Code of Virginia, § 3.2-6525.

Sec. 5-189. Penalty.

A violation of any provision of this article shall constitute a class 4 misdemeanor.

(Code 1980, § 4-32(a); Code 1995, § 5-171)

State law reference—Violations to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)4; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-190. Reporting of animal bites.

(a) All animal bites of human beings shall be reported to the county division of police within 24 hours after the occurrence.
(b) Such report shall include the name and address of the person bitten, the name and address of the owner of the biting animal, if obtainable, a reasonable description of the animal, the date and time of day of the injury, the part of the body on which the bite was inflicted, and, if possible, whether the biting animal has been vaccinated against rabies.
(c) The responsibility for so reporting is mutually charged to attending medical personnel, veterinarians, owners of the biting animals, persons bitten and any other person who may have knowledge of the occurrence.
(Code 1980, § 4-24; Code 1995, § 5-172)

Sec. 5-191. Reports of infected animals.

Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the health department and the animal protection unit the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

State law reference—Similar provisions, Code of Virginia, § 3.2-6522.

Sec. 5-192. Confinement or destruction of dogs and cats suspected of having rabies.

(a) Dogs or cats found within the county reasonably suspected of having rabies or exhibiting the common symptoms of such disease shall be taken into custody immediately by the animal protection police officer or any police officer and confined in the county pound or at a private veterinarian's establishment approved by the county health director in solitary confinement and kept under competent observation for such time as may be necessary to determine whether they are afflicted with rabies.

(b) At the time any such dog or cat is impounded, an attempt shall be made to discover whether the dog or cat has been vaccinated previously against rabies. If it is found that such dog or cat has not been vaccinated effectively, then such dog or cat shall be so vaccinated by a licensed veterinarian on the last day of the observation period described in subsection (a) of this section unless the animal is humanely destroyed pursuant to subsection (c) of this section.

(c) The animal protection police officer may cause to be euthanized by one of the methods approved by the state veterinarian any dog or cat which, in the opinion of a veterinarian, has rabies, or any dog or cat which is in need of confinement pursuant to subsection (a) of this section but for which such confinement is impossible or impracticable because there apparently is no owner or for other reasons. In such event the animal protection police officer shall arrange to have the head of such dog or cat examined for the purpose of confirming rabies. If the opinion of a veterinarian as to whether an animal has rabies is not reasonably obtainable, the animal protection police officer may act on his own opinion.

(d) All expenses in connection with the provisions of this section shall be borne by the owner of the dog or cat in question.

(Code 1980, § 4-25; Code 1995, § 5-173)

State law reference—Similar provisions, Code of Virginia, § 3.2-6522.

Sec. 5-193. Confinement or destruction of biting animals.

(a) Upon information to the county division of police or any animal protection police officer that a dog or cat has bitten a person, it shall be the duty of the animal protection police officer, upon ascertaining the identity of such dog or cat, to direct it to be confined for a period of ten days from the date the bite occurred unless the animal develops active symptoms of rabies or expires before that time, such confinement to be either with a veterinarian approved by the county health director or in a kennel or enclosure approved by the animal protection police officer as the person who owns or controls such dog or cat shall select, provided that the person who owns or controls such dog or cat shall bear the cost of such confinement. A seriously injured or sick animal may be euthanized by one of the methods approved by the state veterinarian, and its head sent to the state laboratory for evaluation. It shall further be the duty of the animal protection police officer to assume the responsibility of supervising such confinement and ordering the dog or cat to be released if it is safe to do so at the end of the confinement period required by this subsection.

(b) Any animal, other than a dog or cat, biting or otherwise injuring a human being, and suspected of being rabid by the county health director or animal protection police officer, shall be humanely destroyed and its head sent to the state laboratory for evaluation.

(Code 1980, § 4-26; Code 1995, § 5-174)

State law reference—Similar provisions, Code of Virginia, § 3.2-6522.

Sec. 5-194. Confinement or destruction of dogs or cats bitten by rabid animals.

(a) Any dog or cat for which no proof of current rabies vaccination is available which has been bitten by an animal believed to be afflicted with rabies shall be confined in a kennel or enclosure approved by the animal protection police officer for a period not to exceed six months at the expense of the owner. If this is not

feasible, the dog or cat shall be euthanized by one of the methods approved by the state veterinarian. A rabies vaccination shall be administered to the dog or cat at the expense of the owner four weeks prior to release. Inactivated rabies vaccine may be administered at the expense of the owner at the beginning of confinement of the dog or cat.

(b) Any dog or cat for which there is proof of current rabies vaccination available which has been bitten by an animal believed to be afflicted with rabies shall be revaccinated at the expense of the owner immediately following the bite and shall be confined to the premises of the owner, or such other site as may be approved by the animal protection police officer, for a period of 45 days at the expense of the owner.

(Code 1980, § 4-27; Code 1995, § 5-175)

State law reference—Similar provisions, Code of Virginia, § 3.2-6522.

Sec. 5-195. Impoundment of unvaccinated dogs and cats.

(a) Any animal protection officer or police officer may impound in the county pound any dog or cat which has not been vaccinated as provided in section 5-90. Any dog or cat which is found off of its owner's premises and not under the control or supervision of its owner or his agent and which is not wearing a valid rabies tag shall be presumed to be unvaccinated until its owner or his agent presents evidence of vaccination required by section 5-90. Any dog or cat held in the pound shall be held for a period as provided in article III of this chapter, unless the dog or cat is rabid or suspected of being rabid, in which case the dog or cat shall be held for further observation or destroyed humanely, pursuant to section 5-192, upon authorization of the county health director or any person charged with the enforcement of this article.

(b) Any dog or cat impounded under this section which is not rabid or suspected of being rabid may be redeemed by the owner as provided in article III of this chapter.

(Code 1980, § 4-28; Code 1995, § 5-176)

Sec. 5-196. Humane destruction of animals.

Nothing in this article shall prohibit the humane destruction of a seriously injured or sick animal, provided that arrangements are made with the state laboratory for examination of the animal's head for rabies if the animal is suspected of being rabid.

(Code 1980, § 4-29; Code 1995, § 5-177)

Sec. 5-197. Unlawful concealment of animal.

It shall be unlawful for any person to conceal or withhold any dog, cat or other animal to keep it from being destroyed or confined in accordance with this article.

(Code 1980, § 4-29.1; Code 1995, § 5-178)

Sec. 5-198. Enforcement measures on noncompliance by owner of dog or cat.

If any person who owns or controls a dog or cat fails or refuses to comply with any of the provisions of this article or with any instructions given by an animal protection police officer, a veterinarian, a health department representative or other appropriate official pursuant to this article, the animal protection police officer may take such dog or cat immediately into custody and confine it in the county pound. The person owning or controlling such dog or cat shall then be summoned immediately by the animal protection police officer to appear in the general district court, where the matter shall be heard as all other matters are heard on criminal warrants. Upon finding that such person either owns or controls a dog or cat and has failed or refused to comply with any provision of this article or with instructions properly given pursuant to this article, the judge, in addition to any sentence which he may impose for conviction of a class 4 misdemeanor, shall order any confinement or destruction of the animal appropriate under the circumstances and pursuant

to this article, and shall order the convicted person to pay for any required vaccination, license and confinement-related expenses.

(Code 1980, § 4-32(b); Code 1995, § 5-179)

State law reference—Penalty to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)4; penalty for class 4 misdemeanors, Code of Virginia, § 18.2-11.

Sec. 5-199. Transportation, sale or keeping of foxes, skunks and raccoons.

The transportation or importation of foxes, skunks and raccoons from other jurisdictions into the county, and the sale of foxes, skunks and raccoons in the county, is prohibited. It shall be unlawful for any person to confine or keep any fox, skunk or raccoon as a pet or otherwise.

(Code 1980, § 4-31; Code 1995, § 5-181)

Secs. 5-200—5-221. Reserved.

ARTICLE V. SWINE

Sec. 5-222. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hog means any pig over ten weeks old.

Pen means any enclosure of an acre or less in which pigs or hogs are kept.

(Code 1980, § 4-34; Code 1995, § 5-201)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 5-223. Applicability of article.

This article shall apply only to the raising of pigs and hogs in a pen as defined in section 5-222.

(Code 1980, § 4-33; Code 1995, § 5-202)

Sec. 5-224. Location of pens.

No hog pen shall be constructed or maintained within 400 feet of any lot in any residential district or within 200 feet of any other lot occupied by a dwelling other than the farm dwelling or by any school or church or any institution for human care not located on the same lot with such uses or buildings.

(Code 1980, § 4-35; Code 1995, § 5-203)

Sec. 5-225. Cleaning of pens.

All hog pens shall be clean and free of refuse matter, and refuse matter shall not be allowed to accumulate in and around such pens.

(Code 1980, § 4-36; Code 1995, § 5-204)

Sec. 5-226. Control of odors and flies.

Any person raising hogs shall use lime or other disinfectants in and around the pen in sufficient quantity to prevent obnoxious odors and to destroy fly larvae.

(Code 1980, § 4-37; Code 1995, § 5-205)

Sec. 5-227. Capacity of pens.

It shall be unlawful for any person to have more than 20 hogs in a pen at any one time, except for the purpose of feeding at regular periods, which shall not exceed one hour in length three times a day.

(Code 1980, § 4-38; Code 1995, § 5-206)

Sec. 5-228. Food containers.

All slop or food barrels and other containers of liquid and odorous foods used in and about a hog pen shall be covered with tops sufficiently tight to keep out flies and keep down odors.

(Code 1980, § 4-39; Code 1995, § 5-207)

Secs. 5-229—5-249. Reserved.

ARTICLE VI. FOWL

Sec. 5-250. Bird sanctuaries.

(a) The portion of the Lakeside Community included in the following described area is hereby designated as a bird sanctuary: Beginning at a point on the centerline of Lakeside Avenue (State Route 161) at the boundary dividing the county and the City of Richmond; thence northwardly along such centerline to its intersection with Hilliard Road (State Route 161); thence westwardly along the centerline of Hilliard Road to its intersection with Woodman Road; thence northwardly along the centerline of Woodman Road to its intersection with Parham Road; thence westwardly along the centerline of Parham Road to its intersection with Staples Mill Road (State Road 33); thence southwardly along the centerline of Staples Mill Road to its intersection with Interstate Route 64; thence eastwardly along the centerline of Interstate Route 64 to the boundary dividing the county and the City of Richmond near Bryan Park; thence northeastwardly along the boundary dividing the county and the City of Richmond to the point and place of beginning. The portion of the community designated as a bird sanctuary shall also include the following subdivisions: Ginter Gardens, Ginter Gardens Addition, Lakewood, Lakewood Estates, Valentine Hills, Rocky Branch Farm and Lydell Heights.

(b) The Three Chopt Elementary School and its grounds, including the outdoor class, located at 1600 Skipwith Road, is hereby designated as a bird sanctuary.

(c) The entire area embraced within the limits of Old Westham, bounded by River Road, Ridge Road, Forest Avenue, Lindsay Road, Lindsay Court, Little Westham Creek and College Road, is hereby designated as a bird sanctuary.

(d) It shall be unlawful in any areas designated in this section to willfully and maliciously trap, shoot, hunt, or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests. However, if starlings or similar birds are found to the congregating in such bird sanctuaries so that they constitute a nuisance or menace to health or property, then such birds may be destroyed, provided that such action may not be taken on private property without the written approval of the owner of such property.

(e) Violation of the provisions of this section shall be a misdemeanor.

(Code 1980, § 4-40; Code 1995, § 5-231)

Chapter 6 - BUILDINGS

*__Cross reference—__Erosion and sediment control, § 10-27 et seq.; noise regulations, § 10-67 et seq.; weeds and grass, § 10-135 et seq.; rat control, § 10-164 et seq.; stormwater management, § 10-196 et seq.; fire prevention and protection, ch. 11; approval of installation of culvert pipes for walkways, driveways or other purposes required, § 18-4; subdivisions, ch. 19; zoning, ch. 24.

*__State law reference—__Authority to require removal, repairs, etc. of buildings and other structures, Code of Virginia, § 15.2-906; Virginia Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.

ARTICLE I. IN GENERAL

Sec. 6-1. Enforcement of building code.

(a) The building official shall administer and interpret the Virginia Uniform Statewide Building Code, which regulates the construction and maintenance of buildings and structures and provides procedures for its administration and enforcement.

(b) For the purposes of this Code and other ordinances and resolutions of the board of supervisors, the Virginia Uniform Statewide Building Code may be referred to as the "building code." A copy is on file in the office of the building construction and inspections.

(Code 1980, § 5-1; Code 1995, § 6-1; Ord. No. 914, § 1, 3-27-1996)

State law reference—Enforcement of building code by local official and authority of local governing bodies to levy fees, Code of Virginia, § 36-105.

Sec. 6-2. Appeals from decisions of building official.

Appeals from decisions of the building official applying the building code shall be heard by the county board of code appeals.

(Code 1980, § 5-15; Code 1995, § 6-2; Ord. No. 914, § 2, 3-27-1996)

State law reference—Appeals, Code of Virginia, § 36-105.

Sec. 6-3. Permit fees.

(a) *Payment required prior to issuance of permit.* No permit or permit amendment for new construction, alteration, removal, demolition or other building operations shall be issued until the required fees have beenpaid to the office of building construction and inspections.

(b) *Payment of other fees.* The payment of fees for a building permit or permit amendment shall not relieveany person from the payment of other fees that may be prescribed by law or ordinance, including fees forwater connections, sewer connections, and erection of signs, display structures, marquees or other appurtenant structures.

(c) *Accounting.* The building official shall keep an accurate account of all fees collected for building permitsand shall deposit all fees collected into the county treasury.

(d) *Refunds after permit is issued.* If an issued permit expires or is abandoned or revoked, or if a building project is discontinued, the estimated cost of the work completed shall be computed by the building officialand the amount attributable to

work not completed shall be returned to the permit holder, less plan review and administrative fees, if a written request for refund is received by the building official within six monthsof expiration, abandonment, revocation or discontinuance. For purposes of this chapter, plan review and

administrative fees shall be 25 percent of the permit fee.

(e) *Additional fee when work commenced prior to approval of permit.* Upon the building official's discovery and investigation of unauthorized work commenced before a permit application has been approved, a fee of tenpercent of the permit fee, or $20.00, whichever is greater, shall be added to the permit fee to cover investigation costs.

(f) *Inspection surcharge fee.* There shall be a fee of $75.00 for each inspection of a new attached or detached one- or two-family dwelling that exceeds the average number of inspections performed for such structures.Any surcharge fee shall be paid prior to issuance of the certificate of occupancy.

(g) *Building permit fee schedule.*

(1) *One- and two-family dwellings.* The fee for building attached or detached one- or two-family dwellingsshall be $680.00.

(2) *Appurtenances.* The fee for building attached or detached garages, utility buildings appurtenant to attached or detached one- or two-family dwellings, any demolition, moving, addition or alteration to existingattached or detached one- or two-family dwellings shall be $100.00 plus $6.00 per $1,000.00 or fraction thereofof value over $5,000.00, except that no such fee for any permit shall exceed that charged for a new one-family dwelling. The fee shall be based upon the cost of labor and material to the owner for the installation, alteration, replacement or repair.

(3) *Other permits.* The permit fee for all other building permits shall be $100.00 plus $7.00 per $1,000.00 or fraction thereof of value over $5,000.00. This rate shall also apply to permits for signs and the moving or demolition of buildings other than for one- or two-family dwellings. The fee shall be based upon the cost oflabor and material to the owner for the installation, alteration, replacement or repair.

(4) *Basis of fee for moving of buildings.* The fee for a permit for the removal of a building or structure from onelot to another or to a new location on the same lot shall be based on the estimated cost of moving plus the cost of new foundations and all work necessary to place the building or structure in its completed condition in the new location.

(5) *Basis of fee for demolition.* The fee for a permit for the demolition of a building or structure shall be basedon the estimated cost of demolition.

(6) *Basis of fee for signs.* The fee for signs, billboards and other display structures for which permits arerequired under the provisions of the building code shall be based on their estimated cost.

(h) *Annual certificate of compliance for elevators, escalators, dumbwaiters and manlifts.*

(1) Fees for annual certificates of compliance shall be paid to the county on or before December 31 of each year for the following year. For passenger elevators, freight elevators and manlifts, the fee is $40.00 for elevators of ten stories or less plus $4.00 for each additional ten stories or fraction thereof. For escalators, thefee is $40.00 per floor. For dumbwaiters, the fee is $25.00 for ten stories or less plus $4.00 for each additionalten stories or fraction thereof.

(2) If the initial certificate of compliance is issued between January 1 and June 30 of a year, the fee for that year is one-half the amount shown. If the initial certificate is issued after June 30 of a year, there is no chargefor the initial certificate of compliance for that year.

(i) *Plumbing, mechanical, electrical, fire protection equipment and systems permit fee schedule.*

(1) Except for attached or detached one- or two-family dwellings, the permit fee for plumbing, mechanical,electrical and fire protection equipment and systems shall be $100.00 plus $7.00 per $1,000.00 or fraction thereof of value over $5,000.00, based upon the cost of labor and material to the owner for the installation, alteration, replacement or repair.

(2) The permit fee for the installation of plumbing, mechanical, electrical, and fire protection equipment and systems for new attached or detached one- or two-family dwellings shall be $100.00

(3) The permit fee for the installation, alteration, replacement or repair of any plumbing, mechanical, electrical, and fire protection equipment and systems for existing attached or detached one- or two-family dwellings shall be $100.00 plus $6.00 per $1,000.00 or fraction thereof of value over $5,000.00. The fee shall be based upon the cost of labor and material to the owner for the installation, alteration, replacement or repair.

(j) *Amusement Devices.* The permit fee for amusement devices shall be as prescribed by the Virginia Amusement Device Regulations.

(k) *Plan amendment and re-review fee.* There shall be a fee of $25.00 for each plan review after the office of building construction and inspections has reviewed the plan twice because of plan deficiencies or plan amendments.

(l) *Temporary certificate of occupancy fee.* There shall be a fee of $25.00 for each request for a temporary certificate of occupancy or extension of a temporary certificate of occupancy.

(m) *Waiver of fees in Virginia Enterprise Zones.* The fees in subsections (g)(3) through (g)(6), (i)(1), (k), and (l) of this section shall be waived for property located in areas in the county designated as Virginia Enterprise Zones for the life of the enterprise zone.

(Code 1980, § 5-2; Code 1995, § 6-3; Ord. No. 1001, § 1, 7-11-2000; Ord. No. 1045, § 1, 6-24-2003)

State law reference— Authority to adopt permit fees, Code of Virginia, § 36-105.

Secs. 6-4—6-24. Reserved.

ARTICLE II. UNSAFE BUILDINGS

***Cross reference—** Environment, ch. 10.

Sec. 6-25. Abatement of public nuisance.

(a) If a public nuisance presents an imminent and immediate threat to life or property, the building official may abate, raze, or remove such public nuisance, and the county attorney may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate the public nuisance. If a public nuisance does not present an imminent and immediate threat to life or property, the county attorney may bring an action to compel a responsible party to abate, raze or remove the public nuisance.

(b) The term "nuisance" shall include, but not be limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety of the occupants thereof or the public. The term "responsible party" shall include, but not be limited to, the owner, occupier, or possessor of the premises where the nuisance is located, the owner or agent of the owner of the material which escaped, spilled, or was released, and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

(Code 1980, § 5-7; Code 1995, § 6-61; Ord. No. 914, § 3, 3-27-1996)

Sec. 6-26. Corrective action by county.

(a) *Authorized; procedure.* In addition to authority granted by the Virginia Uniform Statewide Building Code, the building official shall remove, repair or secure any building, wall or other structure which might

endanger the public health or safety of other residents of the county if the owner and lienholder of the property have failed to remove, repair or secure such building, wall or other structure after reasonable notice and a reasonable time to do so. The building official shall comply with the notice requirements set forth in state law.

(b) *Costs to constitute lien.* The cost or expenses of removal, repair or securing of such structure by the building official shall be charged to and paid by the owner of such property. Such charges may be collected by the county as taxes and levies are collected. Every charge authorized by this section which the owner of the property is assessed and which remains unpaid shall constitute a lien against the property.

(Code 1980, § 5-8; Code 1995, § 6-62)

State law reference— Authority to abate nuisances, Code of Virginia, § 15.2-906.

Secs. 6-27—6-55. Reserved.

ARTICLE III. SMOKE ALARMS

*__Cross reference—__ Fire prevention and protection, ch. 11.

*__State law reference—__ Smoke detectors, Code of Virginia, § 15.2-922.

Sec. 6-56. Required in certain buildings.

Smoke alarms shall be installed in the following structures or buildings if smoke alarms have not been installed in accordance with the building code:

(1) Any building containing one or more dwelling units;

(2) Any hotel or motel regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one or more persons; and

(3) Any rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations.

(Code 1980, § 5-10(a); Code 1995, § 6-81)

State law reference— Authority to so provide, Code of Virginia, § 15.2-922.

Sec. 6-57. Installation standards.

Smoke alarms required by this article shall be installed only in conformance with the provisions of the building code. Smoke alarms may be either battery operated or powered by alternating current. Such installation shall not require new or additional wiring and shall be maintained in accordance with the Virginia Statewide Fire Prevention Code and Part III of the building code.

(Code 1980, § 5-10(b); Code 1995, § 6-82)

State law reference— Similar provisions, Code of Virginia, § 15.2-922.

Sec. 6-58. Inspections.

The owner of any building, hotel, motel or rooming house required to install smoke alarms under this article shall inspect each alarm annually to ensure it is operating properly and shall maintain a record of such inspection, which shall be available for inspection by the building official, the fire chief or the designee of either.

(Code 1980, § 5-10(c); Code 1995, § 6-83)

Sec. 6-59. Maintenance.

The owner of any rental unit shall provide the tenant a certificate that all smoke alarms are present, have been inspected by the owner, his employee, or an independent contractor, and are in good working order no more than once every 12 months. Except for smoke alarms located in public or common areas of multifamily buildings, interim testing, repair and maintenance of smoke alarms in rented or leased dwelling units shall be the responsibility of the tenant in accordance with Code of Virginia, §§ 55-225.4 or 55-248.16, as applicable.

(Code 1980, § 5-10(d); Code 1995, § 6-84)

State law reference—Similar provisions, Code of Virginia, § 15.2-922.

Secs. 6-60—6-76. Reserved.

ARTICLE IV. PROPERTY NUMBERING AND STREET NAMING SYSTEM

***Cross reference—**Streets, sidewalks and other public property, ch. 18.

***State law reference—**Authority to require building numbers, Code of Virginia, § 15.2-2024.

Sec. 6-77. Penalty; additional remedies.

Any person who fails to comply with section 6-80 and the regulations adopted under this article shall be guilty of a misdemeanor. In addition to the criminal penalties for misdemeanor violations, the director of planning may invoke any other lawful procedure available to correct such violation, including an action for injunctive relief.

(Code 1980, § 5-14; Code 1995, § 6-111)

Sec. 6-78. System established.

(a) *Purpose.* In order to provide for more efficient delivery of emergency and other services, uniformity in street naming and assignment of property numbers, elimination of inconsistencies and duplication of street names, a property numbering and street naming system for the county is hereby established.

(b) *Adoption of standards.* The county shall use the system of numbering properties and principal buildings and naming streets shown in the property numbering and street naming manual filed in the county planning office. The property numbering and street naming manual, including all numbering maps, plats, naming and numbering procedures and explanatory matters therein, is hereby adopted and made a part of this article.

(c) *Identification of properties.* All properties or parcels of land within the limits of the county shall be identified as provided by the adopted system.

(Code 1980, § 5-11; Code 1995, § 6-112)

Sec. 6-79. Responsibility for administration and enforcement; amendments.

The director of planning shall be responsible for enforcement and maintenance of the numbering ordinance and the manual adopted by this article and is authorized to promulgate amendments to the manual.

(Code 1980, § 5-12; Code 1995, § 6-113)

Sec. 6-80. Display of numbers.

It shall be unlawful for the owner of, or other person responsible for, each building in the county that fronts on a right-of-way to fail to display the assigned number on the primary or accompanying building or in a manner that is easily readable from the right-of-way on which the property is located.

(Code 1980, § 5-13; Code 1995, § 6-114; Ord. No. 950, § 1, 7-9-1997)

State law reference—Authority to require display of building numbers, Code of Virginia, § 15.2-2024.

Secs. 6-81—6-103. Reserved.

ARTICLE V. SPOT BLIGHT ABATEMENT

***Cross reference—**Environment, ch. 10.

***State law reference—**Spot blight abatement, Code of Virginia, § 36-49.1:1.

Sec. 6-104. Purpose.

The board of supervisors finds that deteriorating properties, including the improvements and the land on which they are built, have a deleterious effect on property values and the quality of life in the area surrounding them. This article is enacted to provide for the abatement of blight which threatens the health, safety, morals and welfare of the community.

(Code 1995, § 6-115; Ord. No. 1015, § 1, 8-14-2001)

Sec. 6-105. Blight abatement authorized.

The county may clear or repair any blighted property as defined in this article in order to abate blight. In addition, the county may recover the cost of any clearing or repair of such property from the owner.

(Code 1995, § 6-116; Ord. No. 1015, § 1, 8-14-2001)

Sec. 6-106. Blighted property defined.

The term "blighted property" means any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards, or any structure or improvement previously designated as blighted under the process for determination of "spot blight."

(Code 1995, § 6-117; Ord. No. 1015, § 1, 8-14-2001; Ord. No. 1135, § 1, 10-13-2009)

State law reference—Similar provisions, Code of Virginia, §§ 36-3, 36-49.1:1I(A).

Sec. 6-107. Procedures for declaring blight; notification of owner; public hearing.

(a) The county manager or his designee shall make a preliminary determination that a property is blighted in accordance with section 6-106. The county manager or his designee shall notify the owner by regular and certified mail sent to the last address shown on the county's assessment records, specifying the reasons why the property is blighted. The owner shall have 30 days within which to respond in writing with a plan to cure the blight within a reasonable time.

(b) If the owner fails to respond within the 30-day period with a plan that is acceptable to the county manager or his designee, the county manager or his designee may prepare a proposed plan to abate the spot blight, request the board of supervisors to declare the property is blighted by ordinance, and request the board of supervisors to approve the proposed plan to abate the spot blight. The county manager or his designee shall send written notice and the proposed plan to the owner before the board of supervisors acts on the ordinance and proposed plan.

(c) If the board of supervisors declares the property is blighted by ordinance and approves the proposed plan, the county may carry out the approved plan to clear or repair the property in accordance with the approved plan, the provisions of this section, and applicable law. The county shall have a lien on all property so cleared or repaired under an approved plan to recover the cost of demolition or improvements made by the county to bring the blighted property into compliance with applicable building codes. The lien on such property shall bear interest at the legal rate of interest established in Code of Virginia, § 6.1-330.53, beginning on the date the repairs are completed through the date on which the lien is paid. The lien shall be filed in the circuit court and shall be treated in all respects as a tax lien and enforceable in the same manner as provided by law. The county may recover its costs of clearing or repair from the owner of record of the property when the clearing or repairs were made at such time as the property is sold or disposed of by such owner. The costs of clearing or repair shall be recovered from the proceeds of any such sale.

(Code 1995, § 6-118; Ord. No. 1015, § 1, 8-14-2001; Ord. No. 1135, § 3, 10-13-2009)

State law reference—Similar provisions, Code of Virginia, § 36-49.1:1(B)—(H).

Sec. 6-108. Declaration of nuisance.

In lieu of the exercise of powers granted in sections 6-105 through 6-107, the board of supervisors, by ordinance, may declare any blighted property to constitute a nuisance, and thereupon abate the nuisance pursuant to state law. Such ordinance shall be adopted only after written notice by certified mail to the owner at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records. If the owner does not abate or remove the nuisance and the county abates or removes the nuisance at its expense, the costs of abatement or removal shall be a lien on the property and the lien shall bear interest at the legal rate of interest established in Code of Virginia, § 6.1-330.53, beginning on the date the abatement or removal is completed through the date on which the lien is paid.

(Code 1995, § 6-119; Ord. No. 1015, § 1, 8-14-2001; Ord. No. 1135, § 1, 10-13-2009)

State law reference—Similar provisions, Code of Virginia, § 36-49.1:1(I).

Sec. 6-109. Provisions cumulative.

The provisions of this article shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law.

(Code 1995, § 6-120; Ord. No. 1015, § 1, 8-14-2001)

State law reference—Similar provisions, Code of Virginia, § 36-49.1:1(J).

ARTICLE VI. - REPAIR OR REMOVAL OF DERELICT BUILDINGS

Sec. 6-135. Purpose.

The purpose of this article is to encourage the repair or removal of derelict buildings in the county by providing procedures and tax abatement for such activity.

Sec. 6-136. Definitions.

The following words and terms used in this article have the following meanings, unless the context clearly indicates otherwise:

Derelict building means a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health, safety or welfare and for a continuous period in excess of six months has been:

(1) vacant;
(2) boarded up in accordance with the building code; and
(3) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider.

Plan means the plan submitted by the owner of a derelict building to the building official in accordance with section 6-138.

Sec. 6-137. Declaration of derelict property; notice.

(a) The building official may determine that a building qualifies as a derelict building or the owner of a building may apply to the building official and request that the building be declared a derelict building for the purposes of this article.

(b) If a building qualifies as a derelict building, the building official shall give written notice to the owner at the address listed on the county's assessment records. Such notice shall be delivered by first-class mail, and the building official shall obtain a U.S. Postal Service Certificate of Mailing, which shall constitute delivery for purposes of this section.

(c) The building official's written notice shall state that the owner of the derelict building is required to submit to the building official a plan, within 90 days, to demolish or renovate the building toaddress the items that endanger the public's health, safety or welfare as listed in the written notice.

Sec. 6-138. Submission of plan by property owner; approval by building official.

(a) Any owner of a derelict building to whom the building official has sent a written notice as provided in section 6-137 shall submit to the building official within 90 days a plan to demolish or renovate such building. The building official may require that such plan be submitted on forms provided by the building official. The plan filed by the owner shall include a proposed time within which the plan will be commenced and completed. The plan may include one or more adjacent properties of the owner, whether or not all of such properties have been declared derelict buildings.

(b) The plan shall be subject to approval by the building official. Upon receipt of the plan, the building official shall meet with the owner at the owner's request and provide information to the owner about the land use and permitting requirements for demolition or renovation.

Sec. 6-139. Plan completion; permit fees.

(a) If the owner's plan is to demolish the derelict building, the building permit application for demolition shall be expedited. The building official shall refund any building and demolition permit fees upon the owner's submission of proof of demolition within 90 days of the date of the buildingpermit issuance.

(b) If the owner's plan is to renovate the derelict building and no rezoning is required for the owner's intended use of the property, the plan of development or subdivision application and the building permit application shall be expedited.

(c) The plan of development or subdivision application fees shall be the lesser of 50 percent of the standard fees established for plan of development or subdivision applications for the proposed use of the property, or $5,000 per property;

(d) The building permit application fees shall be the lesser of 50 percent of the standard fees established for building permit applications for the proposed use of the property, or $5,000 per property.

Sec. 6-140. Remedies for noncompliance.

(a) An owner's failure to submit a plan required under this article or failure to comply with an approved plan or the dates for commencement and completion of an approved plan shall be a violation of this Code as provided in section 1-13(a)(2) and shall be punishable as provided in that section.

(b) Notwithstanding the provisions of this article, the building official may proceed to make repairs and secure the derelict building under section 6-26, or to abate or remove a nuisance under section 6-25.In addition, the building official may exercise remedies that exist under the building code and may exercise such other remedies available under general and special law.

ARTICLE VII. REPAIR OR REMOVAL OF DEFACEMENT, CRIMINAL BLIGHT, AND BAWDY HOUSES

Sec. 6-150. Repair or removal of defacement of buildings, walls, fences, and other structures.

(a) The building official is hereby authorized to repair or remove defacement of the following if the property owner fails to remove or repair the defacement within 30 days of the mailing of written notice to the owner's address shown on the real property records of the county.

(1) Any public building, wall, fence or other structure; or

(2) Any private building, wall, fence or other structure if the defacement is visible from a public right-of-way.

(b) The building official may have the defacement removed or repaired by county employees or agents at county expense.

Sec. 6-151. Repair, removal or securing of buildings and other structures harboring illegal drug use or other criminal activity.

(a) *Definitions.* For the purpose of this section, the following terms have the following meanings:

Affidavit means the affidavit sworn to under oath in accordance with subsection (c).

Commercial sex acts means any specific activities that would constitute a criminal act under Code of Virginia, title 18.2, ch. 8, art. 3 (Code of Virginia, § 18.2-344 et seq.) or a substantially similar local ordinance if a criminal charge were to be filed against the individual perpetrator of such criminal activity.

Controlled substance means illegally obtained controlled substances or marijuana, as defined in Code of Virginia, § 54.1-3401.

Corrective action means (i) taking specific actions with respect to the buildings or structures on property that are reasonably expected to abate criminal blight on such real property, including the removal, repair, or securing of any building, wall, or other structure, or (ii) changing specific policies, practices, and procedures of the real property owner that are reasonably expected to abate criminal blight on real property. A local law-enforcement official will prepare an affidavit on behalf of the locality that states specific actions to be taken on the part of the property owner that the locality determines are necessary to abate the identified criminal blight on such real property and that do not impose an undue financial burden on the owner.

Criminal blight means a condition existing on real property that endangers public health or the safety of county residents and is caused by (i) the regular presence of persons in possession or under the influence of controlled substances; (ii) the regular use of the property for the purpose of illegally possessing, manufacturing, or distributing controlled substances; (iii) the regular use of the property for the purpose of engaging in commercial sex acts; or (iv) the discharge of a firearm that would constitute a criminal act under Code of Virginia, title 18.2, ch. 7, art. 4 (Code of Virginia, § 18.2-279 et seq.) or a substantially similar local ordinance if a criminal charge were to be filed against the individual perpetrator of such criminal activity.

Law-enforcement official means an official designated to enforce criminal laws within a locality, or an agent of such law-enforcement official. The law-enforcement official will coordinate with the building or fire code official of the locality as otherwise provided under applicable laws and regulations.

Owner means the record owner of real property.

Property means real property.

(b) *Abatement authorized.* The building official is hereby authorized to take reasonable steps to abate criminal blight on real property, such as removal, repair or securing of a building, wall or other structure, after complying with the notification provisions of this section.

(c) *Initial notification procedures.* Before any corrective action is taken, the chief of police will execute and send the building official an affidavit that cites Code of Virginia, § 15.2-907, and states the following:

(1) Criminal blight exists on the property;

(2) The grounds for determining that criminal blight exists on the property;

(3) The police division has been unable to abate the criminal blight despite diligent efforts to do so; and

(4) The criminal blight constitutes a present threat to the public's health, safety or welfare.

The building official will send a copy of the affidavit by (i) certified mail, return receipt requested; (ii) hand delivery; or (iii) overnight delivery by a commercial service or the United States Postal Service, to the owner of

the property at his current address in the county's assessment records along with a notice stating that the owner has 30 days from the date of the notice to take corrective action and that, upon the owner's request, the county will assist the owner in determining and coordinating the corrective action. If the owner notifies the county in writing within the 30-day period that additional time to complete the corrective action is needed, the county will allow such owner an extension for an additional 30-day period to take such corrective action.

(d) *Additional notification.* If no corrective action is taken during the 30-day period, or during the extension if such extension is granted by the county, the building official will send an additional notice to the owner by certified mail, return receipt requested, at the address stated in subdivision (c). The notice will state the date on which the county may commence (i) corrective action to abate the criminal blight or (ii) legal action in a court of competent jurisdiction to obtain a court order to require that the owner take such corrective action or, if the owner does not take corrective action, a court order to revoke the certificate of occupancy for such property, which date must be no earlier than 15 days after the date of mailing of the additional notice. The notice must also describe the county's contemplated corrective action and state that the costs of corrective action taken by the county will be charged to the owner. Upon reasonable notice to the county, the owner may seek judicial relief, and the county may not take corrective action during the pendency of a proper petition for relief in a court of competent jurisdiction.

(e) *Costs of corrective action.* If the county takes corrective action after complying with the requirements of this section, the county may charge the costs and expenses of the corrective action to the owner and may collect them as taxes are collected. Every charge authorized by this section that remains unpaid constitutes a lien against the property with the same priority as liens for unpaid local real estate taxes and is enforceable in the same manner as provided in Code of Virginia, title 58.1, ch. 39, arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3965 et seq.).

(f) *Corrective action by owner.* If the owner of the property takes timely and effective corrective action pursuant to the provisions of this section, the building official will deem the criminal blight abated, close the proceedings without any charge or costs to the owner, and promptly provide a written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding does not bar the county from initiating a subsequent proceeding if the criminal blight recurs.

(g) *Owner's rights preserved.* Nothing in this section will be construed to abridge, diminish, limit, or waive any rights or remedies of an owner of property at law or any permits or nonconforming rights the owner may have under Code of Virginia, title 15.2, ch. 22 (Code of Virginia, § 15.2-2200 et seq.) or under the Code. If an owner in good faith takes corrective action, and despite having taken such action, the specific criminal blight identified in the affidavit persists, such owner will be deemed in compliance with this section. Further, if a tenant of a rental dwelling unit, or a tenant on a manufactured home lot, is the cause of criminal blight on such property and the owner in good faith initiates legal action and pursues the same requesting a final order by a court of competent jurisdiction, as otherwise authorized by the Code of Virginia, against such tenant to remedy such noncompliance or to terminate the tenancy, such owner will be deemed in compliance with this section.

Sec. 6-152. Repair, removal or securing of buildings and other structures harboring a bawdy place.

(a) *Definitions.* For the purpose of this section, the following terms have the following meanings:

Affidavit means an affidavit prepared in accordance with subsection (c) of this section.

Bawdy place means the same as that term is defined in Code of Virginia, § 18.2-347.

Corrective action means the taking of steps which are reasonably expected to be effective to abate a bawdy place on real property, such as removal, repair or securing of any building, wall or other structure.

Owner means the record owner of real property.

(b) *Abatement authorized.* The building official is hereby authorized to take reasonable steps to abate a bawdy place on real property, such as removal, repair or securing of a building, wall or other structure, after complying with the notification provisions of this section.

(c) *Initial notification procedures.* Before any corrective action is taken, the chief of police will execute and send the building official an affidavit that cites Code of Virginia, § 15.2-908.1, and states the following:

(1) A bawdy place exists on the property and in the manner described therein;

(2) The police division has been unable to abate the bawdy place despite diligent efforts to do so; and

(3) The bawdy place constitutes a present threat to the public's health, safety or welfare.

The building official will send a copy of the affidavit by regular mail to the owner of the property at his current address in the county's assessment records along with a notice stating that the owner has 30 days from the date of the notice to take corrective action to abate the bawdy place and that, upon the owner's request, the county will assist the owner in determining and coordinating the corrective action.

(d) *Additional notification.* If no corrective action is taken during the 30-day period, the building official will send an additional notice to the owner by regular mail. The notice must state that the county may take corrective action to abate the bawdy place after 15 days from the date of the additional notice, and it must describe the county's contemplated corrective action. The notice must also state that the costs of corrective action taken by the county will be charged to the owner. Upon reasonable notice to the county, the owner may seek equitable relief, and the county may not take corrective action during the pendency of a proper petition for relief in a court of competent jurisdiction.

(e) *Costs of corrective action.* If the county takes corrective action after complying with the requirements of this section, the county may charge the costs and expenses of the corrective action to the owner and may collect them as taxes are collected. Every charge authorized by this section which remains unpaid constitutes a lien against the property with the same priority as liens for unpaid local real estate taxes and is enforceable in the same manner as provided in Code of Virginia, title 58.1, ch. 39, arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3965 et seq.).

(f) *Corrective action by owner.* If the owner of the property takes timely and effective corrective action, the building official will deem the bawdy place abated, close the proceedings without any charge or costs to the owner, and promptly provide a written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding does not bar the county from initiating a subsequent proceeding if the bawdy place recurs.

(g) *Owner's rights preserved.* Nothing in this section will be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

ARTICLE VIII. RESIDENTIAL RENTAL INSPECTION PROGRAM

Sec. 6-175. Purpose.

The purpose of this article is to promote safe, decent, and sanitary housing in Henrico County.

Sec. 6-176. Definitions.

For purposes of this article:

"Dwelling unit" means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household.

"Owner" means the person shown in the current real estate assessment records.

"Residential rental dwelling unit" means a dwelling unit that is leased or rented to one or more tenants. A dwelling unit occupied in part by the owner thereof will not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas and a bathroom.

Sec. 6-177. Compliance with other laws.

Inspections must comply with all state and federal laws, including constitutional requirements governing searches.

The provisions of this article do not (i) alter the rights and obligations of landlords and tenants under the provisions of chapter 12 (§ 55.1-1200, et seq.) or chapter 14 (§ 55.1-1400 et seq.) of title 55.1 of the Code of Virginia, as amended, or (ii) alter the duties and responsibilities of the building official under Code of Virginia sec. 36-105 and this chapter to enforce the building code.

Sec. 6-178. Designation of rental inspection district.

The board of supervisors finds that (i) there is a need to protect the public health, safety, and welfare of the occupants of dwelling units inside the rental inspection district designated in this section; (ii) the residential rental dwelling units within the designated rental inspection district are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in need of inspection by the building official to prevent deterioration, taking into account the number, age, and condition of residential dwelling rental units inside the designated rental inspection district; and (iii) the inspection of residential rental dwelling units inside the designated rental inspection district is necessary to maintain safe, decent, and sanitary living conditions for tenants and other residents living in the rental inspection district. Therefore, the board designates the following rental inspection district, pursuant to Code of Virginia, § 36-105.1:1, as amended:

Glenwood Farms Rental Inspection District. The boundaries of the Glenwood Farms Rental Inspection District are shown on the map attached to this ordinance and incorporated by reference. A copy of the map is maintained in the office of the building official.

Sec. 6-179. Inspections authorized.

The board authorizes the building official to inspect residential rental dwelling units within the designated rental inspection district pursuant to the procedures set forth in this section and in conformance with the requirements of sec. 6-177.

1. *Notification upon establishment of district.* Upon the adoption of this ordinance establishing a rental inspection district, the building official will make reasonable efforts to notify owners of residential rental dwelling units within the designated rental inspection district, or their designated managing agents, of the adoption of the ordinance and provide information and an explanation of the rental inspection ordinance and the responsibilities of the owner thereunder.

2. *Initial inspection of dwelling units.* Upon the establishment of the rental inspection district, the building official may, in conjunction with the written notifications provided for in Code of Virginia § 36-105.1:1(C), proceed to inspect dwelling units in the designated rental inspection district to determine if the dwelling units are being used as residential rental property and for compliance with the provisions of the building code that affect the safe, decent, and sanitary living conditions for the tenants of such property.

3. *Initial and periodic inspections of multifamily dwelling units*. If a multifamily development has more than 10 dwelling units, in the initial and periodic inspections, the building official may inspect only a sampling of dwelling units, of not less than two and not more than 10 percent of the dwelling units, of the multifamily development, which includes all of the multifamily buildings which are part of that multifamily development. If the building official determines upon inspection of the sampling of dwelling units that there are violations of the building code that affect the safe, decent, and sanitary living conditions for the tenants of such multifamily development, the building official may inspect as many dwelling units as necessary to enforce the building code.

4. *Follow-up inspections*. Upon the initial or periodic inspection of a residential rental dwelling unit subject to this article, the building official has the authority under the building code to require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the building official deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of the building code that affect the safe, decent, and sanitary living conditions for the tenants.

5. *Periodic inspections*. Except as provided in subdivision 4 above, following the initial inspection of a residential rental dwelling unit subject to this article, the building official may inspect any residential rental dwelling unit in a rental inspection district, that is not otherwise exempted in accordance with section 6-180, no more than once each calendar year.

Sec. 6-180. Exemptions.

Upon the initial or periodic inspection of a residential rental dwelling unit subject to this article for compliance with the building code, provided that there are no violations of the building code that affect the safe, decent, and sanitary living conditions for the tenants of such residential rental dwelling unit, the building official will provide, to the owner of such residential rental dwelling unit, an exemption from this article for a minimum of four years. Upon the sale of a residential rental dwelling unit, the building official may perform a periodic inspection as provided in subdivision 5 of section 6-179, subsequent to such sale. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four years, an exemption will be granted for a minimum period of four years from the date of the issuance of the certificate of occupancy by the building official. If the residential rental dwelling unit becomes in violation of the building code during the exemption period, the building official may revoke the exemption previously granted under this section.

Sec. 6-181. Penalties.

Penalties for violations of this article will be the same as the penalties provided in the building code.

ARTICLE IX. HENRICO INVESTMENT PROGRAM

Sec. 6-200. Purpose.

The purpose of this article is to enhance the economy of the county by establishing the Henrico Investment Program to encourage the private sector to purchase, assemble, and revitalize parcels suitable for economic development in designated areas of the county, as permitted by Virginia law, including Code of Virginia, § 15.2-1232.2, as amended.

Sec. 6-201. Definitions.

For purposes of this article, the following terms have the following meanings:

Director means the director of the department of community revitalization.

Economic Development Authority means the Economic Development Authority of Henrico County, Virginia.

Henrico Investment Program Area means an economic revitalization area of the county identified in section 6-202.

Qualifying Commercial or Industrial Use means any of the following uses of real property: retail or wholesale trades, hotels, restaurants, offices, clinics, warehouses, light manufacturing, or similar uses as determined by the director, and specifically excludes dissimilar uses, such as: apartments, dwellings, townhomes, and other residential uses, heavy manufacturing, exterior corridor motels, pay day lenders, and adult businesses and other uses where admittance by the public is conditioned on being over the age of 18.

Qualifying Property includes all real property or portions thereof (i) actually used for a Qualifying Commercial or Industrial Use, or for which the applicant or its successor in interest is actively pursuing redevelopment or rezoning to be used for a Qualifying Commercial or Industrial Use, (ii) located entirely within a Henrico Investment Program Area, and (iii) substantially in conformance with the comprehensive plan's recommendations for the property.

Sec. 6-202. Henrico Investment Program Areas.

The following areas are established as individual Henrico Investment Program Areas for economic revitalization pursuant to Code of Virginia, § 15.2-1232.2, as amended. Each area is shown on a map approved by the board of supervisors and maintained in the office of the Director. The incentives under this article will be available only for the dates listed for each Area.

(1) *Mechanicsville Turnpike Investment Area.* Effective January 1, 2022, and expires December 31, 2031.

(2) *Patterson Avenue Investment Area*. Effective January 1, 2022, and expires December 31, 2031.

(3) *Staples Mill Road Investment Area*. Effective January 1, 2022, and expires December 31, 2031.

(4) *West Broad Street Investment Area*. Effective January 1, 2022, and expires December 31, 2031.

(5) *Williamsburg Road Investment Area*. Effective January 1, 2022, and expires December 31, 2031.

Sec. 6-203. Applications.

The Director will publish application forms for incentives under this article. The forms will require all information necessary to determine whether the property is a Qualifying Property and the extent to which a project on the Qualifying Property qualifies for incentives. Anyone owning property located in a Henrico Investment Program Area is eligible to apply. If the property has more than one owner, all owners must join in the application, and a contract purchaser may apply with the written consent of all owners of the property.

Sec. 6-204. Incentives.

The following incentives are available for Qualifying Properties:

(1) *Building permit fees*. The fees in subsections (g)(3) – (6), (i)(1), (k), and (l) of section 6-3 of this Code will be waived for permits issued for Qualifying Commercial or Industrial Uses where the permit application indicates the investment will be equal to or greater than $100,000. If only a portion of the property will be used for a Qualifying Commercial or Industrial Use, only the portion of the fee attributable to the Qualifying Commercial or Industrial Use will be waived.

(2) *Planning application fees*. The fees set out on the Planning Application Fee Schedule will be waived for planning applications for Qualifying Commercial or Industrial Uses. If only a portion of the property will be used for a Qualifying Commercial or Industrial Use, only the portion of the fee attributable to the Qualifying Commercial or Industrial Use will be waived.

(3) *Additional incentives from the Economic Development Authority*. The board of supervisors may make donations to the Economic Development Authority to fund additional incentives for Qualifying Commercial or Industrial Uses. The approval of additional incentives will be at the discretion of the Economic Development Authority.

Sec. 6-205. Disqualification.

Incentives will not be available for any Qualifying Property (i) that ceases to meet the definition of Qualifying Property in section 6-202, or (ii) for which real estate taxes are delinquent, or (iii) for which a County Code violation exists under chapters 6, 10, 19, or 24.

Secs. 6-206—6-224. Reserved.

Article X. Technology Zones

Sec. 6-225. Purpose.

The purpose of this article is to enhance the economy of the county and its commercial and industrial tax base by establishing technology zones and granting incentives to foster the development, maintenance, and expansion of qualified businesses within such zones, as permitted by Code of Virginia, § 58.1-3850, as amended.

Sec. 6-226. Definitions.

For purposes of this article, the following terms have the following meanings:

Director means the executive director of the Economic Development Authority.

Economic Development Authority means the Economic Development Authority of Henrico County, Virginia.

Technology Zone means an area of the county identified in section 6-227.

Qualified Business means a for-profit business that:

(1) Operates any of the following within a Technology Zone: financial technology center, information technology customer center, information technology operation center, shared services center, corporate headquarters, finance or insurance business, professional or creative services business, health and life sciences business, or substantially similar business, as determined by the Director including, but not limited to, research and development or laboratory business; and

(2) Provides for the creation within the Technology Zone of 10 new full-time employees with an average annual salary meeting or exceeding the local prevailing wage for the county, as measured by the Virginia Economic Development Partnership at the time of an application for incentives.

Qualifying Property includes all real property or portions thereof (i) actually used for a Qualified Business, or for which the Qualified Business is actively pursuing redevelopment or rezoning to be used for a Qualified Business, (ii) located entirely within a Technology Zone, and (iii) substantially in conformance with the comprehensive plan's recommendations for the property.

Sec. 6-227. Technology zone established; effective dates of incentives.

The Greater Henrico Technology Zone is established and encompasses all office use properties shown on the official Office Use Map of the county maintained by the director of finance as amended from time to time and in effect at the time of application. The incentives under this article will be available for the Greater Henrico Technology Zone only for complete applications received between November 13, 2024, and November 13, 2034, and incentives may not be authorized or fulfilled for applications received outside of those dates.

Sec. 6-228. Applications.

The Director will publish application forms for incentives under this article. The forms will require all information necessary to determine whether the property is a Qualifying Property and the extent to which a project on the Qualifying Property qualifies for incentives. If the property has more than one owner, then all owners must join in the application. Any contract purchaser of property located in a Technology Zone may apply for incentives for the property with the written consent of all owners of the property.

Sec. 6-229. Incentives in technology zones.

The following incentives are available for applicants qualified under section 6-228:

(1) *Building permit fees*. The fees in subsections (g)(3) – (6), (i)(1), (k), and (l) of section 6-3 of this Code will be waived for permits issued for Qualifying Properties when the value of the new capital investment shown on the permit application is equal to or greater than $1,000,000. If only a portion of the property is Qualifying Property, only the portion of the fee attributable to the Qualifying Property will be waived.

(2) *Planning application fees*. The fees set out on the Planning Application Fee Schedule approved by the board of supervisors will be waived for planning applications submitted for Qualifying Properties when the value of the new capital investment is equal to or greater than $1,000,000. If only a portion of the property is Qualifying Property, only the portion of the fee attributable to the Qualifying Property will be waived.

(3) *Additional incentives from the Economic Development Authority*. The board of supervisors may make donations to the Economic Development Authority to fund additional incentives for Qualifying Properties. The approval of additional incentives will be at the discretion of the Economic Development Authority.

Sec. 6-230. Disqualification.

Incentives will not be authorized or granted for any Qualifying Property (i) that ceases to meet the definition of Qualifying Property, or (ii) for which real estate taxes are delinquent, or (iii) for which there is a violation of chapters 6, 10, 19, or 24 of this Code.

Article XI. Commercial Property Assessed Clean Energy (C-PACE) Financing Program

Sec. 6-250. Purpose.

The purpose of this article is to create "The County of Henrico Commercial Property Assessed Clean Energy (C-PACE) Financing Program" to operate in coordination with the statewide C-PACE program, all in accordance with Code of Virginia, § 15.2-958.3 (the "C-PACE Act"). The local and statewide C-PACE programs, working together, will facilitate Loans made by Capital Providers to Property Owners of Eligible Properties to finance Eligible Improvements thereon. Subject to the limitations set forth in this article, the C-PACE Act, or other applicable law, each C-PACE Loan, inclusive of principal, interest, and any financed fees, costs, or expenses, will be secured by a voluntary special assessment lien on the Property that is the subject of such Loan.

Sec. 6-251. Definitions.

For purposes of this article, the following terms have the following meanings:

(a) *Assessment Payment Schedule* means the schedule of installments of C-PACE Payments to be made in the repayment of the C-PACE Loan, which will be attached as Exhibit B to the C-PACE Program Agreement.

(b) Capital Provider means (i) a private lending institution that has been approved by the Program Administrator in accordance with the Program Guidelines to originate a C-PACE Loan and its successors and assigns; or (ii) the current holder of a C-PACE Loan.

(c) *County* means the County of Henrico, Virginia.

(d) *Clerk's Office* means the Office of the Clerk of the Circuit Court of the County of Henrico, Virginia.

(e) *Commonwealth* means the Commonwealth of Virginia.

(f) *Board of Supervisors* means the Board of Supervisors of the County of Henrico, Virginia.

(g) *C-PACE* means Commercial Property Assessed Clean Energy.

(h) *C-PACE Act* means Virginia's "Commercial Property Assessed Clean Energy (C-PACE) financing programs" law, codified at Code of Virginia, § 15.2-958.3.

(i) *C-PACE Amendment* means an amendment of the C-PACE Lien executed by the Capital Provider, the Property Owner, and the Program Manager, as permitted in the C-PACE Documents, which C-PACE Amendment will be recorded in the Clerk's Office to evidence each amendment to the C-PACE Loan and the C-PACE Lien.

(j) *C-PACE Assignment (CP)* means a written assignment by one Capital Provider to another Capital Provider of the C-PACE Payments and/or C-PACE Lien pursuant to the terms of the assignment document.

(k) *C-PACE Assignment (Locality)* means a written assignment by the County to the Capital Provider to whom the C-PACE Loan is then due, wherein the County relinquishes and assigns its right to enforce the C-PACE Lien to the Capital Provider, substantially in the form attached as Addendum 1 to the C-PACE Lien Certificate.

(l) *C-PACE Documents* means the C-PACE Program Agreement, Financing Agreement, C-PACE Lien Certificate, C-PACE Assignment (CP) (if any), C-PACE Assignment (Locality) (if any), C-PACE Amendment (if any), and any other document, agreement, or instrument executed in connection with a C-PACE Loan.

(m) *C-PACE Lien* or *Lien* means the voluntary special assessment lien levied against the Property as security for the C-PACE Loan.

(n) *C-PACE Lien Certificate* means the voluntary special assessment lien document duly recorded among the Land Records against an Eligible Property to secure a C-PACE Loan.

(o) *C-PACE Loan* or *Loan* means a loan from a Capital Provider to finance a Project, in accordance with the Program Guidelines.

(p) *C-PACE Payment* means the periodic installment payments of the C-PACE Loan by a Property Owner, due and payable to the County or Capital Provider as permitted by the C-PACE Act in such amounts and at such times as described in the Assessment Payment Schedule.

(q) *C-PACE Program* means the program established by the County through this article, in accordance with the C-PACE Act, that in coordination with the Statewide Program facilitates the financing of Eligible Improvements and provides for a C-PACE Lien to be levied and recorded against the Property to secure the C-PACE Loan.

(r) *C-PACE Program Agreement* means the agreement executed among the Property Owner, the County, the Treasurer, and the Capital Provider, and their respective successors and assigns, which includes the terms and conditions for participation in the C-PACE Program and the Property Owner's acknowledgment and consent for the County to impose a voluntary special assessment, record a C-

PACE Lien Certificate against the Property Owner's Eligible Property and, if the County so determines, assign the rights to enforce the C-PACE Lien and C-PACE Lien Certificate to the Capital Provider (and if so assigned, also a consent of the Treasurer to such assignment). The C-PACE Program Agreement will be substantially in the form attached as Appendix A to this article.

(s) *Delinquent Payment* means any C-PACE Payment that was not paid by a Property Owner in accordance with the C-PACE Documents.

(t) *Eligible Improvements* means the initial acquisition and installation of any of the following improvements made to Eligible Properties:

(1) Energy efficiency improvements;
(2) Water efficiency and safe drinking water improvements;
(3) Renewable energy improvements;
(4) Resiliency improvements;
(5) Stormwater management improvements;
(6) Environmental remediation improvements; and
(7) Electric vehicle infrastructure improvements.

Eligible Improvements may be made to both existing Properties and new construction, as further prescribed in this article and the Program Guidelines. Eligible Improvements includes types of authorized improvements added by the General Assembly of Virginia to the C-PACE Act after the date of adoption of this article, without need for a conforming amendment of this article. In addition to the elaboration on the types of Eligible Improvements provided in Sec. 6-252(a) below, a Program Administrator may include in its Program Guidelines or other administrative documentation definitions, interpretations, and examples of these categories of Eligible Improvements.

(u) *Eligible Property* or *Property* means all assessable commercial real estate located within the County, with all buildings located or to be located thereon, whether vacant or occupied, improved or unimproved, and regardless of whether such real estate is currently subject to taxation by the County, excluding (i) a residential dwelling with fewer than five (5) units, and (ii) a residential condominium as defined in Code of Virginia, § 55.1-2100. Common areas of real estate owned by a cooperative or a property owners' association described in Code of Virginia, Title 55.1, Subtitle IV (§ 55.1-1800 et seq.), that have a separate real property tax identification number are Eligible Properties. Eligible Properties are eligible to participate in the C-PACE Program.

(v) *Financing Agreement* means the written agreement, as may be amended, modified, or supplemented from time to time, between a Property Owner and a Capital Provider, regarding matters related to the extension and repayment of a C-PACE Loan to finance Eligible Improvements. The Financing Agreement may contain any lawful terms agreed to by the Capital Provider and the Property Owner.

(w) *Land Records* means the Land Records of the Clerk's Office.

(x) *Lender Consent* means a written subordination agreement executed by each mortgage or deed of trust lienholder with a lien on the Property that is the subject of a C-PACE Loan, which allows the C-PACE Lien to have senior priority over the mortgage or deed of trust liens.

(y) *Loan Amount* means the original principal amount of a C-PACE Loan.

(z) *Locality Agreement* means the Virginia Energy – Locality Commercial Property Assessed Clean Energy Agreement between Virginia Energy and the County, pursuant to which the County elects to participate in the Statewide Program. The Locality Agreement will be substantially in the form attached as Appendix B to this article.

(aa) *Program Administrator* means the private third party retained by Virginia Energy to provide professional services to administer the Statewide Program in accordance with the requirements of the C-PACE Act, this article, the Locality Agreement, and the Program Guidelines.

(bb) *Program Fee(s)* means the fee(s) authorized by the C-PACE Act and charged to participating Property Owners to cover the costs to design and administer the Statewide Program, including, without limitation, compensation of the Program Administrator. While Capital Providers are required to service their C-PACE Loans, if a Capital Provider does not do so and the Program Administrator assumes the servicing responsibility and charges a servicing fee, the servicing fee will also be included among the Program Fees.

(cc) *Program Guidelines* means a comprehensive document setting forth the procedures, eligibility rules, restrictions, Program Fee(s), responsibilities, and other requirements applicable to the governance and administration of the Statewide Program.

(dd) *Program Manager* means the County Manager or such person designated in writing by the County Manager to (i) supervise the County's C-PACE Program and participation in the Statewide Program, (ii) act as liaison with the Program Administrator, and (iii) advise the Program Administrator as to who will sign the C-PACE Documents to which the Locality is a party on the Locality's behalf. If the employee of the County who customarily signs agreements for the Locality is not the person designated as Program Manager, then references in this article and in the C-PACE Documents to the Program Manager signing certain C-PACE Documents on behalf of the Locality will be construed to also authorize such customary signatory for the County to execute such C-PACE Documents.

(ee) *Project* means the construction or installation of Eligible Improvements on Eligible Property.

(ff) *Property Owner* means (i) the Property Owner(s) of Eligible Property who voluntarily obtain(s) a C-PACE Loan from a Capital Provider in accordance with the Program Guidelines, or (ii) a successor in title to the Property Owner.

(gg) *Property Owner Certification* means a notarized certificate from Property Owner, certifying that (i) Property Owner is current on payments on Loans secured by a mortgage or deed of trust lien on the Property and on real estate tax payments, (ii) that the Property Owner is not insolvent or in bankruptcy proceedings, and (iii) that the title of the Property is not in dispute, as evidenced by a title report or title insurance commitment from a title insurance company acceptable to the Program Administrator and Capital Provider.

(hh) *Statewide Program* means the statewide C-PACE financing program sponsored by Virginia Energy, established to provide C-PACE Loans to Property Owners in accordance with the C-PACE Act, this article, the Locality Agreement, the C-PACE Documents, and the Program Guidelines.

(ii) *Treasurer* means the County's director of finance.

(jj) *Useful Life* means the normal operating life of the fixed asset.

(kk) *Code of Virginia* means the Code of Virginia of 1950, as amended.

(ll) *Virginia Energy* means the Virginia Department of Energy.

Sec. 6-252. C-PACE Program; Eligible Improvements.

(a) *C-PACE Program.* The C-PACE Program will be available throughout the County, provided that the Property Owner, the Property, the proposed Eligible Improvements, the Capital Provider, and the principal contractors all qualify for the Statewide Program. The following types of Eligible Improvements may be financed with a C-PACE Loan:

(1) Energy usage efficiency systems (e.g., high efficiency lighting and building systems, heating, ventilation, and air conditioning (HVAC) upgrades, air duct sealing, high efficiency hot water heating systems, building shell or envelope improvements, reflective roof, cool roof, or green roof systems, and/or weather-stripping), or other capital improvements or systems which result in the reduction of consumption of energy over a baseline established in accordance with the Program Guidelines;

(2) Water usage efficiency and safe drinking water improvements (e.g., recovery, purification, recycling, and other forms of water conservation), or other capital improvements or systems which result in the reduction of consumption of water over a baseline established in accordance with the Program Guidelines;

(3) Renewable energy production facilities (e.g., solar photovoltaic, fiber optic solar, solar thermal, wind, wave and/or tidal energy, biomass, combined heat and power, geothermal and fuel cells), whether attached to a building or sited on the ground, and the storage and/or distribution of the energy produced thereby, whether for use on-site or sale or export to a utility or pursuant to a power purchase agreement with a non-utility purchaser;

(4) Resiliency improvements which increase the capacity of a structure or infrastructure to withstand or recover from natural disasters, the effects of climate change, and attacks and accidents, including, but not limited to:

a. Flood mitigation or the mitigation of the impacts of flooding;
b. Inundation adaptation;
c. Natural or nature-based features and living shorelines, as defined in Code of Virginia, § 28.2-104.1;
d. Enhancement of fire or wind resistance, including but not limited to reinforcement and insulation of a building envelope to reduce the impacts of excessive heat or wind;
e. Microgrids;
f. Energy storage; and
g. Enhancement of the resilience capacity of a natural system, structure, or infrastructure;

(5) Stormwater management improvements that reduce on-site stormwater runoff into a stormwater system, such as reduction in the quantity of impervious surfaces or providing for the on-site filtering of stormwater;

(6) Environmental remediation improvements, including but not limited to:

a. Improvements that promote indoor air and water quality;
b. Asbestos remediation;
c. Lead paint removal; and
d. Mold remediation;

(7) Soil or groundwater remediation;

(8) Electric vehicle infrastructure improvements, such as charging stations;

(9) Construction, renovation, or retrofitting of a Property directly related to the accomplishment of any purpose listed in subsections (1) – (8) above, whether such Eligible Improvement was erected or installed in or on a building or on the ground; it being the express intention of the County to allow Eligible Improvements that constitute, or are a part of, the construction of a new structure or building to be financed with a C-PACE Loan; and

(10) Any other category of improvement (i) approved by the Program Administrator with the consent of the Program Manager as qualifying for financing under the Statewide Program, in accordance with the C-PACE Act (including amendments thereto which authorize additional types of Eligible Improvements), or (ii) added by the General Assembly of Virginia to the C-PACE Act after the date of adoption of this article, without need for a conforming amendment of this article. In addition, a Program Administrator may include in its Program Guidelines or other administrative documentation definitions, interpretations, and examples of these categories of Eligible Improvements.

(b) *Use of C-PACE Loan proceeds.* The proceeds of a C-PACE Loan may be used to pay for the construction, development, and consulting costs directly related to Eligible Improvements, including without limitation, the cost of labor, materials, machinery, equipment, plans, specifications, due diligence studies, consulting services (e.g., engineering, energy, financial, and legal), program fees, C-PACE Loan fees, capitalized interest, interest reserves, and C-PACE transaction underwriting and closing costs.

(c) *Program applications; prioritization.* The Program Administrator will make available the Statewide Program's program application process, to provide for the review and approval of proposed Eligible Improvements and C-PACE Documents. Program applications will be processed by the Statewide Program in accordance with the eligibility requirements and procedures set forth in the Program Guidelines.

Sec. 6-253. C-PACE Loan requirements; Program Fees; reporting; Program Administrator; Program Guidelines.

(a) *Source of Loans.* C-PACE Loans will be originated by Capital Providers. The County and/or its respective governmental entities will have no obligation to originate or guarantee any C-PACE Loans.

(b) *C-PACE Loan Amount thresholds.* The minimum Loan Amount that may be financed for each Project is $50,000. There is no maximum aggregate amount that may be financed with respect to an Eligible Property, except as stipulated in the Program Guidelines. There is no limit on the total value of all C-PACE Loans issued under the C-PACE Program.

(c) *C-PACE Loan refinancing or reimbursement.* The Program Administrator may approve a Loan application submitted within two (2) years of the County's issuance of a certificate of occupancy or other evidence that the Eligible Improvements comply substantially with the plans and specifications previously approved by the County and that such Loan may refinance or reimburse the Property Owner for the total costs of such Eligible Improvements.

(d) *C-PACE Loan interest.* The interest rate of a C-PACE Loan will be as set forth in the C-PACE Documents.

(e) *C-PACE Loan term.* The term of a C-PACE Loan may not exceed the weighted average Useful Life of the Eligible Improvements, as determined by the Program Administrator.

(f) *Apportionment of costs.* All of the costs incidental to the financing, administration, collection, and/or enforcement of the C-PACE Loan will be borne by the Property Owner.

(g) *Financing Agreements.* Capital Providers may use their own Financing Agreements for C-PACE Loans, but the Financing Agreement may not conflict with the provisions of this article, the C-PACE Act, or the C-PACE Program Agreement. To the extent of any conflict, this article, the C-PACE Act, and the C-PACE Program Agreement will prevail.

(h) *C-PACE Program Agreement.* In order to participate in the C-PACE Program, Property Owner, and Capital Provider must enter into a C-PACE Program Agreement, which sets forth certain terms and conditions for participation in the C-PACE Program. The Program Manager is authorized to approve the C-PACE Loan and execute the C-PACE Program Agreement on behalf of the County without further action by the Board of Supervisors. The Treasurer is also authorized to execute the C-PACE Program Agreement without further action by the Board of Supervisors. The C-PACE Program Agreement will be binding upon the parties thereto and their respective successors and assigns until the C-PACE Loan is paid in full. The Program Administrator may modify the C-PACE Program Agreement as necessary to further the Statewide Program's purpose and to encourage Program participation, so long as such modifications do not conflict with the Program Guidelines, this article, the Locality Agreement, or the C-PACE Act.

(i) *Repayment of C-PACE Loan; collection of C-PACE Payments.* C-PACE Loans will be repaid by the Property Owner through C-PACE Payments made in the amounts and at such times as set forth in the Assessment Payment Schedule, the C-PACE Documents, and Program Guidelines. The Capital Provider is responsible, subject to and in accordance with the terms of the C-PACE Program Agreement and other C-PACE Documents, for the servicing of the C-PACE Loans and the collection of C-PACE Payments. If a Capital Provider fails to service a C-PACE Loan, such C-PACE Loan will be serviced by the Program Administrator. Nothing herein prevents the Capital Provider or the Program Administrator from directly billing and collecting the C-PACE Payments from the Property Owner to the extent permitted by the C-PACE Act or other applicable law. The enforcement of C-PACE Loans and their C-PACE Documents during an event of default thereunder is governed by Sec. 6-254(e).

(j) *C-PACE Loan assumed.* A party which acquires a Property which is subject to a C-PACE Lien, whether it obtained ownership of the Property voluntarily or involuntarily, becomes the Property Owner under the C-PACE Documents and, by virtue of the C-PACE Lien running with the land, assumes the obligation to repay all remaining unpaid C-PACE Payments which are due and which accrue during such successor Property Owner's period of ownership. Only the current C-PACE Payment and any

Delinquent Payments, together with any penalties, fees, and costs of collection, will be payable at the settlement of a Property upon sale or transfer, unless otherwise agreed to by the Capital Provider.

(k) *Transfer of C-PACE Loans.* C-PACE Loans may be transferred, assigned, or sold by a Capital Provider to another Capital Provider at any time until the C-PACE Loan is paid in full provided that the Capital Provider must (i) notify the Property Owner and the Program Administrator of the transfer prior to the billing date of the next C-PACE Payment due (and within thirty (30) days if the C-PACE Loan is serviced by the Program Administrator), (ii) record a C-PACE Assignment (CP) among the Land Records, and (iii) deliver a copy of the recorded C-PACE Assignment (CP) to the Property Owner, the County, and the Program Administrator. Recordation of the C-PACE Assignment (CP) constitutes an assumption by the new Capital Provider of the rights and obligations of the original Capital Provider contained in the C-PACE Documents.

(l) *Program Fees.* The Statewide Program is self-financed through the Program Fees charged to participating Property Owners, together with any funds budgeted by the General Assembly of Virginia to support the Statewide Program. The Program Fees are established to cover the actual and reasonable costs to design and administer the Statewide Program, including the compensation of a third-party Program Administrator. The amount(s) of the Program Fees will be set forth in the Program Guidelines. Program Fees may be changed by the Program Manager from time to time and only apply to C-PACE Loans executed after the date the revised fees are adopted.

(m) *Locality Agreement*. The County opts into the Statewide Program by entering into the Locality Agreement, adopting the Statewide Program as the County's own C-PACE Program. In accordance with the C-PACE Act, opting into the C-PACE Program does not require the County to conduct a competitive procurement process. The Program Manager is authorized to execute the Locality Agreement on behalf of the County without further action by the Board of Supervisors.

(n) *Program Guidelines.* The Program Administrator, under the direction of and in consultation with Virginia Energy, has designed the Program Guidelines to create an open, competitive, and efficient C-PACE Program. The Program Administrator may modify the Program Guidelines from time to time, provided such amendments are (i) consistent with the C-PACE Act, and (ii) approved by Virginia Energy before taking effect.

(o) *Indemnification*. The Program Administrator will indemnify, defend, and hold the County harmless against any claim brought against the County or any liability imposed on the County as a result of any action or omission to act by the Program Administrator.

Sec. 6-254. Levy of assessment; recordation; priority; amendment; enforcement and collection costs.

(a) *Levy of voluntary special assessment lien.* Each C-PACE Loan made under the C-PACE Program will be secured by a voluntary special assessment lien (i.e., a C-PACE Lien) levied by the County against each Property benefitting from the Eligible Improvements financed by such C-PACE Loan. The C-PACE Lien will be in the Loan Amount, but will secure not only the principal of the C-PACE Loan, but also all interest, delinquent interest, late fees, penalties, Program Fees, and collection costs (including attorneys' fees and costs) payable in connection therewith.

(b) *Recordation of C-PACE Lien Certificate.* Each C-PACE Lien will be evidenced by a C-PACE Lien Certificate in the Loan Amount, but will also expressly state that it also secures all interest, delinquent interest, late fees, other types of fees, penalties. and collection costs (including attorneys'

fees and costs) payable in connection therewith, and a copy of the Assessment Payment Schedule will be attached thereto as an exhibit. The Program Manager is authorized to, and will promptly, execute the C-PACE Lien Certificate on behalf of the County and deliver it to the Capital Provider, without any further action by the Board of Supervisors. Upon the full execution of the C-PACE Documents and funding of the C-PACE Loan, the Capital Provider will cause the recordation of the C-PACE Lien Certificate in the Land Records.

(c) *Priority.* The C-PACE Lien will have the same priority as a real property tax lien against real property, except that it will have priority over any previously recorded mortgage or deed of trust lien on the Property only if prior to the recording of the C-PACE Lien, (i) Property Owner has obtained a written Lender Consent, in a form and substance acceptable to the holder of such prior mortgage or deed of trust in its sole and exclusive discretion, executed by such lienholder and recorded with the C-PACE Lien Certificate in the Land Records, and (ii) prior to the recording of the C-PACE Lien Certificate, Property Owner has delivered an executed Property Owner Certification to the County in connection with the C-PACE Loan closing. Only the current C-PACE Payment and any Delinquent Payments will constitute a first lien on the Property. The C-PACE Lien will run with the land and that portion of the C-PACE Lien under the C-PACE Program Agreement that has not yet become due will not be eliminated by foreclosure of a real property tax lien.

(d) *Amendment of lien.* Upon written request by a Capital Provider in accordance with the Program Guidelines, the Program Manager, without any further action by the Board of Supervisors, will join with the Capital Provider and the Property Owner in executing a C-PACE Amendment of the C-PACE Loan and the C-PACE Lien after the closing of a C-PACE Loan. The C-PACE Amendment will be recorded in the Land Records.

(e) *Enforcement and collection costs.* In the event of Property Owner's default under the terms of the C-PACE Documents, the County, acting by and through the Treasurer, may enforce the C-PACE Lien for the amount of the Delinquent Payments, late fees, penalties, interest, and any costs of collection in the same manner that a property tax lien against real property may be enforced under Code of Virginia, Title 58.1, Chapter 39, Article 4. If the County elects not to enforce the C-PACE Lien, which election must be made within thirty (30) days of receipt by the County from the Capital Provider of notice of the Property Owner's default under the terms of the C-PACE Documents, then the County, acting by and through the Treasurer, will, within fifteen (15) days of the County's determination not to enforce the C-PACE Lien, assign the right to enforce the C-PACE Lien in accordance with the terms of the C-PACE Documents to the Capital Provider by executing a C-PACE Assignment (Locality) and delivering such instrument to the Capital Provider for recordation in the Land Records. The preceding sentence notwithstanding, a C-PACE Assignment (Locality) may be executed and recorded at any time during the term of the C-PACE Loan, including at the C-PACE Loan's closing, regardless of whether the C-PACE Loan is then in default. Upon such assignment and recordation, the Capital Provider is authorized to, and will, enforce the C-PACE Lien according to the terms of the C-PACE Documents, in the same manner that a property tax lien against real property may be enforced under Code of Virginia, Title 58.1, Chapter 39, including the institution of suit in the name of the County and its Treasurer, and this right to enforce expressly includes authorization for the Capital Provider to engage legal counsel to advise the Capital Provider and conduct all aspects of such enforcement. Such legal counsel, being authorized to institute suit in the name of the County and its Treasurer, will have the status of "Special Counsel to the County and its Treasurer" and an "attorney employed by the governing body," and possess all the rights and powers of an attorney employed under Code of Virginia, §§ 58.1-3966 and 58.1-3969, with the express authority to exercise for the benefit of the Capital Provider every power granted to a local government and/or its Treasurer and its or their attorneys for the enforcement of a property tax lien under, or in connection with, any

provision contained in Code of Virginia, Title 58.1, Chapter 39, Article 4. The County, on its behalf and on behalf of the Treasurer, waives its right to require such legal counsel to post the optional bond described in Code of Virginia, § 58.1-3966. All collection and enforcement costs and expenses (including legal fees and costs), interest, late fees, other types of fees, and penalties charged by the County or Capital Provider, as applicable and consistent with the C-PACE Act and the Code of Virginia, will (i) be added to the Delinquent Payments being collected, (ii) become part of the aggregate amount sued for and collected, (iii) be added to the C-PACE Loan, and (iv) be secured by the C-PACE Lien. Nothing herein will prevent the Capital Provider to which the C-PACE Lien has been assigned from enforcing the C-PACE Lien to the fullest extent permitted by the C-PACE Documents, the C-PACE Act, or general law. The Property Owner of a Property being sold to pay Delinquent Payments, or other interested party, may redeem the Property at any time prior to the Property's sale, in accordance with Code of Virginia, §§ 58.1-3974 and 58.1-3975.

Sec. 6-255. Role of the County; limitation of liability.

Property Owners and Capital Providers participate in the C-PACE Program and the Statewide Program at their own risk. By executing the C-PACE Documents, including the C-PACE Program Agreement, or by otherwise participating in the C-PACE Program and the Statewide Program, the Property Owner, Capital Provider, contractor, or other party or participant acknowledge and agree, for the benefit of the County and as a condition of participation in the C-PACE Program and the Statewide Program, that: (i) the County undertakes no obligations under the C-PACE Program and the Statewide Program except as expressly stated herein or in the C-PACE Program Agreement; (ii) in the event of a default by a Property Owner, the County has no obligation to use County funds to make C-PACE Payments to any Capital Provider including, without limitation, any fees, expenses, and other charges and penalties, pursuant to a Financing Agreement between the Property Owner and Capital Provider; (iii) no C-PACE Loan, C-PACE Payment, C-PACE Lien, or other obligation arising from any C-PACE Document, the C-PACE Act, or this article are backed by the credit of the County, the Commonwealth, or its political subdivisions, including, without limitation, County taxes or other County funds; (iv) no C-PACE Loan, C-PACE Payment, C-PACE Lien or other obligation arising from any C-PACE Document, the C-PACE Act, or this article constitute an indebtedness of the County within the meaning of any constitutional or statutory debt limitation or restriction; (v) the County has not made any representations or warranties, financial or otherwise, concerning a Property Owner, Eligible Property, Project, Capital Provider, or C-PACE Loan; (vi) the County makes no representation or warranty as to, and assumes no responsibility with respect to, the accuracy or completeness of any C-PACE Document, or any assignment or amendment thereof; (vii) the County assumes no responsibility or liability in regard to any Project, or the planning, construction, or operation thereof; (viii) each Property Owner or Capital Provider must, upon request, provide the County with any information associated with a Project or a C-PACE Loan that is reasonably necessary to confirm that the Project or C-PACE Loan satisfies the requirements of the Program Guidelines; and (ix) each Property Owner, Capital Provider, or other participant under the C-PACE Program, must comply with all applicable requirements of the Program Guidelines.

Sec. 6-256. Severability.

The provisions of this article are severable. If a court of competent jurisdiction determines that a word, phrase, clause, sentence, paragraph, subsection, section, or other provision is invalid, or that the application of any part of the article or provision to any person or circumstance is invalid, it is the intent of the Board of Supervisors that the remaining provisions of this article will not be affected by that decision and continue in full force and effect.

Secs. 6-257—6-274. Reserved.

ARTICLE XII. FEE WAIVERS FOR AFFORDABLE HOUSING DEVELOPMENTS

Sec. 6-275. Purpose.

The purpose of this article is to incentivize the provision of affordable housing by § 501(c)(3) organizations and other private-sector entities by waiving certain building permit and other local fees for affordable housing developments meeting the criteria set forth in this article, pursuant to Code of Virginia, § 15.2-958.4.

Sec. 6-276. Definitions.

For purposes of this article, the following terms have the meanings given to them below:

Affordable Home means a single-family detached or attached dwelling in the county subject to conditions designed to ensure the dwelling serves the Target Population, is affordable for the Target Population, and is affordable for purchasers within the Target Population after the initial purchaser. A residential rental unit occupied by, or intended to be occupied by, one or more tenants pursuant to a lease or other rental agreement is not an Affordable Home.

Affordable Housing Development means the new construction of residential housing in the county that:

(1) Consists of single-family detached or attached dwellings;

(2) Serves the Target Population;

(3) Reduces housing costs to levels affordable for the Target Population;

(4) Demonstrates commitment to ensure the affordability of Affordable Homes within the development beyond the initial purchasers of such Affordable Homes; and

(5) Is approved to receive Affordable Housing Trust funds or has been approved by the County Manager under criteria substantially similar to those used to determine eligibility for Affordable Housing Trust funds.

Residential rental units occupied by, or intended to be occupied by, one or more tenants pursuant to a lease or other rental agreement is not an Affordable Housing Development.

Affordable Housing Trust means the program, effective July 1, 2024, with funds appropriated by the board of supervisors for the purposes of expanding access to affordable housing in the county and administered by a third party on behalf of the county under the oversight of the Department.

Community Land Trust means the model of creating affordable housing by separating the ownership of the land underlying the dwelling unit from the dwelling unit itself.

Department means the department of community revitalization.

Developer means a § 501(c)(3) organization or other private-sector entity, including an organization operating under the Community Land Trust model.

Director means the director of the department of community revitalization.

Target Population means households with an income higher than 60% of the Area Median Income ("AMI") for the Richmond Metropolitan Statistical Area ("Richmond MSA"), as determined by the U.S. Department of Housing and Urban Development ("HUD"), and lower than 120% of the AMI.

Sec. 6-277. Eligibility for Application.

Any Developer of an Affordable Housing Development may apply for a waiver of the fees identified in section 6-279 to the extent the same are applicable to the Affordable Housing Development. Renovations or repairs made to an Affordable Home after the initial sale of the Affordable Home are not eligible for such waivers.

Sec. 6-278. Applications.

The Director will publish application forms for waivers under this article. The forms will require all information necessary to determine whether the development is an Affordable Housing Development. If the property to be developed has more than one owner, all owners must join in the application. A contract purchaser may apply with the written consent of all owners of the property to be developed.

Sec. 6-279. Waivers.

The following waivers are available for Affordable Housing Developments approved pursuant to section 6-280:

(1) *Building permit fees*. The fees in subsections (g)(3) — (6), (i)(1), (k), and (l) of section 6-3 of this Code will be waived for permits issued for approved Affordable Housing Developments.

(2) *Planning application fees*. The fees set out on the Planning Application Fee Schedule will be waived for planning applications for approved Affordable Housing Developments.

Sec. 6-280. Determination.

After receiving an application for fee waivers under this article, the Director or designee will determine whether the application is complete and whether the proposed development is an Affordable Housing Development. If the application is approved, the Department will provide the applicant a copy of the approval promptly after the applicant records the deed of restrictive covenants required pursuant to section 6-281. If the application is denied, the applicant will be notified of the reason for denial and required to pay all applicable building permit and planning application fees at the time such fees become due to the county.

Sec. 6-281. Deed of Restrictive Covenants.

Upon receipt of the first development approval for its Affordable Housing Development, the applicant, as the owner of the property to be developed as an Affordable Housing Development, must record in the county land records a deed of restrictive covenants to run with the land effective upon the date of recordation and ending no earlier than 10 years from the date of the first sale of an Affordable Home within the Affordable Housing Development to a purchaser within the Target Population and in a form approved by the county. Such deed must ensure that the Affordable Housing Development will be completed and maintained as proposed in the approved application. If the applicant has not acquired ownership of the property to be developed as an Affordable Housing Development at the time the building permit or planning application fees identified in section 6-279 would be due, the applicant will be required to pay the applicable fees, subject to reimbursement by the county following recordation of the deed of restrictive covenants meeting the requirements of this section.

Sec. 6-282. Disqualification; Recapture.

If the applicant fails to complete the Affordable Housing Development within the time designated in any approval under item five of the definition of “Affordable Housing Development” (unless such failure is because of the applicant’s inability to obtain required development approvals notwithstanding diligent and good faith efforts by the applicant to obtain such approvals, as determined by the Director given the nature of the subject approval) or the development does not result in an Affordable Housing Development or conform to the approved application, the applicant must pay to the county, within 30 days of receiving notice of disqualification under this section, the full amount of all fees previously waived for the development under this article.

Chapter 7 - CABLE COMMUNICATIONS

*__State law reference—__Regulation of open video systems, Code of Virginia, § 15.2-2108.1.

ARTICLE I. IN GENERAL

Sec. 7-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access, PEG access, or *PEG use* refers to the availability of capacity on a cable system for public, education or government use (including institutional network use) by various agencies, institutions, organizations, groups, and individuals, including the county and its designated access providers, to acquire, create, and distribute programming not under a franchisee's editorial control.

Affiliate, in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

Cable operator means any person or group of persons that:

(1) Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system; or
(2) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

Cable service.

(1) The term "cable service" means the one-way transmission to subscribers of:
a. Video programming; or
b. Other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
(2) The term "cable service" does not include any video programming provided by a commercial mobile service provider defined in 47 USC 332(d).

Cable system or *system* means any facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within the county, except that such definition shall not include:

(1) A system that serves fewer than 20 subscribers;
(2) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
(3) A facility that serves only subscribers without using any public right-of-way;
(4) A facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934 (47 USC 201 et seq.), except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;
(5) Any facilities of an electric utility used solely for operating its electric systems;

(6) Any portion of a system that serves fewer than 50 subscribers in any locality, where such portion is part

of a larger system franchised in an adjacent locality; or

(7) An open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended (47 USC 573).

Converter means an interface device which may be furnished to subscribers in order that nonstandard television channels carried on a cable system may be received on a conventional home television receiver or to prevent interference from strong broadcast signals. The device may be used on top of the television set ("set-top"), attached to the back of the television set or installed at a remote location.

County manager means the present or succeeding chief executive officer of the county who is appointed by the board of supervisors, or any person designated by the county manager to act in his behalf for the purpose of fulfilling the responsibilities imposed by this chapter.

Director of finance means the person designated as the director of finance by the county manager, or any person designated by the director of finance to act in his behalf for the purpose of fulfilling the responsibilities imposed by this chapter.

Fair market value means the price that a willing buyer would pay to a willing seller for a going concern based on the system valuation and sale multiples prevailing in the industry at the time at which the board of supervisors elects to exercise its option, but with no value allocated to the franchise itself.

Federal Communications Commission or *FCC* means that federal agency as presently constituted by the Communications Act of 1934 (47 USC 201 et seq.), as amended, or any successor agency.

Franchise means the nonexclusive right, whether an initial authorization or a renewal thereof, to construct and operate a cable system along the public rights-of-way in the county or within specified areas in the county. It is not intended to include any license or permit required for the privilege of transacting and carrying on a business within the county as may be required by other ordinances and laws of the county.

Franchisee means a natural person, partnership, domestic and foreign corporation, association, joint venture or organization of any kind granted a franchise by the board of supervisors under this chapter, and its lawful successor, transferee or assignee.

Gross revenue.

(1) The term "gross revenue" means all revenue, as determined in accordance with generally accepted accounting principles, that is actually received by a cable operator and derived from the operation of the cable system to provide cable service in the franchise area.

(2) The term "gross revenue" shall not include:

a. Refunds or rebates made to subscribers or other third parties;

b. Any revenue which is received from the sale of merchandise over home shopping channels carried on the cable system, but not including revenue received from home shopping channels for the use of the cable service to sell merchandise;

c. Any tax, fee, or charge collected by the cable operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access or education group;

d. Program launch fees;

e. Directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing;

f. A sale of cable service for resale or for use as a component part of or for the integration into cable service to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or

similar fees on the resale of the cable service;

g. Revenues received by any affiliate or any other person in exchange for supplying goods or services used by the cable operator to provide cable service; and

h. Revenue derived from services classified as noncable service under federal law, including, without limitation, revenue derived from telecommunications services and information services, and any other revenues attributed by the cable operator to noncable service in accordance with rules, regulations, standards, or orders of the Federal Communications Commission.

Net profit means the amount remaining after deducting from gross revenue all of the actual direct and indirect expenses associated with operating a cable system, including the franchise fee, interest, depreciation and federal or state income taxes.

Noncable service means all services offered over a cable system other than cable service.

PEG means public, educational, and governmental.

Public rights-of-way means the surface, the airspace above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, or drive, including public utility easements or rights-of-way, and any temporary or permanent fixtures or improvements located thereon, now or hereafter held by the county which shall entitle the county and a franchisee to the use thereof for the purpose of installing and maintaining a franchisee's cable system.

Regular subscriber service means the distribution to subscribers of signals over a cable system on all channels except leased access channels, those services for which a per-program or per-channel charge is made, two-way services and those services intended for reception by equipment other than a television broadcast receiver.

School means any school operated by the school board of the county.

State of the art means production facilities, technical performance, capacity, equipment, components and service equal to those that are generally accepted and used in the cable industry for comparable areas of equivalent population.

Subscriber means the county or any person who is lawfully receiving, for any purpose or reason, any service via a cable system, whether or not a fee is paid for such service.

Transfer.

(1) The term "transfer" means any transaction in which:

a. An ownership or other interest in a cable operator is transferred, directly or indirectly, from one person or group of persons to another person or group of persons, so that majority control of the cable operator is transferred; or

b. The rights and obligations held by the cable operator under the cable franchise granted under this article are transferred or assigned to another person or group of persons.

(2) Notwithstanding subsection (1) of this definition, a transfer of the cable franchise shall not include:

a. Transfer of an ownership or other interest in the cable operator to the parent of the cable operator or to another affiliate of the cable operator;

b. Transfer of an interest in the cable franchise granted under this article or the rights held by the cable operator under the cable franchise granted under this article to the parent of the cable operator or to another affiliate of the cable operator;

c. Any action that is the result of a merger of the parent of the cable operator;

d. Any action that is the result of a merger of another affiliate of the cable operator; or

e. A transfer in trust, by mortgage, or by assignment of any rights, title, or interest of the cable operator in the cable franchise or the system used to provide cable in order to secure indebtedness.

(Code 1995, § 7-1; Ord. No. 1086, §§ 1—3, 5-9-2006)

Cross reference— Definitions and rules of construction, § 1-2.

State law reference— Cable television definitions, Code of Virginia, § 15.2-2108.2.

Sec. 7-2. Franchise required to operate cable system.

A nonexclusive franchise to construct, operate and maintain a cable system within all or any portion of the county is required of anyone desiring to provide cable service in the county. A franchise may be granted by the board of supervisors to any person, whether operating under an existing franchise or not, who offers to furnish and provide such cable system under and pursuant to the terms and provisions of this chapter and a franchise agreement acceptable to the board of supervisors.

(Code 1995, § 7-2; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-3. Limits on franchisee's recourse.

(a) Except as expressly provided in this chapter and a franchise, a franchisee shall have no financial recourse against the county for any loss, expense or damage resulting from the terms and conditions of this chapter or the franchise agreement or because of the county's enforcement thereof or for the county's failure to have the authority to grant the franchise. A franchisee shall agree that upon its acceptance of a franchise it does so relying upon its own investigation and understanding of the power and authority of the county to grant the franchise.

(b) A franchisee, by accepting a franchise, shall acknowledge that it has not been induced to accept the franchise by any promise, oral or written, by or on behalf of the county or by any third person regarding any term or condition of this chapter or the franchise agreement not expressed therein. A franchisee further shall pledge that no promise or inducement, oral or written, has been made to any county employee or official regarding receipt of a cable franchise.

(c) A franchisee shall further acknowledge by acceptance of a franchise that it has carefully read the terms and conditions of this chapter and the franchise agreement and accepts without reservation the obligations imposed by the terms and conditions in this chapter, regardless of whether these obligations are contained in the franchise documents. Such acceptance shall not prevent the franchisee from raising a later challenge to such an obligation based on a change in the law occurring after the effective date of the franchise agreement.

(d) A franchisee shall not apply for any waivers, exceptions or rulings from the Federal Communications Commission or any other federal or state regulatory agency affecting the county or the system in the county without promptly informing the county manager and providing, or making available online, copies of all documentation.

(Code 1995, § 7-3; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-4. Right of county to grant license or easement to traverse franchise area.

The county reserves the right to issue a license, easement or other permit to anyone other than a franchisee to permit that person to traverse any portion of a franchisee's franchise area within the county in order to provide service outside the county. Such license or easement, absent a grant of a franchise in

accordance with this chapter, shall not authorize or permit such person to provide cable service of any nature to any home or place of business within the county or to render any service or connect any subscriber within the county to a franchisee's cable system.

(Code 1995, § 7-4; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-5. Acceptance of terms and conditions by franchisee.

A franchisee agrees by the acceptance of a franchise to accept the validity of the terms and conditions of this chapter and the franchise agreement in their entirety and that it will not, at any time, proceed against the county in any claim or proceeding challenging any term or provision of this chapter or the franchise agreement as unreasonable, arbitrary or void, or claiming that the county did not have the authority to impose such term or condition, based on the law in effect as of the effective date of the franchise agreement.

(Code 1995, § 7-5; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-6. Failure of county to enforce compliance not to excuse noncompliance.

A franchisee shall not be excused from complying with any of the terms and conditions of this chapter or a franchise by any failure of the county, upon any one or more occasions, to insist upon the franchisee's performance or to seek the franchisee's compliance with any one or more of such terms or conditions.

(Code 1995, § 7-6; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-7. Rights reserved to county.

(a) The county hereby expressly reserves the right to:

(1) Exercise its governmental powers, now or hereafter, to the full extent that such powers may be vested in or granted to the county.

(2) Adopt, in addition to the provisions contained in this chapter and in a franchise and in any existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power. Such power shall include the absolute right of the county to maintain control over its streets and public rights-of-way, and to adopt such reasonable regulations relating to streets and public rights-of-way as the county or its departments shall hereafter provide.

(b) The powers of the county may be exercised through amendment of this chapter as well as through enactment of separate ordinances and regulations.

(Code 1995, § 7-7; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-8. Franchisee's employment practices.

A franchisee shall not refuse to hire any person, nor discharge any person from employment, nor discriminate against any person regarding compensation, terms, conditions or privileges of employment, because of age, sex, race, color, creed or national origin. A franchisee shall take affirmative action to ensure that employees are treated, during employment, without regard to their age, sex, race, color, creed or national origin. This condition includes but is not limited to recruitment advertising, employment interviews, employment, rates of pay, upgrading, transfer, demotion, layoff and termination.

(Code 1995, § 7-8; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-9. Time deemed essence of agreement.

Whenever this chapter or a franchise sets forth any time for any act to be performed by or on the behalf of a franchisee, such time shall be deemed of the essence, and the franchisee's failure to perform within the time allotted, in all cases, shall be sufficient grounds for the county to invoke the remedies available under the terms and conditions of this chapter and the franchise agreement.

(Code 1995, § 7-9; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-10. Unlawful acts.

(a) It shall be unlawful for any cable operator to provide cable service in the county unless a franchise therefor has first been obtained pursuant to the provisions of this chapter and unless such franchise is in full force and effect.

(b) It shall be unlawful for any person to construct, install or maintain within any public rights-of-way in the county, or within any other public property of the county, or within any privately owned area within the county which has not yet become a public right-of-way but is designated or delineated as a proposed public right-of-way on any tentative subdivision map approved by the county, any equipment or facilities for a cable system, unless a franchise authorizing such use of such street or property or area has first been obtained pursuant to the provisions of this chapter and unless such franchise is in full force and effect.

(c) It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised cable system within the county for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound without payment to the owner of the cable system.

(d) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

(e) It shall be unlawful for any person, without the consent of the subscriber, to permit the transmission of any signal, aural, visual or digital, including polling the channel selection from any subscriber's premises, or to permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from the subscriber's premises of two-way services utilizing aural, visual or digital signals. This subsection is not intended to prohibit the use of transmission of signals useful only for the control or measurement of system performance by a franchisee.

(f) Any person violating any subsection of this section shall be punished as provided in section 1-13.

(Code 1995, § 7-10; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-11—7-30. Reserved.

ARTICLE II. APPLICATIONS AND REQUIRED SERVICES

Sec. 7-31. Authority to grant franchises; criteria for granting.

(a) The board of supervisors is authorized, after a full hearing affording due process, to grant nonexclusive franchises conveying the right to construct and operate a cable system within the public rights-of-way of the county.

(b) No provision in this chapter shall be deemed or construed to require the board of supervisors to grant a franchise following receipt of any franchise application.

(Code 1995, § 7-31; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-32. Application form and contents; application fee.

The application for an initial cable franchise shall be submitted to the board of supervisors, or its

designee. Applications shall be accompanied by a nonrefundable application fee of $5,000.00 to the order of the "County of Henrico," which amount shall be used by the county to offset direct expenses incurred in the franchising and evaluation procedures, including, but not limited to, staff time and consulting assistance.

(Code 1995, § 7-32; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-33. Required facilities.

A franchise application or proposal for renewal shall include a description of the applicant's or franchisee's cable system capabilities, a description of services and facilities proposed for local origination programming, and services and facilities offered or to be offered to various community institutions.

(Code 1995, § 7-33; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-34—7-50. Reserved.

ARTICLE III. FRANCHISE CONDITIONS

Sec. 7-51. Term.

The term of a franchise shall be not more than 15 years from the date the franchise is accepted by the franchisee by written agreement with the county except that the franchise term can be extended for a reasonable period of time to allow the county and the franchisee to complete applicable renewal procedures.

(Code 1995, § 7-51; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-52. Notice of meetings involving action on franchise.

The board of supervisors shall not hold any meeting involving the review, renewal, revocation or termination of a franchisee's franchise unless the county manager has provided notice to the franchisee in writing, at least 30 days prior to such meeting, unless otherwise provided, as to its time, place and purpose; provided, however, that the franchisee may waive the notice required by this section.

(Code 1995, § 7-52; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-53. Reserved.

Sec. 7-54. Renewal of franchise.

(a) The renewal of any cable franchise shall be conducted in a manner consistent with applicable federal and state law.

(b) If the county decides not to renew the franchise, it shall have the right, on the expiration date of the franchise, either to purchase the assets of the franchisee's cable system at its then fair market value or, consistent with the provisions of section 7-78, select a new franchisee, after a full public proceeding, and cause such new franchisee to take the assets at fair market value. The provisions of this subsection, however, shall apply only to the extent that a franchisee's use of the public rights-of-way is authorized by its cable franchise. To the extent that a franchisee can show that the maintenance and operation in the public rights-of-way of any portions of its cable system or associated plant not used for cable service are not authorized by its cable franchise, and that it has full legal authority independent of its cable franchise to use the county's public rights-of-way to maintain and operate such portions of its cable system or associated plant, such portions shall not be affected by the provisions of this paragraph, but shall instead be governed by any terms and conditions that may apply to such independent authority.

(Code 1995, § 7-54; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-55. Revocation procedures.

(a) Whenever a franchisee shall fail to construct, operate or maintain its cable system in accordance with the terms of this chapter and its franchise, or to comply with the conditions of occupancy of any public rights-of-way, or to make required extensions of service, or willfully or knowingly makes false statements on or in connection with its franchise application or proposal for renewal, or in any other way violates the terms and conditions of this chapter, its franchise, or any rule or regulation adopted thereunder, or substantially violates any provision of the Virginia Consumer Protection Act of 1977, as amended, then, as may otherwise be permitted by law, the franchise may be revoked.

(b) To apply the procedures of this section, the county manager shall notify a franchisee, in writing, setting forth the nature and extent of such noncompliance. If, within 30 days following such written notification by the county manager, the franchisee has not furnished proof that corrective action has been taken or is being actively and expeditiously pursued, or evidence that the alleged violations did not occur, or that the alleged violations were beyond the franchisee's control, the county manager may thereupon refer the matter to the board of supervisors.

(c) The board of supervisors may revoke a franchise pursuant to subsection (a) of this section by ordinance.

(d) The board of supervisors shall not adopt an ordinance pursuant to subsection (c) of this section until it has given written notice to the franchisee that the board of supervisors proposes to adopt such an ordinance and the grounds therefor. The board of supervisors shall not adopt such an ordinance until the franchisee has had a reasonable opportunity to be heard before the board of supervisors and show that the proposed grounds for revocation did not or do not exist, as the case may be.

(e) The franchisee shall not be subject to the sanctions of this section for any action or omission beyond the franchisee's control. An act or omission shall not be deemed to be beyond a franchisee's control if committed, omitted or caused by an affiliate of the franchisee, whether directly or indirectly. The inability of the franchisee to obtain financing, for whatever reason, shall not be an act or omission which is beyond the franchisee's control.

(f) If a franchise has been revoked by the board of supervisors, the board of supervisors may acquire the assets of the franchisee's cable system at an equitable price or permit a successor franchisee to do so, subject to the provisions of section 7-73(b). Before the board of supervisors exercises either of these options, the board of supervisors shall give the franchisee written notice of its intent to do so. A franchisee agrees by acceptance of a franchise to enter into good-faith negotiations within seven days of receipt of such notice with the county for the purpose of consummating the transaction at the earliest possible moment.

(g) The termination of a franchisee's rights under a franchise shall in no way affect any other rights the county may have under the franchise or under any provision of law.

(Code 1995, § 7-55; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-56. Effect of arbitrary and capricious discontinuation of service by franchisee.

If a franchisee arbitrarily or capriciously discontinues service to all of its subscribers, the franchisee shall forfeit its rights of notice and a hearing as provided for in this chapter, and the board of supervisors shall declare the franchisee's franchise immediately terminated and the county may forthwith seek appropriate judicial injunctive relief and shall proceed to exercise its rights and powers as provided for in this chapter.

(Code 1995, § 7-56; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-57. Determination of fair market price by court.

If the county elects to purchase a franchisee's cable system and its fair market value or equitable price cannot be agreed upon, the final price shall be determined by a court of competent jurisdiction.

(Code 1995, § 7-57; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-58. Transfer of ownership to county.

Upon payment of the purchase price, a franchisee shall immediately transfer to the county possession and title to all facilities and property, real and personal, related to its cable system, free from any and all liens and encumbrances that the county does not agree to assume in lieu of some portion of the purchase price.

(Code 1995, § 7-58; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-59. Right of county to assign purchase rights.

The county shall have the right and power to assign its purchase rights to a successor franchisee selected by the county in a manner not inconsistent with the provisions of this chapter.

(Code 1995, § 7-59; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-60. Operation of system pending transfer of assets to county or new franchisee.

Until such time as a franchisee transfers to the county or a new franchisee possession and title to all assets, real and personal, related to its cable system, the franchisee shall continue to operate the cable system under the terms and conditions of this chapter and its franchise and continue to provide the regular subscriber service and any and all of the services that may be provided at that time. During such interim period, the franchisee shall not sell any of the system assets, nor shall the franchisee make any physical, material, administrative or operational change that would tend to degrade the quality of service to the subscribers, decrease gross revenue or cable service other than through promotions, discounts or bundles ordinarily offered in the due course of business, or materially increase expenses without the express permission, in writing, of the county or its assignee. The county shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

(Code 1995, § 7-60; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-61. Reserved.

Sec. 7-62. Franchise fees.

(a) A franchisee shall pay to the county director of finance, in consideration of the granting of a franchise to use the public rights-of-way for the operation of a cable system, five percent of its gross revenue during the period of its operation under the franchise.

(b) A franchisee shall file with the county, within 30 days after the expiration of each of the franchisee's fiscal quarters, a financial statement clearly showing by category of revenue the gross revenue received by the franchisee during the preceding quarter. The franchise fee for each fiscal quarter shall be payable to the county at the time such statement is filed. The franchisee also shall file within 120 days following the conclusion of the franchisee's fiscal year an annual report certified as to its accuracy by a certified public accountant acceptable to the county clearly showing the franchisee's total gross revenue and stating that the franchise fees paid were correctly calculated.

(c) The county shall have the right, consistent with the provisions of section 7-113(b), to inspect a franchisee's income records, and the right of audit and the recomputation of any amounts determined to be payable under this chapter; provided that such audit shall take place within three years following the payment of

those amounts. Any additional amount due the county as a result of the audit shall be paid within 30 days following written notice to the franchisee by the county, which notice shall include a copy of the audit report. The cost of such audit shall be borne by the franchisee if it is properly determined that the franchisee's annual payment to the county for the preceding year is increased thereby by more than five percent.

(d) If any franchise payment or recomputed amount is not made on or before the applicable dates specified in this section the franchisee shall pay three-tenths of one percent of the unpaid amount for each day the violation continues, in addition to any monetary payment due.

(e) If the franchise is terminated, the franchisee shall file with the county, within 30 days after such termination, a financial statement clearly showing the gross revenue received by the franchisee since the end of the previous fiscal quarter. The franchisee shall pay the franchise fee due at the time such statement is filed.

(f) If cable service subject to a franchise fee is provided to subscribers in conjunction with other services: the fee shall be applied only to the value of this cable service, as reflected on the books and records of the cable operator in accordance with rules, regulations, standards, or orders of the Federal Communications Commission or the state corporation commission, or generally accepted accounting principles. Any discounts resulting from purchasing the services as a bundle shall be reasonably allocated between the respective services that constitute the bundled transaction.

(g) If a franchisee proposes to change its methodology for calculating or paying the franchise fee, itemizing the fee, or passing any amounts through to subscribers (where applicable), the franchisee shall first provide written notice to the county manager explaining the nature of the change, the reason for the change, and the effect of the change on the franchise fee amounts paid to the county.

(Code 1995, § 7-62; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-63. Insurance; indemnification of county.

(a) Upon the granting of a franchise and at all times during the term of the franchise, including the time for removal of facilities as provided for in this article, a franchisee shall obtain, maintain, pay all premiums for and file with the county's risk manager written evidence in the form of a certificate of insurance, of the following insurance coverage:

Commercial general liability insurance and, if necessary, commercial umbrella insurance with a limit of not less than $5,000,000.00 per occurrence covering liability for injury to or death of persons and property damage occasioned by the operations of a franchisee under a franchise granted under this chapter or alleged to have been so caused or occurred. Insurance shall cover liability arising from premises, operation, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract. The county, its officers, boards, commissions, agents and employees shall be added as additional insureds under this insurance. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the county. There shall be no endorsement or modifications of the commercial general liability insurance to make it excess over other available insurance; alternatively, if the commercial general liability insurance states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.

(b) The insurance policies called for in this section shall be in a form satisfactory to the county attorney and shall require 30 days' written notice of any reduction in coverage or cancellation to both the county and the franchisee. A franchisee shall, in the event of any such reduction or cancellation notice, obtain replacement coverage and pay all premiums for and file with the county's risk manager written evidence of any such replacement coverage, in the form of a certificate of insurance, within 30 days following receipt by the county or the franchisee of any notice of reduction or cancellation.

(c) A franchisee shall waive all rights against the county, its officers, boards, commissions, agents and employees for recovery of damages to the extent these damages are covered by the commercial general

liability or commercial umbrella liability insurance maintained pursuant to subsection (a) of this section.

(d) A franchisee shall, at its sole cost and expense, defend, indemnify and hold harmless the county, its officials, boards, commissions, agents and employees against any and all claims, suits, causes of action, proceedings and judgments for damage arising out of the construction, maintenance, or operation of its cable system; copyright infringements or a failure by the franchisee to secure consents from the owners or authorized distributors of programs to be delivered by the cable system; the conduct of the franchisee's business in the county; or in any way arising out of the franchisee's enjoyment or exercise of the franchise. These damages shall include but not be limited to penalties arising out of copyright infringements and damages arising out of any failure by the franchisee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the franchisee's cable system, whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise. Indemnified expenses shall include but not be limited to all out-of-pocket expenses, such as attorneys' fees, and shall also include the reasonable value of any services rendered by the county attorney or his assistants or any employees of the county.

(e) The indemnity provided for in subsection (d) of this section is conditioned upon the county's giving a franchisee prompt notice of the commencement or making of any suit or action covered by the terms of this section. Nothing in this section shall be deemed to prevent the county from cooperating with a franchisee and participating in the defense of any litigation by its own counsel at its sole cost and expense. No recovery by the county of any sum by reason of the letter of credit required in section 7-82 shall be any limitation upon the liability of a franchisee to the county under the terms of this chapter, except that any sums so received by the county shall be deducted from any recovery which the county shall establish against the franchisee under the terms of this chapter.

(Code 1995, § 7-63; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-64. Letter of credit.

(a) Within 30 days after the award or renewal of a franchise, a franchisee shall deposit with the county an irrevocable letter of credit in a form satisfactory to the county attorney in the amount specified in its franchise agreement issued by a federally insured commercial lending institution acceptable to the county. The letter of credit shall be used:

(1) To ensure the franchisee's compliance with the terms and conditions of this chapter and its franchise; and

(2) To ensure the franchisee's payment of any liabilities arising out of the construction, operation or maintenance of the cable system, including the cost of removal or abandonment of any property of the franchisee.

(b) The letter of credit shall contain the following endorsement:

"At least 60 days' prior written notice shall be given to the county by the financial institution of any intention to cancel, replace, fail to renew, or materially alter this letter of credit. Such notice shall be given by certified or registered mail to the county attorney."

(c) The letter of credit may be drawn upon by the county by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the county manager certifying that a franchisee has failed to comply with this chapter, its franchise or any other order, permit or direction of the county relating to this chapter or the franchise agreement, stating the specific reasons therefor and stating the basis for the amount being drawn. Examples of a basis for drawing upon the letter of credit include but are not limited to the following:

(1) Failure of a franchisee to pay to the county any fees and taxes after ten days' written notice of delinquency.

(2) Failure of a franchisee to pay to the county, after ten days' written notice, any amounts due and owing to the county by reason of the indemnity provisions of section 7-81.

(3) Failure of a franchisee to pay to the county any liquidated damages due and owing to the county pursuant to section 7-83.

(d) A franchisee shall agree to structure the letter of credit in such a manner so that, if the county draws upon the letter of credit, the franchisee shall restore the letter of credit to the total amount specified no later than 30 days after notification to the franchisee of the withdrawal from the letter of credit.

(e) The rights reserved to the county with respect to the letter of credit are in addition to all other rights of the county, whether reserved by this chapter or a franchise agreement, or otherwise authorized by law, and no action, proceeding or right with respect to the letter of credit shall affect any other right the county has or may have.

(Code 1995, § 7-64; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-65. Remedies and procedures.

(a) Notwithstanding any other remedy provided for in this chapter or the franchise agreement or otherwise available under law, the county shall have the power to recover monetary amounts from a franchisee under certain conditions, such monetary amounts being in the nature of liquidated damages, provided the county first complies with the notice requirements of subsection (c) of this section.

(b) By acceptance of a franchise, a franchisee understands and agrees that failure to comply with any time and performance requirements as stipulated in this chapter and the franchise agreement will result in damage to the county, and that it is and will be impracticable to determine the actual amount of such damage in the event of delay or nonperformance. The franchisee further agrees to enter into a franchise agreement which shall include provisions for liquidated damages to be paid by the franchisee in amounts set forth in that agreement and chargeable to the letter of credit.

(c) If the county manager, determines that a franchisee has failed to perform any obligation under the franchise or applicable law or has failed to perform in a timely manner, the county may make a written demand on the franchisee that it remedy the violation. If the violation is not remedied or in the process of being remedied to the satisfaction of the county within a reasonable time period specified in the written demand, the county may:

(1) Assess against the franchisee liquidated damages as provided in the franchise agreement;

(2) Request revocation of the franchise as provided herein; or

(3) Pursue any legal or equitable remedy available under the franchise or any applicable law.

(d) To assess liquidated damages, the county shall inform the franchisee that liquidated damages will be assessed from the date of the notice unless the assessment notice is appealed for hearing before the board of supervisors and the board of supervisors rules that the violation has been corrected or that an extension of time or other relief should be granted. A franchisee desiring a hearing before the board of supervisors shall send a written notice of appeal by registered or certified mail to the county manager within ten days of the date of the notice of assessment of liquidated damages. The board shall hear the franchisee's appeal within 30 days of the date of the notice of assessment of liquidated damages. After the hearing, if the board of supervisors sustains in whole or in part the county manager's assessment of liquidated damages, the county manager may at any time thereafter draw upon the letter of credit required by section 7-82. Unless the board of supervisors indicates to the contrary, the liquidated damages shall be assessed beginning on the date of the notice of assessment and continuing thereafter until such time as the violation ceases, as determined by the county manager in his sole discretion.

(Code 1995, § 7-65; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-66. Transfer of franchise.

(a) A franchise granted under this chapter shall be a privilege to be held in personal trust by a franchisee. It

shall not be transferred, in whole or in part, as that term is defined in section 7-1, by voluntary sale, merger, consolidation or otherwise or by forced or involuntary sale without prior consent of the board of supervisors expressed by ordinance, and then only on such conditions as may therein be prescribed. The county is hereby empowered to take legal or equitable action to set aside, annul, revoke or cancel the franchise or the transfer of the franchise, if such transfer is not made according to the procedures set forth in this chapter.

(b) The board of supervisors shall not withhold, delay or condition its consent to a transfer unreasonably; provided that the proposed assignee agrees to comply with all provisions of this chapter, the franchise agreement and the transfer ordinance, and is able to provide proof that it is legally, technically and financially qualified to operate the cable system and satisfy all franchise obligations.

(c) At least 120 calendar days prior to the contemplated effective date of a transfer, a franchisee shall submit to the county a written application for approval of a transfer. Such an application shall provide complete information on the proposed transaction, including details on the legal, financial, technical, and other qualifications of the transferee. At a minimum, the following information must be included in the application, unless these requirements are waived, reduced, or modified in writing by the county:

(1) All information and forms required under federal law;

(2) Any shareholder reports or filings with the Securities and Exchange Commission that pertain to the transfer;

(3) Other information necessary to provide a complete and accurate understanding of the financial position of the franchisee's cable system before and after the proposed transfer;

(4) Complete information regarding any potential impact of the proposed transaction on subscriber rates and service;

(5) Any contracts that relate to the proposed transaction and, upon request by the county, all documents and information that are related or referred to therein and which are necessary to understand the proposed transaction. Should the franchisee believe that the requested information is confidential, then it must provide the following documentation to the county:

a. Specific identification of the information;

b. A statement attesting the reasons the franchisee believes the information is confidential; and

c. A statement that the documents are available at the franchisee's offices for inspection by the county.

(d) The consent of the board of supervisors to any transfer shall not constitute a waiver or release of any of the rights of the county under this chapter or any franchise.

(Code 1995, § 7-66; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-67—7-90. Reserved.

ARTICLE IV. SUBSCRIBER FEES; RECORDS AND REPORTS

Sec. 7-91. Subscriber fees.

(a) *Rights of county.* By accepting a franchise granted pursuant to the terms and conditions imposed by this chapter a franchisee agrees that the board of supervisors shall have the authority and right to regulate the franchisee's subscriber rates to the maximum extent consistent with federal and state law.

(b) *Notification of fees.* A franchisee shall be required to explain adequately to each potential subscriber all applicable fees and charges for the cable service that the potential subscriber orders. Such oral notification shall be in addition to a schedule of fees and charges which the franchisee shall set forth in a written subscriber contract.

(c) *Discrimination prohibited; special agreements.* A franchisee shall not, with regard to fees, discriminate or grant any preference or advantage to any person, except as provided in federal law, 47 USC 543. Fees may be negotiated between the franchisee and the owners, or a committee acting on their behalf, for regular

subscriber service provided to ten or more dwelling units within an apartment building, condominium, garden apartment or townhouse complex under common ownership, or to ten or more room units within hotels, motels, hospitals or convalescent or extended care facilities, or to any commercial establishments.

(d) *Special promotions.* A franchisee may, at its own discretion, waive, reduce or suspend connection or monthly service fees for specified periods for promotional purposes.

(Code 1995, § 7-91; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-92. Records to be furnished to county; inspection of records.

(a) The books and records of a franchisee's operation within the county shall be made available, during normal business hours, at the franchisee's place of business in the county, for inspection and audit by the county manager within such time as the county manager may reasonably specify.

(b) Access to records under subsection (a) of this section shall not be denied by the franchisee on the basis that they contain proprietary or confidential information, unless such access would violate 47 USC 551. Any confidential information received by the county shall remain confidential insofar as permitted by state and federal law.

(Code 1995, § 7-92; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-93. Financial reports.

A franchisee shall file annually with the office of the county manager, no later than 120 days after the end of the franchisee's fiscal year, a copy of a financial report applicable to the cable system serving the county, including a detailed income and expense statement applicable to its operation during the preceding 12-month period. Included in this report shall be the following information specific to the county: number of homes passed, number of cable plant miles, number of subscribers for each type of cable service offered and the gross revenue from each revenue source attributable to the operations of the franchisee from within the county. These reports shall be certified as being correct and prepared by a responsible officer of the company and there shall be submitted along with them such other information as the board of supervisors shall reasonably request. All proprietary information submitted pursuant to this section shall be treated as confidential to the extent permitted by law.

(Code 1995, § 7-93; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-94. Customer service reports.

Unless this requirement is waived in whole or in part by the county no later than 45 days after the end of each calendar quarter, a franchisee shall submit a written report to the county, in a form subject to the county's approval, which shall include statistics showing the franchisee's actual performance during that quarter with respect to each of the customer service requirements specified in article VI, with an explanation briefly indicating how each figure was obtained and what events were and were not included in that figure.

(Code 1995, § 7-94; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-95. Reports generally.

(a) The county may, at its discretion, waive in writing the requirement of any particular report specified in this article.

(b) No franchisee shall, in any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading.

(c) No franchisee shall, in any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.
(Code 1995, § 7-95; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-96—7-120. Reserved.

ARTICLE V. SYSTEM OPERATIONS

Sec. 7-121. Initial franchise area; amendments to franchise area.

(a) A franchisee shall furnish to the county as a part of its initial franchise application a map of suitable scale showing all streets and public buildings indicating the initial franchise area to be served. The map also shall list the names of all neighborhoods, developments and communities served.
(b) The initial franchise area shall be subject to approval by the county and may be amended at any time, either by the county on its own motion or upon petition to the franchisee by 50 percent of the residents within the area to which the proposed amendment applies. Amendments shall encompass only areas in which the total number of occupied dwelling units divided by the total number of miles of paved and unpaved public streets and roads (exclusive of limited access highways) within the extended area exceeds 30.
(c) A franchisee and the public shall be afforded a reasonable opportunity to be heard and to submit documented comments or evidence either supporting or opposing the initial franchise area delineated by the franchisee, or amendments thereto, prior to consideration and adoption or rejection by the board of supervisors.
(Code 1995, § 7-121; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-122. Extension of service outside initial franchise area.

(a) A franchisee shall extend its full service outside the initial franchise area to any location within the county boundaries upon written request by five or more applicants living within 1,000 yards of each other.
(b) A franchisee shall be entitled to recover from the applicants requesting such service extensions the actual direct cost of that portion of the combined trunk and feeder line extension which exceeds an average of 150 feet per subscriber, measured along the most practicable route from the nearest technically feasible point on the franchisee's system, not including the length of service drops.
(c) A franchisee shall make every reasonable effort to cooperate with cable franchise holders in contiguous communities in order to provide cable service in areas within the county but outside the franchisee's initial franchise area.
(d) The county shall make every reasonable effort to cooperate with the franchising authorities in contiguous communities and with a franchisee in order to provide cable service in areas outside the county.
(Code 1995, § 7-122; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-123. Interconnections.

A franchisee may be required to interconnect its cable system with other cable systems or other broadband communications facilities located in the county or in contiguous communities. The franchisee shall cause required interconnections to be made within 180 days of a request made by the county. If cable operators do not agree to an interconnection agreement within 180 days of a request to interconnect, then the county shall have the authority to determine an interconnection point.

(Code 1995, § 7-123; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-124. Compliance with FCC rules.

The cable system to be installed by a franchisee shall comply in all respects with the capacity, capability and technical performance requirements set forth in the FCC's rules for cable television.

(Code 1995, § 7-124; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-125. General operating requirements.

(a) *Compliance with applicable regulations.* A franchisee shall construct, operate and maintain its cable system subject to the supervision of the county and in full compliance with the rules and regulations, including applicable amendments, of the Federal Communications Commission and all other applicable federal, state or county laws and regulations, including the latest editions of the National Electrical Safety Code and the National Electrical Code of the National Fire Protection Association. The cable system and all its parts shall be subject to inspection by the county, provided that electrical tests shall be limited to those set forth in section 7-151.

(b) *Quality of signals.* A franchisee shall exercise its best effort to design, construct, operate and maintain its system at all times so that signals carried are delivered to subscribers without material degradation in quality, within the limitations imposed by the technical state of the art of the system.

(c) *Emergency use of system.* In the case of any emergency or disaster, a franchisee, upon request of the county manager, shall make available its facilities to the county for emergency use during the emergency or disaster period.

(Code 1995, § 7-125; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-126. Tests and performance monitoring.

(a) Not later than 90 days after any new or substantially rebuilt portion of the system is made available for service to subscribers, and at least annually thereafter, technical performance tests shall be conducted by a franchisee to demonstrate full compliance with the technical standards of the Federal Communications Commission and section 7-150(b). Such tests shall be performed by or under the supervision of a qualified registered professional engineer or an engineer with proper training and experience. A copy of the report shall be submitted to the county, describing test results, instrumentation, calibration, test procedures and the qualifications of the engineer responsible for the tests.

(b) System monitor test points shall be established at or near the output of the last amplifier in the longest feeder line, at or near trunk line extremities, at not fewer than eight widely scattered locations. At least once each month, the following data shall be obtained and recorded for each monitor test point, made available for county inspection and retained in a franchisee's files until the relevant portion of the system has been either substantially rebuilt or replaced:

(1) Visual and aural carrier level on each active channel.

(2) Carrier-to-noise ratio on at least four frequencies distributed across the pass band. To avoid interrupting service, these measurements may be approximate and will be used only to detect significant changes.

(3) Visual inspection of picture quality on all active channels to detect degradation in quality attributable to the system.

(c) At any time after commencement of service to subscribers, the county may require additional tests, full or partial repeat tests, different test procedures or tests involving a specific subscriber's terminal. Requests for such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests will be limited to the particular matter in controversy. The county will endeavor to so arrange its requests for such special tests so as to minimize hardship or inconvenience to a franchisee or subscribers.

(d) A franchisee shall continue, through the term of its franchise, to maintain the applicable technical, operational and maintenance standards. Should the county find, by resolution, that the franchisee has failed to maintain these standards, and should it, by resolution, specifically enumerate improvements to be made, the franchisee shall make such improvements. Failure to make such improvements within 90 days of adoption of such resolution will constitute a breach of the franchise agreement and a violation of this chapter, for which the remedies of sections 7-83 and 7-74 are applicable.

(e) The county shall have the right to employ qualified consultants if necessary or desirable to assist in the administration of this or any other section of this chapter, and, by acceptance of a franchise, a franchisee agrees to pay one-half of all reasonably incurred costs associated therewith.

(Code 1995, § 7-126; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-127. Performance evaluation sessions.

(a) The county and a franchisee may, at the county's discretion, hold scheduled performance evaluation sessions every three years from the anniversary date of a franchisee's award of a franchise and as may be required by federal and state law.

(b) Special evaluation sessions may be held at any time during the term of a franchise at the request of the county or a franchisee and upon 90 days' written notice.

(c) All evaluation sessions shall be open to the public and shall be advertised in a newspaper of general circulation at least ten days prior to each session. A franchisee shall notify its subscribers of all evaluation sessions by announcement displayed prominently on its cable system during prime time for five consecutive days preceding each session.

(d) Topics which may be discussed at any scheduled or special evaluation session may include but shall not be limited to service rate structures, franchise fee, liquidated damages, free or discounted services, application of new technologies, system performance, services provided, programming offered, customer complaints, privacy, amendments to this chapter, judicial and FCC rulings, line extension policies, and county or franchisee rules.

(Code 1995, § 7-127; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-128. Service, adjustment and complaint procedures.

(a) Except for circumstances beyond a franchisee's control, such as acts of God, weather, wars, riots and civil disturbances, a franchisee shall establish a maintenance service capable of locating and correcting system malfunctions promptly.

(b) If a subscriber does not obtain a satisfactory response or resolution to a request for service or an adjustment within a reasonable period of time, he may advise the county manager or other designated employee in writing of his dissatisfaction, and the county manager or other designated employee shall investigate the matter and keep records with respect to all such complaints for the remaining life of the franchise or three years, whichever amount of time is of longer duration.

(c) A franchisee shall interrupt system service after 7:00 a.m. and before 1:00 a.m. only with good cause and for the shortest time possible and, except in emergency situations, only after publishing notice of service interruption at least 24 hours in advance of the service interruption. Service may be interrupted between 1:00 a.m. and 7:00 a.m. for routine testing, maintenance and repair without notification any night except Friday, Saturday, Sunday or the night preceding a holiday.

(Code 1995, § 7-128; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-129. Street occupancy.

(a) A franchisee shall utilize existing poles, conduits and other facilities whenever possible and shall not

construct or install any new, different or additional poles, conduits or other facilities, whether on public property or on privately owned property, until the written approval of the county is obtained. Such approval shall not be unreasonably withheld. However, no location of any pole or wire-holding structure of the franchisee shall be a vested interest, and such poles or structures shall be removed or modified by the franchisee at its own expense whenever the board of supervisors determines that the public convenience would be enhanced thereby.

(b) Where the county or a public utility serving the county desires to make use of the poles or other wire-holding structures of a franchisee but agreement therefor with the franchisee cannot be reached, the board of supervisors may require the franchisee to permit such use for such consideration and upon such terms as the board of supervisors shall determine to be just and reasonable if the board of supervisors determines that the use would enhance the public convenience and would not unduly interfere with the franchisee's operation. The board of supervisors shall consider in its determination of just and reasonable terms and consideration any amount charged the franchisee for similar use of facilities.

(c) All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and appearance and reasonable convenience of property owners who adjoin on any street, and at all times shall be kept and maintained in a safe, adequate and substantial condition and in good order and repair. A franchisee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public right-of-way by a franchisee shall be placed in such a manner as not to interfere with the usual travel on such public way.

(d) A franchisee shall remove, replace or modify, at its own expense, the installation of any of its facilities as may be deemed necessary by the county to meet its proper responsibilities.

(e) Wherever all electrical and telephone utility distribution wiring is located underground, either at the time of initial construction or subsequently, at the direction of the county, the television cable shall also be located underground, at a franchisee's own expense. If the distribution facilities of either the electric or the telephone utility are aerial, the cable facilities may be located underground at the request of a property owner, provided that the excess cost of the installation, labor and materials of underground over aerial location shall be paid by the property owner making the request to a franchisee.

(f) A franchisee shall, at its own expense and in a manner approved by the county, restore to county standards and specifications any damage or disturbance caused to the public right-of-way as a result of its operations or construction on its behalf. A franchisee shall guarantee and maintain such restoration for a period of one year against defective materials or workmanship except in instances involving acts of God.

(g) Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the county manager, the director of public safety, the fire chief or the chief of police to remove or damage any of a franchisee's facilities, no charge shall be made by the franchisee against the county for restoration and repair.

(h) At the request of any person holding a valid building moving permit issued by the county and upon at least 48 hours' notice, a franchisee shall temporarily raise, lower or cut its wires as may be necessary to facilitate such move. The direct expense of such temporary changes, including standby time, shall be paid by the permit holder, and a franchisee shall have the authority to require payment in advance.

(i) A franchisee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities, subject to the supervision and direction of the county. Trimming trees on private property shall require the consent of the property owner.

(Code 1995, § 7-129; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-130. Construction schedule and reports.

(a) Upon accepting an initial franchise, a franchisee shall within 60 days file the documents required to obtain all necessary federal, state and local licenses, permits and authorizations required for the conduct of its business and shall submit monthly reports to the county manager on progress in this respect until all such documents are in hand.

(b) Within three months after accepting a franchise, a franchisee shall furnish the county a construction schedule and map setting forth target dates by areas for commencement of service to subscribers. The map shall be updated whenever substantial changes become necessary.

(c) A franchisee shall complete construction of the system in the initial franchise area and offer and deliver cable service, in full accordance with this chapter and any franchise granted under this chapter, to subscribers in not less than 25 percent of the occupied dwelling units within the initial franchise area within one year after receiving all necessary permits, authorizations and licenses, and to 100 percent within four years.

(d) Every three months after the start of construction, a franchisee shall furnish the county a report on progress of construction, until complete. The report shall include a map that clearly defines the areas wherein regular subscriber service is available.

(Code 1995, § 7-130; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-131. Protection of subscriber privacy.

A franchisee shall comply with all applicable federal and state privacy laws, including 47 USC 551 and regulations adopted pursuant thereto.

(Code 1995, § 7-131; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-132—7-140. Reserved.

ARTICLE VI. CUSTOMER SERVICE

Sec. 7-141. Purpose.

(a) This article sets forth minimum customer service standards that a franchisee must satisfy. In addition, the franchisee shall at all times satisfy any additional or stricter requirements established by FCC regulations, or other applicable federal, state, or local law or regulation, as the same may be adopted or amended from time to time.

(b) The provisions of this article shall apply to all services provided by a franchisee over a cable system. For example, the requirement of clear and concise billing shall apply to billing for cable modem service, whether or not such service is considered a cable service under applicable law.

(c) Each franchisee shall maintain an office at a convenient location in the county that shall be open during normal business hours to allow subscribers to request service, pay bills, and conduct other business.

(Code 1995, § 7-141; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-142. Telephone answering.

(a) A listed local telephone number connecting to a live customer service representative (not a recording) shall be made available to subscribers for service calls at any time of the day or night.

(b) A franchisee shall use its best efforts to comply with the following standards. A franchisee shall not be subject to liquidated damages for noncompliance with these standards if, under normal operating conditions, the standards are met at least 90 percent of the time, measured quarterly. For purposes of this calculation and all pertinent reports, a franchisee may not omit data for conditions other then normal operating conditions unless the franchisee has explained to the county the time period and the conditions involved, and the

county has approved that classification.

(1) Telephone answering time shall not exceed 30 seconds, and the time to transfer the call to a customer service representative (including hold time) shall not exceed an additional 30 seconds.

(2) A customer will receive a busy signal less than three percent of the time.

(c) A franchisee shall obtain and maintain sufficient telephone lines and staffing to meet the requirements of this article. A franchisee shall not block incoming calls or otherwise use equipment or procedures that would result in an inaccurate account of all calls made to the franchisee; any such practice shall constitute fraud and shall be an independent violation of the customer service standards.

(d) At least one person in responsible charge of a franchisee's operations in the county shall be available by local telephone during such hours as the business office is closed, and the telephone number of such person shall be supplied in advance to the county manager and to the county police and fire divisions.

(e) Any consolidation of customer service or call center functions shall not in any way interfere with a franchisee's compliance with applicable customer service requirements. A franchisee shall ensure that at all times, 24 hours a day, seven days a week, the call center or centers receiving calls from the county will be able if necessary to refer a subscriber call regarding technical service problems in the county to local personnel responsible for the system in the county, who will contact such subscriber within two hours from the time of the subscriber's call.

(Code 1995, § 7-142; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-143. Installations and service calls.

(a) A franchisee shall respond to service calls and complaints promptly. A franchisee shall use its best efforts to comply with the following standards. A franchisee shall not be subject to liquidated damages for noncompliance with these standards if, under normal operating conditions, the standards are met at least 95 percent of the time, measured quarterly.

(1) A franchisee shall complete all installations located up to 200 feet from the franchisee's existing distribution system within seven business days after the order is placed.

(2) A franchisee shall complete all installations not located within 200 feet from the franchisee's existing distribution system within 30 calendar days after the order is placed.

(3) A franchisee shall commence repairs for service interruptions affecting more than 100 subscribers within two hours after the franchisee becomes aware of the interruption, including Saturdays, Sundays, and legal holidays.

(4) A franchisee shall commence repairs for all other service interruptions within 24 hours after the franchisee becomes aware of the interruption, including Saturdays, Sundays, and legal holidays.

(5) A franchisee shall commence work on all requests for service other than service interruptions by the next business day after it receives the request for service or otherwise becomes aware of the need for service.

(b) All service for which a completion time is not otherwise specified in subsection (a) of this section must be completed within three days from the date of the initial request, unless, for reasons beyond the franchisee's control, the work could not be completed in those time periods even with the exercise of all due diligence, in which case the franchisee shall complete the work in the shortest time possible. The failure of a franchisee to hire sufficient staff or to properly train its staff shall not justify a franchisee's failure to comply with this provision.

(c) Appropriate records shall be made of service calls, showing when and what corrective action was completed. Such records shall be available to the county during normal business hours and retained for not less than three years.

(d) A franchisee shall perform service calls, installations, and disconnects at least from 8:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday. In addition, maintenance service capability

enabling the prompt location and correction of major system malfunctions shall be available seven days a week, 24 hours a day, including Saturdays, Sundays, and holidays.

(e) The appointment window for installations, service calls, and other installation activities shall be either a specific time or, at maximum, a four-hour time block during the time from 8:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday. Where a subscriber is unable to arrange for a service call or installation during that period, a franchisee shall also schedule service and installation calls at reasonable times outside that period.

(f) A franchisee may not cancel an appointment with a subscriber after 6:00 p.m. on the business day preceding the appointment, unless the appointment is for a Monday, in which case the franchisee may not cancel after 5:00 p.m. on Saturday. If a franchisee's representative is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber will be contacted, and the appointment rescheduled, as necessary, at a time which is reasonably convenient for the subscriber.

(g) A franchisee shall afford subscribers a three-day right of rescission for ordering service over the cable system, except that such right of rescission shall end upon initiation of installation, whether physically or electronically, on the subscriber's premises or upon provision of service to the subscriber.

(h) Under normal operating conditions, billing inquiries and requests for service, repair, and maintenance not involving service interruptions must be acknowledged by a trained customer service representative within 24 hours, or prior to the end of the next business day, whichever is earlier. A franchisee shall respond to all other inquiries within five business days of the inquiry.

(i) Except as federal law may specifically require, no charge shall be made to the subscriber for repairs or maintenance of franchisee-owned equipment or facilities, except for the cost of repairs to the franchisee's equipment or facilities where it can be shown that the equipment or facility was damaged by a subscriber.

(j) With regard to mobility-limited subscribers, upon subscriber request, a franchisee shall arrange for pickup and/or replacement of converters or other franchisee equipment at the subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer).

(k) All personnel, agents and representatives of a franchisee, including subcontractors, that have occasion to deal directly with subscribers in the field shall carry photo identification badges, to be displayed upon request, when acting on behalf of the franchisee.

(l) A franchisee shall provide advance notice, in light of the circumstances, prior to entry whenever desiring to enter any private property within the county. Work performed in easements and rights-of-way during system outage periods is exempted.

(Code 1995, § 7-143; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-144. Notice.

(a) When a subscriber is connected or reconnected to a cable system and at least once annually afterwards, and at any time upon request, the franchisee shall provide each subscriber with written information concerning the following. Copies of all such materials provided to subscribers shall also be provided to the county.

(1) A written description of products and services offered, including a schedule of rates and charges, a list of channel positions, and a description of programming services, options, and conditions;

(2) A written description of the franchisee's installation and service maintenance policies, delinquent subscriber disconnect and reconnect procedures, and any other of its policies applicable to its subscribers;

(3) Written instructions that clearly set forth procedures for placing a service call or requesting an adjustment, including the name, address and telephone number of the county manager or another designated county employee that the subscriber can call or write for information regarding terms and

conditions of the franchisee's franchise;

(4) A written description of the franchisee's billing and complaint procedures, including the address and telephone number of the county office responsible for receiving subscriber complaints;

(5) Notice regarding subscribers' privacy rights pursuant to 47 USC 551;

(6) Notice regarding subscribers' rights relating to home wiring.

(b) The franchisee shall provide to all subscribers and to the county at least 30 days' written notice before the implementation of any change in rates, services, channel positions, business hours, or legal holidays. Such notice shall state the precise amount of any rate change and briefly explain in accurate and readily understandable fashion the cause of the rate change (e.g., inflation, changes in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified.

(c) All franchisee promotional materials, announcements, and advertising of residential cable service to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all promotional materials must clearly and accurately disclose price terms and in the case of telephone orders, a franchisee shall take appropriate steps to ensure that price terms are clearly and accurately disclosed to potential customers before the order is accepted.

(Code 1995, § 7-144; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-145. Billing.

(a) Bills shall be clear, concise, and understandable, and shall not be such as to mislead a reasonable subscriber as to any matter reflected on the bill. Bills must be fully itemized with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

(b) If a franchisee chooses to itemize, as a separate line item on bills, franchise fees or other government-imposed fees, such fees must be shown in accordance with any applicable law. Amounts itemized pursuant to 47 USC 542(c) shall not be identified as separate costs over and above the amount the franchisee charges a subscriber for service. In specifying the portion of the bill attributable to franchise fees or other government-imposed fees, the description used in the bill to indicate such elements shall be correct, truthful, and not misleading. No franchisee may designate the franchise fee as a tax in any communication to a subscriber.

(c) Refund checks or credits to subscribers shall be issued promptly, but no later than the later of:

(1) The subscriber's next billing cycle, or 30 days, following resolution of the refund request, whichever is earlier; or

(2) The return of all equipment supplied by the franchisee, if service is terminated.

(d) A franchisee's first billing statement after a new installation or service change shall be prorated as appropriate and shall reflect any security deposit.

(e) Credits.

(1) The account of any subscriber shall be credited a prorated share of the monthly charge for service, upon the subscriber's reasonably prompt request, whenever:

a. The subscriber is without service for a period that exceeds 12 hours during any 24-hour period; or

b. Service is substantially impaired for any reason for a period that exceeds 12 hours during any 24-hour period.

(2) The credits required under subsection (e)(1) of this section shall not apply if:

a. It can be documented that a subscriber seeks a refund for an outage or impairment that the subscriber caused; or

b. A planned outage occurred between the hours of 12:00 midnight and 6:00 a.m.

(3) Credits for service shall be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.

(f) No charge may be made for any service or product that the subscriber has not affirmatively indicated it wishes to receive. Payment of the regular monthly bill does not in and of itself constitute such an affirmative indication.

(Code 1995, § 7-145; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-146. Disconnection.

(a) A franchisee shall promptly disconnect or downgrade any subscriber upon the subscriber's request. No period of notice prior to voluntary termination or downgrade of service may be required of subscribers by any franchisee. So long as the subscriber returns, or permits the franchisee to retrieve, any equipment necessary to receive a service within five business days of the disconnection, no charge may be imposed by any franchisee for any cable service delivered after the date of the disconnect request.

(b) Any security deposit and/or other funds due the subscriber shall be refunded on disconnected accounts after any customer premises equipment provided by the franchisee has been recovered by the franchisee. The refund must be made within 30 days or by the end of the next billing cycle, whichever is earlier, from the date disconnection was requested (or, if later, the date on which any customer premises equipment provided by the franchisee is returned).

(c) A franchisee shall provide at least five days' written notice prior to discontinuance of service due to nonpayment and shall not terminate for nonpayment where the payment relates to service not yet provided. Where a franchisee has improperly discontinued service, it shall provide free reconnection.

(d) A franchisee may immediately disconnect a subscriber if the subscriber is damaging or destroying the franchisee's cable system or equipment. After disconnection, the franchisee shall restore service after the subscriber provides adequate assurance that it has ceased the practices that led to disconnection, and paid all proper fees and charges, including any reconnect fees and amounts owed the franchisee for damage to its cable system or equipment.

(e) A franchisee may also disconnect a subscriber that causes signal leakage in excess of federal limits. Disconnection may be effected after five days' written notice to the subscriber, if the subscriber fails to take steps to correct the problem. Alternatively, a franchisee may disconnect a subscriber without notice where signal leakage is detected originating from the subscriber's premises in excess of federal limits, provided that the franchisee shall immediately notify the subscriber of the problem and, once the problem is corrected, reconnect the subscriber.

(Code 1995, § 7-146; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-147. Blocking of channels.

(a) A franchisee shall make available to any subscribers, upon request, the option of blocking the video or audio portion of any channel or channels of programming entering the subscriber's home. The control option described herein shall be made available to all subscribers requesting it when any cable service is provided, or reasonably soon thereafter.

(b) A franchisee shall keep such records as are necessary to show compliance with these customer service standards and FCC customer service standards.

(Code 1995, § 7-147; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-148—7-150. Reserved.

ARTICLE VII. ACCESS CHANNELS

Sec. 7-151. Required; use.

(a) Each cable system franchised by the county shall provide at least one government access channel dedicated to the county, one education access channel dedicated to all schools (public and private nonprofit) within the county, and one community access channel to be utilized by the public.

(b) Whenever any access channel, other than the basic access channels required in subsection (a) of this section, is utilized less than four hours per day for six days per week for a continuous period of not less than 12 consecutive weeks, the county may permit different or additional interim uses for such channels. A franchisee may be permitted to utilize unused access channel capacity under rules and procedures established by the county.

(Code 1995, § 7-151; Ord. No. 1086, §§ 1—3, 5-9-2006)

Chapter 8 - CLOSING OUT AND SIMILAR SALES

*__Cross reference—__Special license for closing out business, §§ 20-656, 20-696.

*__State law reference—__Counties and cities to issue permits for "going out of business" sales, Code of Virginia, § 18.2-224; permit required, Code of Virginia, § 18.2-223.

Sec. 8-1. Purpose of chapter.

This chapter is adopted to promote and preserve public morals and welfare, economic integrity and fair dealing between sellers and buyers, and to prevent fraud, deceit and dishonesty in business dealings and transactions, by regulating the conduct of certain sales of goods, wares and merchandise.

(Code 1980, § 6-2; Code 1995, § 8-1)

Sec. 8-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sale means an event or a series of events during which goods, wares and merchandise are offered for sale to the public, called an insurance sale, bankruptcy or bankrupt sale, mortgage sale, removal sale, closing-out sale, going out of business sale, quitting business sale, assignee's sale, fire sale, smoke sale or water sale, and sales bearing similar names or names of similar import.

(Code 1980, § 6-1; Code 1995, § 8-2)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 8-3. Permit; filing of inventory.

(a) *Permit required; application.* It shall be unlawful for any person to conduct a sale regulated by this chapter in the county unless the director of public safety shall have issued a permit. Every person proposing to conduct any such sale shall apply in writing to the director for such permit, in form approved by him. In such application, the applicant shall state under oath:

(1) The kind of sale to be conducted and its purpose;

(2) The place at which the sale is to be conducted;

(3) The name of the person who is to conduct the sale;

(4) The source from which the goods, wares and merchandise were obtained;

(5) The date on which the sale is to commence and the date on which it will terminate; and

(6) The total of the prices at which the goods, wares and merchandise will be offered for sale.

(b) *Filing of inventory.* There shall also be filed with the application and as a part thereof a complete and itemized inventory of the kind and quantities of the goods, wares and merchandise to be sold or offered for sale and a statement fully identifying the goods, wares and merchandise and indicating how and in what manner such goods, wares and merchandise can be identified. Only those goods, wares or merchandise specified on the list may be advertised or sold during the sale. Goods, wares and merchandise not included on the inventory list shall not be commingled with or added to the sale items. It shall be unlawful for any person to make any false statement or representation as an inducement to obtain such permit. The director shall not issue the permit when he finds that a false statement or representation has been made with respect thereto; and, if the permit has been issued, he shall revoke it and shall not thereafter issue a permit for the

sale of such goods, wares and merchandise at a sale. It shall be unlawful for any person conducting a sale or intending to conduct a sale to publish or advertise the sale in a newspaper, magazine, book, notice, handbill, poster, circular, pamphlet, letter, billboard, sign, or radio or television broadcast, or in any other manner, before the permit required by this article has been issued.

(c) *Issuance of permit; duration; extensions.* When the application for a permit has been filed, the director of public safety, when he is satisfied that the provisions of this article have been complied with in making such application, shall issue a permit for conducting the sale described in the application and for the purpose stated therein, commencing on the date specified by the applicant and terminating on a day not exceeding 60 days from the date of the issuance of the permit. Any extension of that time shall constitute a new sale and shall require an additional permit and inventory. If the purpose of the sale is not accomplished at the termination thereof, the director shall extend the time a maximum of one additional permit beyond the initial permit, solely for the purpose of liquidating only those goods contained in the initial inventory list and which remain unsold. It shall be unlawful for any person to conduct such sale after the day for the termination of the permit has expired or before an extension of the time for the sale has been granted. Any person who advertises such sale shall conspicuously include in the advertisement the permit number assigned for the sale and the effective dates of the sale as authorized in the permit.

(d) *Permit fee.* There shall be paid to the county, at the time an initial or extended application is filed for the conduct of a sale, a fee of $25.00, to aid in defraying the cost of administering and enforcing the provisions of this chapter. No permit shall be issued by the director until the prescribed fee has been paid to the county, which fee shall not be refunded.

(Code 1980, §§ 6-7, 6-8; Code 1995, § 8-3)

State law reference—Permit, Code of Virginia, § 18.2-224.

Sec. 8-4. Deceptive advertising.

It shall be unlawful for any person proposing to conduct or conducting a sale to induce or to attempt to induce the public to purchase or otherwise acquire title to or an interest in goods, wares and merchandise at a special sale by means of any publication or advertisement in a newspaper, magazine, book, notice, handbill, poster, circular, pamphlet, letter, billboard, sign, or radio or television broadcast, or in any other manner, which advertisement or publication contains any promise, assertion, representation or statement of fact that is untrue, deceptive or misleading, or which uses any other method, device or practice which is fraudulent, deceptive or misleading or which induces the public to enter into any obligation. The term "untrue, deceptive and misleading," as used in this section, shall mean:

(1) In the case of an insurance sale, the goods, wares and merchandise are not or were not in fact the subject of or insured or covered by an insurance contract.

(2) In the case of a bankruptcy sale or bankrupt sale, the goods, wares and merchandise are not or were not in fact the estate or assets or part of the estate or assets of a bankrupt or other insolvent.

(3) In the case of a mortgage sale, the goods, wares and merchandise are not or were not in fact subject to a lien, mortgage or other claim to secure the payment of money or performance of some other act.

(4) In the case of a removal sale, the seller did not in fact and in good faith intend to move his place of business to another location.

(5) In the case of a closing-out sale, the seller did not in fact and in good faith intend to abandon the continued sale of the goods, wares and merchandise or go out of business.

(6) In the case of a going out of business sale or a quitting business sale, the seller did not in fact and in good faith intend to go out of business.

(7) In the case of an assignee's sale, the goods, wares and merchandise are not or were not in fact subject to

an assignment for the benefit of creditors or other persons.

(8) In the case of a fire sale, smoke sale or water sale or any combination thereof, the goods, wares and merchandise have not been subject to damage by fire, smoke or water.

(9) In the case of a sale bearing a similar name or name of similar import, the representations made with respect thereto or to the goods, wares and merchandise are not in fact true.

(Code 1980, § 6-4; Code 1995, § 8-4)

State law reference—Deceptive, untrue, misleading advertising, Code of Virginia, § 18.2-216.

Sec. 8-5. Merchandise to be same as advertised.

It shall be unlawful for any person to sell or offer for sale at or during a sale goods, wares and merchandise unless such goods, wares and merchandise or the circumstances under which they are sold or offered for sale are in fact and in good faith the same as those set forth in any advertisement for such special sale.

(Code 1980, § 6-5; Code 1995, § 8-5)

Sec. 8-6. Separation of merchandise.

It shall be unlawful for any person to add to or commingle with the goods, wares and merchandise offered for sale at or during a sale any other goods, wares or merchandise. The goods, wares and merchandise offered for sale shall, before they are sold or offered for sale, be separated from other goods, wares and merchandise on the premises being offered for sale, and marked with symbols distinguishing them from such other goods, wares and merchandise.

(Code 1980, § 6-6; Code 1995, § 8-6)

State law reference—Similar provisions, Code of Virginia, § 18.2-224.

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*__State law reference—__Elections, Code of Virginia, § 24.2-100 et seq.; election of board of supervisors in county having county manager form of government, Code of Virginia, § 15.2-602.

Sec. 9-1. Magisterial districts.

The county is divided into five magisterial districts, described as follows:

(1) *Brookland Magisterial District.* Beginning at the centerline of Winfrey Road at its intersection with the centerline of Greenwood Road; thence westwardly along the centerline of Greenwood Road to its intersection with the centerline of Woodman Road; thence southwestwardly along the centerline of Woodman Road to its intersection with the centerline of Interstate Route 295; thence northwestwardly along the centerline of Interstate Route 295 to a point approximately 800 feet southeast of the intersection of Old Washington Highway and Interstate Route 295; thence southwardly along the centerline of North Run Creek to its intersection with the centerline of Mountain Road; thence westwardly along the centerline of Mountain Road to its intersection with the centerline of Purcell Road; thence southwardly along the centerline of Purcell Road to its intersection with the centerline of Indale Avenue; thence eastwardly along the centerline of Indale Avenue to its intersection with the centerline of Winston Boulevard; thence southwardly along the centerline of Winston Boulevard to its intersection with the centerline of Blackburn Road; thence eastwardly along the centerline of Blackburn Road to its intersection with the centerline of Woodman Road; thence southwardly along the centerline of Woodman Road to its intersection with the centerline of Hungary Road; thence westwardly along the centerline of Hungary Road to its intersection with the centerline of CSX Railroad; thence southwardly along the centerline of CSX Railroad to its intersection with the centerline of E. Parham Road; thence northeastwardly along the centerline of E. Parham Road to its intersection with the centerline of Woodman Road; thence southeastwardly along the centerline of Woodman Road to its intersection with the centerline of Hermitage Road; thence southwardly along the centerline of Hermitage Road to its intersection with the centerline of Hilliard Road; thence westwardly along the centerline of Hilliard Road to its intersection with the centerline of CSX Railroad; thence southwardly along the centerline of CSX Railroad to its intersection with the centerline of Interstate Route 64; thence southeastwardly along the centerline of Interstate Route 64 to its intersection with the boundary line of the City of Richmond and Henrico County; thence southwardly and westwardly along the boundary line of the City of Richmond and Henrico County to its intersection with the centerline of Three Chopt Road; thence northwardly along the centerline of Three Chopt Road to its intersection with the centerline of Horsepen Road; thence northeasterly along the center line of Horsepen Road to its intersection with the centerline of Monument Avenue; thence southeastwardly along the center line of Monument Avenue to its intersection with the centerline of Orchard Road; thence northeastwardly along the centerline of Orchard Road to its intersection with the centerline of Fitzhugh Avenue; thence westwardly along the centerline of Fitzhugh Avenue to its intersection with the centerline of Betty Lane; thence northwestwardly along the centerline of Betty Lane to its intersection with the centerline of Horsepen Road; thence eastwardly along the centerline of Horsepen Road to its intersection with the centerline of West Broad Street; thence northwestwardly along the centerline of West Broad Street to its intersection with the centerline of Cox Road; thence northwardly along the centerline of Cox Road to its intersection with the western shore of Rooty Lake; thence northwardly along the western shore of Rooty Lake to the intersection with the centerline of Rooty Branch; thence northeastwardly along the centerline of Rooty Branch to its intersection with the centerline of Allen Branch; thence northeastwardly along the centerline of Allen Branch to its intersection with the boundary line of Hanover County and Henrico County; thence northeastwardly along the boundary line of Hanover County and Henrico County to its intersection with the centerline of the Dominion Virginia Power powerline; thence southeastwardly along the centerline of the Dominion Virginia Power powerline to its

intersection with the centerline of Winfrey Road; thence southwardly along the centerline of Winfrey Road to the point of beginning.

(2) *Fairfield Magisterial District.* Beginning at the centerline of Winfrey Road at its intersection with the centerline of Greenwood Road; thence northwardly along the centerline of Winfrey Road to its intersection with the centerline of the Dominion Virginia Power powerline; thence northwestwardly along the centerline of the Dominion Virginia Power powerline to its intersection with the boundary line of Hanover County and Henrico County; thence eastwardly along the boundary line of Hanover County and Henrico County to its intersection with the centerline of Creighton Road; thence southwestwardly along the centerline of CreightonRoad to its intersection with the centerline of Cedar Fork Road; thence southwardly along the centerline of Cedar Fork Road to its intersection with the centerline of E. Cedar Fork Road; thence southwardly along the centerline of E. Cedar Fork Road to its intersection with the centerline of Nine Mile Road; thence northeastwardly along the centerline of Nine Mile Road to its intersection with the centerline of Oakleys Lane; thence southeastwardly along the centerline of Oakleys Lane to its intersection with the centerline of Gillies Creek; thence southwestwardly along the centerline of Gillies Creek to its intersection with the centerline of the Norfolk Southern Railway right-of-way (approximately 1,600 feet east of the intersection of the Norfolk Southern Railway right-of-way and S. Laburnum Avenue); thence southwestwardly along the centerline of the Norfolk Southern Railway right-of-way to its intersection with the centerline of S. Laburnum Avenue; thence northwardly along the centerline of S. Laburnum Avenue to its intersection with the centerline of Creighton Road; thence southwardly along the centerline of Creighton Road to its intersection with the boundary line of the City of Richmond and Henrico County; thence westwardly along the boundary line of the City of Richmond and Henrico County to its intersection with the centerline of Interstate Route 64 (approximately 3,000 feet southeast of the intersection of Interstate Route 64 and CSX Railroad); thence northwestwardly along the centerline of Interstate Route 64 to its intersection with the centerline of the CSX Railroad; thence northwardly along the centerline of the CSX Railroad to its intersection with the centerline of Hilliard Road; thence eastwardly along the centerline of Hilliard Road to its intersection with the centerline of Hermitage Road; thence northwardly along the centerline of Hermitage Road to its intersection with the centerline of Woodman Road; thence northwestwardly along the centerline of Woodman Road to its intersection with the centerline of E. Parham Road; thence southwestwardly along the centerline of E. Parham Road to its intersection with the centerline of the CSX Railroad tracks; thence northwardly along the centerline of the CSX Railroad tracks to its intersection with the centerline of Hungary Road; thence eastwardly along the centerline of Hungary Road to its intersection with the centerline of Woodman Road; thence northwardly along the centerline of Woodman Road to its intersection with the centerline of Blackburn Road; thence westwardly along the centerline of Blackburn Road to its intersection with the centerline of Winston Boulevard; thence northwardly along the centerline of Winston Boulevard to its intersection with the centerline of Indale Avenue; thence westwardly along the centerline of Indale Avenue to its intersection with the centerline of Purcell Road; thence northwardly along the centerline of Purcell Road to its intersection with the centerline of Mountain Road; thence eastwardly along the centerline of Mountain Road to its intersection with the centerline of North Run Creek; thence northwardly along the centerline of North Run Creek to a point approximately 800 feet southeast of the intersection of Old Washington Highway and Interstate Route 295; thence southeastwardly along the centerline of Interstate Route 295 to its intersection with the centerline of Woodman Road; thence northeastwardly along the centerline of Woodman Road to its intersection with the centerline of Greenwood Road; thence eastwardly along the centerline of Greenwood Road to the point of beginning.

(3) *Three Chopt Magisterial District.* Beginning at the centerline of Allen Branch at its intersection with the boundary line of Hanover County and Henrico County; thence southwestwardly along the centerline of Allen Branch to its intersection with the centerline of Rooty Branch; thence southwestwardly along the centerline of Rooty Branch to its intersection with the western shore of Rooty Lake; thence southwardly along the western shore of Rooty Lake to the intersection with the centerline of Cox Road; thence southwestwardly along the centerline of Cox Road to its intersection with the centerline of West Broad Street; thence southeastwardly along the centerline of West Broad Street to its intersection with the centerline of Old Parham Road; thence westwardly along the centerline of Old Parham Road to its intersection with the centerline of N. Parham Road; thence westwardly along the centerline of N. Parham Road to its intersection with the centerline of Skipwith Road; thence southwardly along the centerline of Skipwith Road to its intersection with the centerline of Forest Avenue; thence southwestwardly along the centerline of Forest Avenue to its intersection with the centerline of Three Chopt Road; thence northwestwardly along the centerline of Three Chopt Road to its intersection with the centerline of Pemberton Road; thence northeastwardly along the centerline of Pemberton Road to its intersection with the centerline of Interstate Route 64; thence westwardly along the centerline of Interstate Route 64 to its intersection with the centerline of Deep Run Creek; thence southwardly along the centerline of Deep Run Creek to its intersection with the centerline of Ridgefield Parkway; thence westwardly along the centerline of Ridgefield Parkway to its intersection with the centerline of Stony Run Creek; thence northwardly along the centerline of Stony Run Creek to its intersection with the centerline of Church Road; thence westwardly along the centerline of Church Road to its intersection with the centerline of Wilde Lake Drive; thence southwestwardly along the centerline of Wilde Lake Drive to its intersection with the center line of a graveled lake access drive for the Wilde Lake Association (approximately 360 feet southwestwardly of the intersection of the centerline of Wilde Lake Drive with the centerline of Berkeley Pointe Drive); thence southeastwardly along the centerline of a graveled lake access drive for the Wilde Lake Association to its intersection with the western shore of Wilde Lake; thence southwardly along the western shore of Wilde Lake to the intersection with the centerline of Harding Branch; thence southwestwardly along the centerline of Harding Branch to its intersection with the centerline of Tuckahoe Creek; thence northwardly along the centerline of Tuckahoe Creek to its intersection with the boundary line of Goochland County and Henrico County; thence northwardly along the boundary line of Goochland County and Henrico County to its intersection with the boundary line of Hanover County, Goochland County and Henrico County; thence eastwardly along the boundary line of Hanover County and Henrico County to the point of beginning.

(4) *Tuckahoe Magisterial District.* Beginning at the centerline of Tuckahoe Creek and its intersection with the centerline of Harding Branch; thence northeastwardly along the centerline of Harding Branch to its intersection with the western shore of Wilde Lake; thence northwardly along the western shore of Wilde Lake to the intersection with the centerline of a graveled lake access drive for the Wilde Lake Association (approximately 360 feet southwestwardly of the intersection of the centerline of Wilde Lake Drive with the centerline of Berkeley Pointe Drive); thence northwestwardly along the centerline of a graveled lake access drive for the Wilde Lake Association to its intersection with the centerline of Wilde Lake Drive; thence northeastwardly along the centerline of Wilde Lake Drive to its intersection with the centerline of Church Road; thence eastwardly along the centerline of Church Road to its intersection with the centerline of Stony Run Creek; thence southwardly along the centerline of Stony Run Creek to its intersection with the centerline of Ridgefield Parkway; thence eastwardly along the centerline of Ridgefield Parkway to its intersection with the centerline of Deep Run Creek; thence northwardly along the centerline of Deep Run Creek to its intersection with the centerline of Interstate Route 64; thence eastwardly along the centerline of Interstate Route 64 to its intersection with the centerline of Pemberton Road; thence southwestwardly along the centerline of Pemberton Road to its intersection with the centerline of Three Chopt Road; thence southeastwardly along the centerline of Three Chopt Road to its intersection with the centerline of Forest Avenue; thence northeastwardly along the centerline of Forest Avenue to its intersection with the centerline of Skipwith Road; thence northwardly along

the centerline of Skipwith Road to its intersection with the centerline of N. Parham Road; thence eastwardly along the centerline of N. Parham Road to its intersection with the centerline of Old Parham Road; thence eastwardly along the centerline of Old Parham Road to its intersection with the centerline of West Broad Street; thence southeastwardly along the centerline of West Broad Street to its intersection with the centerline of Horsepen Road; thence westwardly along the centerline of Horsepen Road to its intersection with the centerline of Betty Lane; thence southeastwardly along the centerline of Betty Lane to its intersection with the centerline of Fitzhugh Avenue; thence eastwardly along the centerline of Fitzhugh Avenue to its intersection with the centerline of Orchard Road; thence southwestwardly along the centerline of Orchard Road to its intersection with the centerline of Monument Avenue; thence northwestwardly along the centerline of Monument Avenue to its intersection with the centerline of Horsepen Road; thence southwestwardly along the centerline of Horsepen Road to its intersection with the centerline of Three Chopt Road; thence southwardly along the centerline of Three Chopt Road to its intersection with the boundary line of the City of Richmond and Henrico County; thence southwardly along the boundary line of the City of Richmond and Henrico County to its intersection with the boundary line of the City of Richmond, Chesterfield County and Henrico County; thence westwardly along the boundary line of Chesterfield County and Henrico County to its intersection with the boundary line of Chesterfield County, Powhatan County and Henrico County; thence northwardly along the boundary line of Powhatan County and Henrico County to its intersection with the boundary line of Powhatan County, Goochland County and Henrico County; thence northwardly along the boundary line of Goochland County and Henrico County following the centerline of Tuckahoe Creek to the point of beginning.

(5) *Varina Magisterial District.* Beginning at the boundary line of Hanover County and Henrico County at its intersection with Creighton Road; thence eastwardly along the boundary line of Hanover County and Henrico County to its intersection with the boundary line of New Kent County, Hanover County and Henrico County; thence eastwardly along the boundary line of New Kent County and Henrico County to its intersection with the boundary line of Charles City County, New Kent County and Henrico County; thence southwardly along the boundary line of Charles City County and Henrico County to its intersection with the boundary line of Chesterfield County, Charles City County and Henrico County; thence westwardly along the boundary line of Chesterfield County and Henrico County to its intersection with the boundary line of the City of Richmond, Chesterfield County and Henrico County; thence northwardly along the boundary lineof the City of Richmond and Henrico County to its intersection with the centerline of Creighton Road; thence eastwardly along the centerline of Creighton Road to its intersection with the centerline of N. Laburnum Avenue; thence southwardly along the centerline of N. Laburnum Avenue to its intersection with the centerline of the Norfolk Southern Railway right-of-way; thence eastwardly along the centerline of the Norfolk Southern Railway right-of-way to its intersection with the centerline of its intersection with Gillies Creek (approximately 1,600 feet east of the intersection of the Norfolk Southern Railway right-of-way and S. Laburnum Avenue); thence northeastwardly along the centerline of Gillies Creek to its intersection with the centerline of Oakleys Lane; thence northwestwardly along the centerline of Oakleys Lane to its intersection with the centerline of Nine Mile Road; thence southwestwardly along the centerline of Nine Mile Road to its intersection with the centerline of E. Cedar Fork Road; thence northwardly along the centerline of E. Cedar Fork Road to its intersection with the centerline of Cedar Fork Road; thence northwardly along the centerline of Cedar Fork Road to its intersection with the centerline of Creighton Road; thence northeastwardly along the centerline of Creighton Road to the point of beginning.

(Code 1980, § 8-1; Code 1995, § 9-1; Ord. No. 1011, § 1, 6-12-2001)

State law reference— Magisterial districts, Code of Virginia, § 15.2-602; election districts, Code of Virginia, § 24.2-304.1; boundaries of magisterial and election districts, Code of Virginia, § 15.2-1211.

Sec. 9-2. Precincts and polling places.

The following are the precinct boundaries and polling places for the magisterial districts in the county.

(1) *Brookland Magisterial District.*

a. *Coalpit Precinct.* Beginning at the intersection of Staples Mill Road (U.S. Route 33) and the boundary line between Hanover County and Henrico County; thence southwestwardly along the boundary line between Hanover County and Henrico County to its intersection with Allen Branch; thence southwestwardly along Allen Branch to its intersection with Rooty Branch; thence southwestwardly along Rooty Branch to its intersection with Interstate Route 295; thence northeastwardly along Interstate 295 to its intersection with Jones Road extended approximately 250 feet; thence southwardly along Jones Road extended (approximately 250 feet) to its intersection with Jones Road, thence southwardly along Jones Road to its intersection with Springfield Road; thence southwestwardly along Springfield Road to its intersection with Gaskins Road and Hungary Road; thence eastwardly along Hungary Road to its intersection with Fairlake Lane; thence northeastwardly along Fairlake Lane to its intersection with Nuckols Road; thence eastwardly along Nuckols Road to its intersection with Francistown Road; thence northeastwardly along Francistown Road to its intersection with Springfield Road; thence northeastwardly along Springfield Road to its intersection with Staples Mill Road (U.S. Route 33) and Mountain Road; thence northwestwardly along Staples Mill Road (U.S. Route 33) to its intersection with the boundary line between Hanover County and Henrico County and the point of beginning. The polling place for Coalpit Precinct is Echo Lake Elementary School, 5200 Francistown Road.

b. *Dumbarton Precinct.* Beginning at the intersection of Hungary Spring Road and Hungary Road; thence northwestwardly along Hungary Road to its intersection with the Dominion Virginia Power easement; thence southwestwardly along the Dominion Virginia Power easement to its intersection with Mapleview Avenue; thence southeastwardly along Mapleview Avenue and Mapleview Avenue extended to its intersection with Green Run Court; thence eastwardly along Green Run Court to its intersection with Green Run Drive; thence eastwardly along Green Run Drive to its intersection with Shrader Road; thence southeastwardly along Shrader Road to its intersection with East Parham Road; thence eastwardly along East Parham Road to its intersection with Hungary Spring Road; thence northeastwardly along Hungary Spring Road to its intersection with Hungary Road and the point of beginning. The polling place for Dumbarton Precinct is Dumbarton Elementary School, 9000 Hungary Spring Road.

c. *Glen Allen Precinct.* Beginning at the intersection of the CSX Railroad and the boundary line between Hanover County and Henrico County; thence southwestwardly along the boundary line between Hanover County and Henrico County to its intersection with Staples Mill Road (U.S. Route 33); thence southeastwardly along Staples Mill Road (U.S. Route 33) to its intersection with the Virginia Power easement; thence northeastwardly along the Virginia Power easement to its intersection with Mountain Road; thence southeastwardly along Mountain Road to its intersection with the CSX Railroad; thence northwardly along the CSX Railroad to its intersection with the boundary line between Hanover County and Henrico County and the point of beginning. The polling place for Glen Allen Precinct is Glen Allen Elementary School, 11101 Mill Road.

d. *Greendale Precinct.* Beginning at the intersection of Staples Mill Road (U.S. Route 33) and Glenside Drive; thence westwardly along Glenside Drive to its intersection with Bethlehem Road; thence southeastwardly along Bethlehem Road to its intersection with Interstate Route 64; thence southeastwardly along Interstate Route 64 to its intersection with Staples Mill Road (U.S. Route 33); thence northwardly along Staples Mill Road (U.S. Route 33) to its intersection with Glenside Drive and the point of beginning. The polling place for Greendale Precinct is Recreation and ParksMain Office, 6800 Staples Mill Road.

e. *Hermitage Precinct.* Beginning at the intersection of the CSX Railroad and Hungary Road; thence eastwardly along Hungary Road to its intersection with Woodman Road; thence northwardly along Woodman Road to its

intersection with Blackburn Road; thence westwardly on Blackburn Road to its intersection with Winston Boulevard; thence northwardly on Winston Boulevard to its intersection with Indale Road; thence westwardly along Indale Road to its intersection with Purcell Road; thence northwardly along Purcell Road to its intersection with Mountain Road; thence westwardly along Mountain Road to its intersection with the CSX Railroad; thence southwardly along the CSX Railroad to its intersection with Hungary Creek; thence southwestwardly along Hungary Creek to its intersection with Hungary Road; thence westwardly along Hungary Road to its intersection with Hungary Spring Road; thence southwardly along Hungary Spring Road to its intersection with East Parham Road; thence westwardly along East Parham Road to its intersection with Shrader Road; thence northwestwardly along Shrader Road to its intersection with Green Run Drive; thence westwardly along Green Run Drive to its intersection with Green Run Court; thence southwestwardly along Green Run Court to its intersection with Mapleview Avenue extended; thence northwestwardly along Mapleview Avenue extended and Maplewood Avenue to its intersection with the Dominion Virginia Power easement; thence southwestwardly along the Dominion Virginia Power easement to its intersection with West Broad Street (U.S. Route 250); thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with Wistar Road; thence eastwardly along Wistar Road to its intersection with Staples Mill Road (U.S. Route 33); thence northwestwardly along Staples Mill Road (U.S. Route 33) to its intersection with East Parham Road; thence northeastwardly along East Parham Road to its intersection with the CSX Railroad; thence northwardly along the CSX Railroad to its intersection with Hungary Road and the point of beginning. The polling place for Hermitage Precinct is Hermitage High School, 8301 Hungary Spring Road.

f. *Holladay Precinct*. Beginning at the intersection of Woodman Road and Rocky Branch Creek; thence southwestwardly along Rocky Branch Creek to its intersection with Hermitage Road; thence northwestwardly along Hermitage Road to its intersection with the CSX Railroad; thence southwardly along the CSX Railroad to its intersection with Interstate Route 64; thence westwardly along Interstate Route 64 to its intersection with Staples Mill Road (U.S. Route 33); thence northwardly along Staples Mill Road to its intersection with Hilliard Road (State Route 356); thence northeastwardly along Hilliard Road (State Route 356) to its intersection with Woodman Road; thence northwestwardly along Woodman Road to its intersection with Rocky Branch Creek and the point of beginning. The polling place for Holladay Precinct is Elizabeth Holladay Elementary School, 7300 Galaxie Road.

g. Hungary Creek Precinct. Beginning at the intersection of Staples Mill Road (U.S. Route 33) and Springfield Road; thence southwestwardly along Springfield Road to its intersection with Francistown Road; thence southwestwardly along Francistown Road to its intersection with Hungary Road; thence southeastwardly along Hungary Road to its intersection with Staples Mill Road (U.S. Route 33); thence northwestwardly along Staples Mill Road to its intersection with Springfield Road and the point of beginning. The polling place for Hungary Creek Precinct is Hungary Creek Middle School, 4909 Francistown Road.

h. Hunton Precinct. Beginning at the intersection of the Dominion Virginia Power powerline and the boundary line of Hanover County and Henrico County; thence northwestwardly along the boundary line of Hanover County and Henrico County to its intersection with the CSX Railroad; thence southwardly along the CSX Railroad to its intersection with Mountain Road; thence eastwardly along Mountain Road to its intersection with North Run Creek; thence northwestwardly along North Run Creek to its intersection with Interstate Route 295; thence southeastwardly along Interstate Route 295 to its intersection with Woodman Road; thence northeastwardly along Woodman Road to its intersection with Greenwood Road; thence southeastwardly along Greenwood Road to its intersection with Winfrey Road; thence northwardly along Winfrey Road to its intersection with the Dominion Virginia Power powerline; thence northwestwardly along the Dominion Virginia Power powerline to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Hunton Precinct is Hunton Community Center, 11690 Old Washington Highway.

i. Johnson Precinct. Beginning at the intersection of West Broad Street (U.S. Route 250) and Glenside Drive; thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with the boundary line of the City of Richmond and Henrico County; thence southeastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Interstate Route 64; thence westwardly along Interstate Route 64 to its intersection with Bethlehem Road; thence northwestwardly along Bethlehem Road to its intersection with Glenside Drive; thence southwestwardly along Glenside Drive to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Johnson Precinct is Johnson Elementary School, 5600 Bethlehem Road.

j. Longan Precinct. Beginning at the intersection of Hungary Road and Springfield Road (State Route 157); thence eastwardly along Hungary Road to its intersection with Fairlakes Lane; thence northwardly along Fairlakes Lane to its intersection with Nuckols Road; thence eastwardly along Nuckols Road to its intersection with Francistown Road; thence southwardly along Francistown Road to its intersection with Hungary Road; thence eastwardly along Hungary Road to its intersection with the Virginia Power easement; thence southwardly along the Virginia Power easement to its intersection with West Broad Street (U.S. Route 250); thence northwestwardly along West Broad Street (U.S. Route 250) to its intersection with Springfield Road (State Route 157); thence northwardly along Springfield Road (State Route 157) to its intersection with Hungary Road and the point of beginning. The polling place for Longan Precinct is Longan Elementary School, 9200 Mapleview Avenue.

k. Maude Trevvett Precinct. Beginning at the intersection of Staples Mill Road and Wistar Road; thence westwardly along Wistar Road to its intersection with West Broad Street (U.S. Route 250); thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with Glenside Drive; thence northeastwardly along Glenside Drive to its intersection with Staples Mill Road and Hilliard Road (State Route 356); thence eastwardly along Hilliard Road (State Route 356) to its intersection with the CSX Railroad; thence northwardly along the CSX Railroad to its intersection with Hermitage Road; thence southeastwardly along Hermitage Road to its intersection with Rocky Branch Creek; thence eastwardly along Rocky Branch Creek to its intersection with Woodman Road; thence northwardly along Woodman Road to its intersection with E. Parham Road; thence southwestwardly along E. Parham Road to its intersection with Staples Mill Road; thence southeastwardly along Staples Mill Road to its intersection with Wistar Road and the point of beginning. The polling place for Maude Trevvett Precinct is Maude Trevvett Elementary School, 2300 Trevvett Drive.

l. Monument Hills Precinct. Beginning at the intersection of Libbie Avenue and Monument Avenue; thence northwestwardly along Monument Avenue to its intersection with Horsepen Road; thence southwestwardly along Horsepen Road to its intersection with Three Chopt Road; thence southwardly along Three Chopt Road to its intersection with the boundary line of the City of Richmond and Henrico County; thence southeastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Libbie Avenue; thence northeastwardly along Libbie Avenue to its intersection with Monument Avenue and the point of beginning. The polling place for Monument Hills Precinct is Tuckahoe Presbyterian Church, 7000 Park Avenue.

m. *Springfield Precinct.* Beginning at the intersection of Springfield Road and Jones Road; thence northwardly along Jones Road and Jones Road extended approximately 250 feet to its intersection with Interstate Route 295; thence southwestwardly along Interstate Route 295 to its intersection with Rooty Branch; thence southwestwardly along Rooty Branch to its intersection with the western shore of Rooty Lake; thence southwardly along the western shore of Rooty Lake to the intersection with Cox Road; thence southwestwardly along Cox Road to its intersection with West Broad Street (U.S. Route 250); thence eastwardly along West Broad Street (U.S. Route 250) to its intersection with Springfield Road; thence northeastwardly along Springfield Road

to its intersection with Jones Road and the point of beginning. The polling place for Springfield Precinct is Springfield Elementary School, 4301 Fort McHenry Parkway.

n. Staples Mill Precinct. Beginning at the intersection of the CSX Railroad and Mountain Road; thence northwestwardly along Mountain Road to its intersection with the Dominion Virginia Power easement; thence southwardly along the Dominion Virginia Power easement to its intersection with Staples Mill Road (U.S. Route 33); thence southeastwardly along Staples Mill Road (U.S. Route 33) to its intersection with Hungary Road; thence southeastwardly along Hungary Road to its intersection with Hungary Creek; thence northeastwardlyalong Hungary Creek to its intersection with the CSX Railroad; thence northwardly along the CSX Railroad to its intersection with Mountain Road and the point of beginning. The polling place for Staples Mill Precinct is Glen Allen High School, 10700 Staples Mill Road.

o. Westwood Precinct. Beginning at the intersection of the boundary line of the City of Richmond and Henrico County and West Broad Street; thence northwestwardly along West Broad Street to its intersection with Horsepen Road; thence westwardly along Horsepen Road to its intersection with Betty Lane; thence southwardly along Betty Lane to its intersection with Fitzhugh Avenue; thence eastwardly along Fitzhugh Avenue to its intersection with Orchard Road; thence southwestwardly along Orchard Road to its intersection with Monument Avenue; thence southeastwardly along Monument Avenue to its intersection with Libbie Avenue; thence southwestwardly along Libbie Avenue to its intersection with the boundary line of the City of Richmond and Henrico County; thence eastwardly and northwardly along the boundary line of the City of Richmond and Henrico County to its intersection with West Broad Street and the point of beginning. The polling place for Westwood Precinct is the Libbie Mill Library, 2100 Libbie Lake East Street.

(2) *Fairfield Magisterial District.*

a. *Azalea Precinct.* Beginning at the intersection of Dumbarton Road and Interstate Route 95; thence northwardly along Interstate Route 95 to its intersection with Upham Brook; thence eastwardly along Upham Brook to its intersection with Wilkinson Road; thence southwardly along Wilkinson Road to its intersection with Azalea Avenue; thence eastwardly along Azalea Avenue to its intersection with Carolina Avenue; thence southeastwardly along Carolina Avenue to its intersection with Horse Swamp Creek; thence westwardly along Horse Swamp Creek to its intersection with the boundary line of the City of Richmond and Henrico County; thence northwestwardly along the boundary line of the City of Richmond and Henrico County to Dumbarton Road; thence northwardly along Dumbarton Road to its intersection with Interstate Route 95 and the point of beginning. The polling place for Azalea Precinct is Henrico High School, 302 Azalea Avenue.

b. *Belmont Precinct.* Beginning at the intersection of East Parham Road (State Route 73) and Interstate Route 95; thence westwardly along East Parham Road (State Route 73) to its intersection with the east/west branch of North Run Creek; thence southwardly along North Run Creek to its fork into two branches (approximately 3,880 feet west of the intersection of East Parham Road and Villa Park Drive); thence southeastwardly along North Run Creek to its intersection with Lakeside Avenue (State Route 161); thence eastwardly on Lakeside Avenue (State Route 161) to its intersection with Brook Road (U.S. Route 1); thence southwardly along Brook Road (U.S. Route 1) to its intersection with Hilliard Road (State Route 161); thence westwardly along Hilliard Road (State Route 161) to its intersection with Lakeside Avenue(State Route 161); thence southwardly along Lakeside Avenue (State Route 161) to its intersection with Dumbarton Road; thence westwardly along Dumbarton Road to its intersection with Hermitage Road and Westlake Avenue; thence southwardly along Westlake Avenue to its intersection with the boundary line of the City of Richmond and Henrico County; thence eastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Interstate Route 95; thence northwardly along Interstate Route 95 to its intersection with East Parham Road (State Route 73) and the point of

beginning. The polling place for Belmont Precinct is Belmont Recreation Center, 1600 Hilliard Road.

c. *Brookland Precinct.* Beginning at the intersection of North Run Creek and Hungary Road; thence southwestwardly along Hungary Road to its intersection with Nadina Drive; thence northwardly along Nadina Drive to its intersection with Bandera Drive; thence northeastwardly along Bandera Drive to its intersection with Electra Lane; thence northwestwardly along Electra Lane to its intersection with Aeronca Avenue; thence southwestwardly along Aeronca Avenue to its intersection with Durango Road; thence northwardly along Durango Road to its intersection with Navion Street; thence southwestwardly along Navion Street to its intersection with Woodman Road; thence southeastwardly along Woodman Road to its intersection with Hungary Road; thence westwardly along Hungary Road to its intersection with CSX Railroad; thence southwardly along CSX Railroad to its intersection with E. Parham Road; thence northeastwardly along E. Parham Road to its intersection with Woodman Road; thence southeastwardly along Woodman Road to its intersection with Rocky Branch Creek; thence eastwardly along Rocky Branch Creek to its intersection with the north/south branch of North Run Creek; thence northeastwardly along the north/south branch of North Run Creek to its intersection with the east/west branch of North Run Creek; thence northeastwardly along the east/west branch of North Run Creek to its intersection with E. Parham Road (approximately 1,280 feet northwest of the intersection of E. Parham Road and Villa Park Drive); thence westwardly along E. Parham Road to its intersection with North Run Creek; thence northwardly along North Run Creek to its intersection with Hungary Road and the point of beginning. The polling place for Brookland Precinct is Brookland Middle School, 9200 North Lydell Drive.

d. *Canterbury Precinct.* Beginning at the intersection of Interstate Route 95 and Dumbarton Road; thence southeastwardly along Dumbarton Road to its intersection with the boundary line of the City of Richmond and Henrico County; thence southwestwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Interstate Route 95; thence northeastwardly along Interstate Route 95 to its intersection with Dumbarton Road and the point of beginning. The polling place for Canterbury Precinct is Westminster Canterbury House, 1600 Westbrook Avenue.

e. *Central Gardens Precinct.* Beginning at the intersection of Sandy Lane and Watts Lane; thence southwestwardly along Watts Lane to its intersection with Mechanicsville Turnpike; thence southwestwardly along Mechanicsville Turnpike to its intersection with the boundary line of the City of Richmond and Henrico County; thence eastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Creighton Road; thence northeastwardly along Creighton Road to its intersection with Sandy Lane; thence northwardly along Sandy Lane to its intersection with Watts Lane and the point of beginning. The polling place for Central Gardens Precinct is Central Gardens Math-Science Center, 2401 Hartman Street.

f. *Chamberlayne Precinct.* Beginning at the intersection of Interstate Route 95 and East Parham Road (State Route 73); thence northeastwardly along East Parham Road (State Route 73) to its intersection with Chamberlayne Road (U.S. Route 301); thence southwestwardly along Chamberlayne Road (U.S. Route 301) to its intersection with Upham Brook (approximately 600 feet north of the intersection of the Dominion Virginia Power transmission line and Wilkinson Road); thence westwardly along Upham Brook to its intersection with Interstate Route 95; thence northwardly along Interstate Route 95 to its intersection with East Parham Road (State Route 73) and the point of beginning. The polling place for Chamberlayne Precinct is Chamberlayne Elementary School, 8200 St. Charles Road.

g. *Eastbourne Precinct.* Beginning at the intersection of S. Laburnum Avenue and the Norfolk Southern Railway right-of-way; thence eastwardly along the Norfolk Southern Railway right-of-way to its intersection with Gillies Creek (approximately 1,600 feet east of the intersection of the Norfolk Southern Railway right-of-way and S. Laburnum Avenue); thence northeastwardly along Gillies Creek to its intersection with Oakleys Lane;

thence northwestwardly along Oakleys Lane to its intersection with Nine Mile Road; thence southwestwardly along Nine Mile Road to its intersection with S. Laburnum Avenue; thence southeastwardly along S. Laburnum Avenue to its intersection with the Norfolk Southern Railway right-of-way and the point of beginning. The polling place for Eastbourne Precinct is Fairfield Middle School, 5121 Nine Mile Road.

h. Fairfield Precinct. Beginning at the intersection of Cedar Fork Road and Creighton Road; thence southwestwardly along Creighton Road to its intersection with N. Laburnum Avenue; thence southeastwardly along N. Laburnum Avenue to its intersection with Nine Mile Road; thence northeastwardly along Nine Mile Road to its intersection with East Cedar Fork Road; thence northwardly along East Cedar Fork Road to its intersection with Cedar Fork Road; thence northwardly along Cedar Fork Road to its intersection with Creighton Road and the point of beginning. The polling place for Fairfield Precinct is Fairfield Library, 1401 N. Laburnum Avenue.

i. *Glen Lea Precinct.* Beginning at the intersection of the Chessie System Railway and the boundary line of Hanover County and Henrico County; thence southeastwardly along the boundary line of Hanover County and Henrico County to its intersection with Creighton Road; thence southwestwardly along Creighton Road to its intersection with the Virginia Power easement (approximately 400 feet northeast of the intersection of Carolee Drive and Creighton Road); thence northwestwardly along the Virginia Power easement to its intersection with Mechanicsville Turnpike (U.S. Route 360) (approximately 1,800 feet northeast of the intersection of Mechanicsville Turnpike (U.S. Route 360) and Springdale Road); thence southwestwardly along Mechanicsville Turnpike (U.S. Route 360) to its intersection with East Laburnum Avenue; thence northwestwardly along East Laburnum Avenue to its intersection with Carolina Avenue; thence northwardly along Carolina Avenue to its intersection with Horse Swamp Creek; thence eastwardly along Horse Swamp Creek to its intersection with the Chessie System Railway; thence northwardly along the Chessie System Railway to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Glen Lea Precinct is Glen Lea Elementary School, 3909 Austin Avenue.

j. *Greenwood Precinct.* Beginning at the intersection of Greenwood Road and Mountain Road; thence southeastwardly along Mountain Road to its intersection with North Run Road; thence southwestwardly along North Run Road to its intersection with Hungary Road; thence northwestwardly along Hungary Road to its intersection with North Run Creek; thence northwestwardly along North Run Creek to its intersection with Jessie Chavis Drive extended; thence northeastwardly along Jessie Chavis Drive extended to its intersection with Jessie Chavis Drive; thence northeastwardly along Jessie Chavis Drive to its intersection with Mountain Road; thence southeastwardly along Mountain Road to its intersection with Greenwood Road and the point of beginning. The polling place for Greenwood Precinct is St. Peter Baptist Church, 2040 Mountain Road.

k. *Highland Gardens Precinct.* Beginning at a point on West Laburnum Avenue and the boundary line of the City of Richmond and Henrico County; thence northwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Horse Swamp Creek; thence eastwardly along Horse Swamp Creek to its intersection with Carolina Avenue; thence southwardly along Carolina Avenue to its intersection with East Laburnum Avenue; thence eastwardly along East Laburnum Avenue to its intersection with the Chessie System Railway; thence southwardly along the Chessie System Railway to its intersection with the boundary line of the City of Richmond and Henrico County; thence northwestwardly along the boundary line of the City of Richmond and Henrico County to its intersection with West Laburnum Avenue and the point of beginning. The polling place for Highland Gardens Precinct is Laburnum Elementary School, 500 Meriwether Avenue.

l. *Hungary Precinct.* Beginning at the intersection of North Run Creek and Woodman Road (approximately 1,600 feet south of the intersection of Woodman Road and Mountain Road); thence southwestwardly along Woodman Road to its intersection with Navion Street; thence eastwardly along Navion Street to its intersection with Durango Road; thence southwardly along Durango Road to its intersection with Aeronca Avenue; thence eastwardly along Aeronca Avenue to its intersection with Electra Lane; thence southwardly along Electra Lane to its intersection with Bandera Drive; thence southwestwardly along Bandera Drive to its intersection with Nadina Drive; thence southwardly along Nadina Drive to its intersection with Hungary Road; thence eastwardly along Hungary Road to its intersection with North Run Creek; thence southwardly along North Run Creek to its intersection with East Parham Road; thence eastwardly along East Parham Road to its intersection with Brook Road (U.S. Route 1) and East Parham Road (State Route 73); thence eastwardly along East Parham Road (State Route 73) to its intersection with Interstate Route 95; thence northwardly on Interstate Route 95 to its intersection with Scott Road; thence southwestwardly along Scott Road to its intersection with Athens Avenue; thence westwardly along Athens Avenue to its intersection with Brook Road (U.S. Route 1); thence northwardly along Brook Road (U.S. Route 1) to its intersection with Telegraph Road; thence northeastwardly along Telegraph Road to its intersection with Mountain Road; thence northwestwardly along Mountain Road to its intersection with North Run Road; thence southwestwardly along North Run Road to its intersection with Hungary Road; thence northwestwardly along Hungary Road to its intersection with North Run Creek; thence northwestwardly along North Run Creek to its intersection with Woodman Road (approximately 1,600 feet south of the intersection of Woodman Road and Mountain Road) and the point of beginning. The polling place for Hungary Precinct is Mt. Olive Baptist Church, 8775 Mt. Olive Avenue.

m. *Lakeside Precinct.* Beginning at the intersection of CSX Railroad and Hilliard Road (State Route 356); thence southeastwardly along CSX Railroad to its intersection with the boundary line of the City of Richmond and Henrico County; thence northeastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Westlake Avenue; thence northwardly along Westlake Avenue to its intersection with Dumbarton Road and Hermitage Road; thence northwestwardly along Hermitage Road to its intersection with Hilliard Road (State Route 356); thence westwardly along Hilliard Road (State Route 356) to its intersection with CSX Railroad and the point of beginning. The polling place for Lakeside Precinct is Lakeside Elementary School, 6700 Cedar Croft Street.

n. *Longdale Precinct.* Beginning at the intersection of Interstate Route 95 and Interstate Route 295; thence northwestwardly along Interstate Route 295 to its intersection with Woodman Road; thence southwestwardly along Woodman Road to its intersection with North Run Creek (approximately 1,600 feet south of the intersection of Woodman Road and Mountain Road); thence southeastwardly along North Run Creek to its intersection with Jessie Chavis Drive extended; thence northeastwardly along Jessie Chavis Drive extended to its intersection with Jessie Chavis Drive; thence northeastwardly along Jessie Chavis Drive to its intersection with Mountain Road; thence southeastwardly along Mountain Road to its intersection with Telegraph Road; thence southwestwardly along Telegraph Road to its intersection with Brook Road (U.S. Route 1); thence southwardly along Brook Road (U.S. Route 1) to its intersection with Athens Avenue; thence eastwardly along Athens Avenue to its intersection with Scott Road; thence northeastwardly along Scott Road to its intersection with Interstate Route 95; thence northwardly along Interstate Route 95 to its intersection with Interstate Route 295 and the point of beginning. The polling place for Longdale Precinct is Longdale Elementary School, 9500 Norfolk Street.

o. *Maplewood Precinct.* Beginning at the intersection of Mechanicsville Turnpike (U.S. Route 360) and the Virginia Power easement (approximately 1,800 feet northeast of the intersection of Mechanicsville Turnpike (U.S. Route 360) and Springdale Road); thence southeastwardly along the Virginia Power easement to its intersection with Creighton Road (approximately 400 feet northeast of the intersection of Carolee Drive and

Creighton Road); thence southwestwardly along Creighton Road to its intersection with North Laburnum Avenue; thence northwestwardly along North Laburnum Avenue to its intersection with Harvie Road and East Laburnum Avenue; thence northwestwardly along East Laburnum Avenue to its intersection with Mechanicsville Turnpike (U.S. Route 360); thence northeastwardly along Mechanicsville Turnpike (U.S. Route 360) to its intersection with the Virginia Power easement (approximately 1,800 feet northeast of the intersection of Mechanicsville Turnpike (U.S. Route 360) and Springdale Road) and the point of beginning. The polling place for Maplewood Precinct is Abundant Life Church of Christ, 3700 Goodell Road.

p. *Moody Precinct.* Beginning at the intersection of Hilliard Road (State Route 356) and Hermitage Road; thence northwestwardly along Hermitage Road to its intersection with Woodman Road; thence northwestwardly along Woodman Road to its intersection with Rocky Branch Creek; thence eastwardly along Rocky Branch Creek to its intersection with the north/south branch of North Run Creek; thence southwardly along North Run Creek to its intersection with Lakeside Avenue; thence northeastwardly along Lakeside Avenue to its intersection with Brook Road (U.S. Route 1); thence southwardly along Brook Road (U.S. Route 1) to its intersection with Hilliard Road (State Route 161); thence westwardly along Hilliard Road (State Route 356) to its intersection with Lakeside Avenue; thence southwardly along Lakeside Avenue to its intersection with Dumbarton Road; thence westwardly on Dumbarton Road to its intersection with Hermitage Road; thence northwardly along Hermitage Road to its intersection with Hilliard Road (State Route 356) and the point of beginning. The polling place for Moody Precinct is Moody Middle School, 7800 Woodman Road.

q. *Mountain Precinct.* Beginning at the intersection of Woodman Road and Mountain Road; thence westwardly along Mountain Road to its intersection with Purcell Road; thence southwardly along Purcell Road to its intersection with Indale Road; thence eastwardly along Indale Road to its intersection with Winston Boulevard; thence southwardly along Winston Boulevard to its intersection with Blackburn Road; thence eastwardly along Blackburn Road to its intersection with Woodman Road; thence northwardly along Woodman Road to its intersection with Mountain Road and the point of beginning. The polling place for Mountain Precinct is Public Utilities Operations and Maintenance Center, 10401 Woodman Road.

r. *North Park Precinct.* Beginning at the intersection of the boundary line of Hanover County and Henrico County and Chamberlayne Road (U.S. Route 301); thence southwestwardly along Chamberlayne Road (U.S. Route 301) to its intersection with E. Parham Road; thence southwestwardly along E. Parham Road to its intersection with Interstate Route 95; thence northwardly along Interstate Route 95 to its intersection with the boundary line of Hanover County and Henrico County; thence southwestwardly along the boundary line of Hanover County and Henrico County to its intersection with Chamberlayne Avenue (U.S. Route 301) and the point of beginning. The polling place for North Park Precinct is North Park Library, 8508 Franconia Road.

s. *Randolph Precinct.* Beginning at the intersection of Woodman Road and Interstate Route 295; thence northwestwardly along Interstate Route 295 to its intersection with North Run Creek; thence southeastwardly along North Run Creek to its intersection with Mountain Road; thence eastwardly along Mountain Road to its intersection with Woodman Road; thence northeastwardly along Woodman Road to its intersection with Interstate Route 295 and the point of beginning. The polling place for Randolph Precinct is Longdale Elementary School, 9500 Norfolk Street.

t. *Ratcliffe Precinct.* Beginning at the intersection of Watts Lane and Mechanicsville Turnpike (U.S. Route 360); thence southeastwardly along Watts Lane to its intersection with Sandy Lane; thence southwardly along Sandy Lane to its intersection with Creighton Road; thence northeastwardly along Creighton Road to its intersection with North Laburnum Avenue; thence northwestwardly along North Laburnum Avenue to its intersection with Harvie Road and East Laburnum Avenue; thence northwestwardly along East Laburnum Avenue to its intersection with the Chessie System Railway; thence southwardly along the

Chessie System Railway to its intersection with the boundary line of the City of Richmond and Henrico County; thence southeastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Mechanicsville Turnpike (U.S. Route 360); thence northeastwardly along Mechanicsville Turnpike (U.S. Route 360) to its intersection with Watts Lane and the point of beginning. The polling place for Ratcliffe Precinct is Ratcliffe Elementary School, 2901 Thalen Street.

u. *Wilder Precinct.* Beginning at the intersection of Chamberlayne Road (U.S. Route 301) and the boundary line of Hanover County and Henrico County; thence southeastwardly along the boundary line of Hanover County and Henrico County to its intersection with the Chessie System Railway; thence southwardly along the Chessie System Railway to its intersection with Horse Swamp Creek; thence southwestwardly along Horse Swamp Creek to its intersection with Carolina Avenue; thence northwestwardly along Carolina Avenue to its intersection with Azalea Avenue; thence northwestwardly along Azalea Avenue to its intersection with Wilkinson Road; thence northwardly along Wilkinson Road to its intersection with Upham Brook; thence northwestwardly along Upham Brook to its intersection with Chamberlayne Road (U.S. Route 301); thence northeastwardly along Chamberlayne Road (U.S. Route 301) to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Wilder Precinct is Wilder Middle School, 6900 Wilkinson Road.

v. *Yellow Tavern Precinct.* Beginning at the intersection of the Dominion Virginia Power powerline and the boundary line of Hanover County and Henrico County; thence eastwardly along the boundary line of Hanover County and Henrico County to its intersection with Interstate Route 95; thence southwardly along Interstate Route 95 to its intersection with Interstate Route 295; thence northwestwardly along Interstate Route 295 to its intersection with Woodman Road; thence northeastwardly along Woodman Road to its intersection with Greenwood Road; thence southeastwardly along Greenwood Road to its intersection with Winfrey Road; thence northwardly along Winfrey Road to its intersection with the Dominion Virginia Power powerline; thence northwestwardly along the Dominion Virginia Power powerline to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Yellow Tavern Precinct is Greenwood Elementary School, 10960 Greenwood Road.

3. Three Chopt Magisterial District.

a. *Causeway Precinct.* Beginning at the intersection of Interstate Route 295 and Interstate Route 64; thence northwestwardly along Interstate Route 64 to its intersection with the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with West Broad Street (U.S. Route 250); thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with North Gayton Road; thence southwardly on North Gayton Road to its intersection with Parchment Circle; thence westwardly along the northern loop of Parchment Circle to its intersection with Sage Drive; thence southeastwardly along Sage Drive to its intersection with Hardings Trace Lane; thence southwestwardly along Hardings Trace Lane to its intersection with Wilde Lake Drive; thence southeastwardly along Wilde Lake Drive to its intersection with Church Road; thence eastwardly along Church Road to its intersection with Lauderdale Drive; thence northeastwardly along Lauderdale Drive to its intersection with West Broad Street (U.S. Route 250); thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with Interstate Route 64; thence northwestwardly along Interstate Route 64 to its intersection with Interstate Route 295 and the point of beginning. The polling place for Causeway Precinct is Gayton Baptist Church, 13501 North Gayton Road.

b. *Cedarfield Precinct.* Beginning at the intersection of Deep Run Creek and Interstate Route 64; thence southeastwardly along Interstate Route 64 to its intersection with Gaskins Road; thence northeastwardly along Gaskins Road to its intersection with West Broad Street (U.S. Route 250); thence westwardly alongWest Broad Street (U.S. Route 250) to its intersection with Cox Road; thence southwestwardly along Cox Road

to its intersection with Three Chopt Road and Church Road; thence southwestwardly along Church Road to its intersection with Stoney Run Creek; thence southeastwardly along Stoney Run Creek to its intersection with Ridgefield Parkway; thence southeastwardly along Ridgefield Parkway to its intersection with Deep Run Creek; thence northwardly along Deep Run Creek to its intersection with Interstate Route 64 and the point of beginning. The polling place for Cedarfield Precinct is Cedarfield, 2300 Cedarfield Parkway.

c. *Colonial Trail Precinct*. Beginning at the intersection of Interstate Route 64 with North Gayton Road; thence southeastwardly along Interstate Route 64 to its intersection with Interstate Route 295; thence northeastwardly along Interstate Route 295 to its intersection with Rooty Branch; thence northwardly along Rooty Branch to its intersection with Fords Country Lane; thence southwestwardly along Fords Country Lane to its intersection with Nuckols Road; thence northwestwardly along Nuckols Road to its intersection with Twin Hickory Road; thence southwestwardly along Twin Hickory Road to its intersection with Twin Hickory Lake Drive; thence southwestwardly along Twin Hickory Lake Drive to its intersection with Pouncey Tract Road (State Route 271); thence northwestwardly along Liesfeld Farm Drive to its intersection with North Gayton Road; thence southeastwardly along North Gayton Road to its intersection with Interstate Route 64 and the point of beginning. The polling place for Colonial Trail Precinct is Colonial Trail Elementary School, 12101 Liesfeld Farm Drive.

d. *Innsbrook Precinct.* Beginning at the intersection of Interstate Route 295 and Rooty Branch; thence southwestwardly along Interstate Route 295 to its intersection with Interstate Route 64; thence southeastwardly along Interstate Route 64 to its intersection with West Broad Street (U.S. Route 250); thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with Cox Road; thence northeastwardly along Cox Road to its intersection with the western shore of Rooty Lake; thence northwardly along the western shore of Rooty Lake to its intersection with Rooty Branch; thence northeastwardly along Rooty Branch to its intersection with Interstate 295 and the point of beginning. The polling place for Innsbrook Precinct is St. Anthony's Day Care Center, 4611 Sadler Road.

e. *Jackson Davis Precinct.* Beginning at the intersection of Three Chopt Road and Pemberton Road; thence southeastwardly along Three Chopt Road to its intersection with North Parham Road; thence northeastwardly along North Parham Road to its intersection with Interstate Route 64; thence northwestwardly along Interstate Route 64 to its intersection with Pemberton Road; thence southwestwardly along Pemberton Road to its intersection with Three Chopt Road and the point of beginning. The polling place for Jackson Davis Precinct is Jackson Davis Elementary School, 8800 Nesslewood Drive.

f. *Nuckols Farm Precinct.* Beginning at the intersection of North Gayton Road and West Broad Street (U.S. Route 250); thence northwestwardly along West Broad Street (U.S. Route 250) to its intersection with the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with Harding Branch; thence northeastwardly along Harding Branch to its intersection with the western shore of Wilde Lake; thence northwardly along the western shore of Wilde Lake to the intersection with a graveled lake access drive for the Wilde Lake Association (approximately 360 feet southwest of the intersection of Wilde Lake Drive with Berkeley Pointe Drive); thence northwestwardly along a graveled lake access drive for the Wilde Lake Association to its intersection with Wilde Lake Drive; thence northeastwardly along Wilde Lake Drive to its intersection with Hardings Trace Lane; thence northeastwardly along Hardings Trace Lane to its intersection with Sage Drive; thence northwestwardly along Sage Drive to its intersection with Parchment Circle; thence northwestwardly along the northern loop of Parchment Circle to its intersection with North Gayton Road; thence northeastwardly along North Gayton Road to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Nuckols Farm Precinct is Nuckols Farm Elementary School, 12351 Graham Meadows Drive.

g. *Pocahontas Precinct.* Beginning at the intersection of Cox Road and West Broad Street (U.S. Route 250); thence westwardly along West Broad Street (U.S. Route 250) to its intersection with Stoney Run Creek; thence southeastwardly along Stoney Run Creek to its intersection with Church Road; thence northeastwardly along Church Road to its intersection with Three Chopt Road and Cox Road; thence northeastwardly along Cox Road to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Pocahontas Precinct is Pocahontas Middle School, 12000 Three Chopt Road.

h. *Ridge Precinct.* Beginning at the intersection of Fordson Road and North Parham Road; thence southwardly along North Parham Road to its intersection with Three Chopt Road; thence southeastwardly along Three Chopt Road to its intersection with Michaels Road; thence northwardly along Michaels Road to its intersection with Michael Road; thence northwestwardly along Michael Road to its intersection with Fordson Road; thence northwestwardly along Fordson Road to its intersection with North Parham Road and the point of beginning. The polling place for Ridge Precinct is Tuckahoe Middle School, 9000 Three Chopt Road.

i. *Rivers Edge Precinct.* Beginning at the intersection of Allen Branch and the boundary line of Hanover County and Henrico County; thence northwestwardly along the boundary line of Hanover Countyand Henrico County to its intersection with Dominion Club Drive; thence southwardly along Dominion Club Drive to its intersection with Old Wyndham Drive; thence southwestwardly along Old Wyndham Drive to its intersection with Wyndham Lake Drive; thence southwardly along Wyndham Lake Drive to its intersection with Wyndham Park Drive; thence southeastwardly along Wyndham Park Drive to its intersection with Nuckols Road; thence southeastwardly along Nuckols Road to its intersection with Fords Country Lane; thence northeastwardly along Fords Country Lane to its intersection with Rooty Branch; thence northeastwardly along Rooty Branch to its intersection with Allen Branch; thence northeastwardly along Allen Branch to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Rivers Edge Precinct is Rivers Edge Elementary School, 11600 Holman Ridge Road.

j. *Sadler Precinct.* Beginning at the intersection of Nuckols Road and Pouncey Tract Road (State Route 271); thence southeastwardly along Pouncey Tract Road (State Route 271) to its intersection with Shady Grove Road; thence eastwardly along Shady Grove Road to its intersection with Twin Hickory Road; thence northeastwardly along Twin Hickory Road to its intersection with Nuckols Road; thence northwestwardly along Nuckols Road to its intersection with Pouncey Tract Road (State Route 271) and the point of beginning. The polling place for Sadler Precinct is Deep Run High School, 4801 Twin Hickory Road.

k. *Shady Grove Precinct.* Beginning at the intersection of Dominion Club Drive and the boundary line of Hanover County and Henrico County; thence westwardly along the boundary line of Hanover County and Henrico County to its intersection with the boundary line of Hanover County, Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with Pouncey Tract Road; thence southeastwardly along Pouncey Tract Road to its intersection with Nuckols Road; thence northeastwardly along Nuckols Road to its intersection with Wyndham Park Drive; thence northwestwardly along Wyndham Park Drive to its intersection with Wyndham Lake Drive; thence northwardly along Wyndham Lake Drive to its intersection with Old Wyndham Drive; thence northeastwardly along Old Wyndham Drive to its intersection with Dominion Club Drive; thence northwardly along Dominion Club Drive to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Shady Grove Precinct is Shady Grove Elementary School, 12200 Wyndham Lake Drive.

l. *Short Pump Precinct.* Beginning at the intersection of Pouncey Tract Road (State Route 271) and the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with Interstate Route 64; thence southeastwardly along Interstate Route 64 to its intersection with North Gayton Road; thence northeastwardly along North Gayton

Road to its intersection with Liesfeld Farm Drive; thence southeastwardly along Liesfeld Farm Drive to its intersection with Pouncey Tract Road (State Route 271); thence northeastwardly along Twin Hickory Lake Drive to its intersection with Twin Hickory Road; thence westwardly along Twin Hickory Road to its intersection with Shady Grove Road; thence westwardly along Shady Grove Road to its intersection with Pouncey Tract Road (State Route 271); thence northwestwardly along Pouncey Tract Road (State Route 271) to its intersection with the boundary line of Goochland County and Henrico County and the point of beginning. The polling place for Short Pump Precinct is Short Pump Middle School, 4701 PounceyTract Road.

m. *Stoney Run Precinct.* Beginning at the intersection of Stoney Run Creek and West Broad Street (U.S. Route 250); thence northwestwardly along West Broad Street (U.S. Route 250) to its intersection with Lauderdale Drive; thence southwestwardly along Lauderdale Drive to its intersection with Church Road; thence eastwardly along Church Road to its intersection with Stoney Run Creek; thence northwestwardly along Stoney Run Creek to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Stoney Run Precinct is Short Pump Elementary School, 3425 Pump Road.

n. *Three Chopt Precinct.* Beginning at the intersection of Skipwith Road and North Parham Road; thence southwestwardly along North Parham Road to its intersection with Fordson Road; thence southeastwardly along Fordson Road to its intersection with Michael Road; thence southeastwardly along Michael Road to its intersection with Michaels Road; thence southwardly along Michaels Road to its intersection with Three Chopt Road; thence southeastwardly along Three Chopt Road to its intersection with Forest Avenue; thence northeastwardly along Forest Avenue to its intersection with Skipwith Road; thence northwardly along Skipwith Road to its intersection with North Parham Road and the point of beginning. The polling place for Three Chopt Precinct is Three Chopt Elementary School, 1600 Skipwith Road.

o. *Tucker Precinct.* Beginning at the intersection of Old Parham Road and West Broad Street (U.S. Route 250); thence northwestwardly along West Broad Street (U.S. Route 250) to its intersection with Gaskins Road; thence southwestwardly along Gaskins Road to its intersection with Interstate Route 64; thence southeastwardly along Interstate Route 64 to its intersection with North Parham Road; thence northeastwardly along North Parham Road to its intersection with Old Parham Road; thence eastwardly along Old Parham Road to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Tucker Precinct is Tucker High School, 2910 Parham Road.

(4) Tuckahoe Magisterial District.

a. *Crestview Precinct.* Beginning at the intersection of Horsepen Road and Monument Avenue; thence southeastwardly along Monument Avenue to its intersection with Orchard Road; thence northeastwardly along Orchard Road to its intersection with Fitzhugh Avenue; thence westwardly along Fitzhugh Avenue to its intersection with Betty Lane; thence northwestwardly along Betty Lane to its intersection with Horsepen Road; thence eastwardly along Horsepen Road to its intersection with West Broad Street; thence northwestwardly along West Broad Street to its intersection with Upham Brook; thence westwardly along Upham Brook to its intersection with Interstate Route 64; thence northwestwardly along Interstate Route 64 to its intersection with Skipwith Road; thence southwardly along Skipwith Road to its intersection with Three Chopt Road; thence southeastwardly along Three Chopt Road to its intersection with Horsepen Road; thence northwardly along Horsepen Road to its intersection with Monument Avenue and the point of beginning. The polling place for Crestview Precinct is Crestview Elementary School, 1901 Charles Street.

b. *Derbyshire Precinct.* Beginning at the intersection of North Parham Road and Avalon Drive; thence westwardly along Avalon Drive to its intersection with Midway Road; thence southwestwardly along Midway Road to its intersection with Derbyshire Road; thence westwardly along Derbyshire Road to its intersection with Gunby Drive; thence southwestwardly along Gunby Drive to its intersection with George's Branch; thence

southeastwardly along George's Branch to its intersection with North Mooreland Road; thence southwestwardly along North Mooreland Road to its intersection with River Road; thence southeastwardly along River Road to its intersection with North Parham Road; thence northeastwardly along North Parham Road to its intersection with Avalon Drive and the point of beginning. The polling place for Derbyshire Precinct is Derbyshire Baptist Church, 8800 Derbyshire Road.

c. *Freeman Precinct.* Beginning at the intersection of Skipwith Road and Three Chopt Road; thence northwardly along Skipwith Road to its intersection with Forest Avenue; thence southwestwardly along Forest Avenue to its intersection with Three Chopt Road; thence northwestwardly along Three Chopt Road to its intersection with Eastridge Road; thence southwestwardly along Eastridge Road to its intersection with Quioccasin Road; thence westwardly along Quioccasin Road to its intersection with N. Parham Road; thence southwestwardly along N. Parham Road to its intersection with Patterson Avenue; thence eastwardly along Patterson Avenue to its intersection with the boundary line of the City of Richmond and Henrico County; thence northeastwardly along the boundary line between the City of Richmond and Henrico County to its intersection with Three Chopt Road; thence northwestwardly along Three Chopt Road to its intersection with Skipwith Road and the point of beginning. The polling place for Freeman Precinct is Freeman High School, 8701 Three Chopt Road.

d. *Gayton Precinct.* Beginning at the intersection of Pump Road and Ridgefield Parkway; thence westwardly along Ridgefield Parkway to its intersection with Cambridge Drive; thence southwestwardly along Cambridge Drive to its intersection with Gayton Road; thence eastwardly along Gayton Road to its intersection with Flat Branch; thence southwardly along Flat Branch to its intersection with Patterson Avenue (State Route 6); thence eastwardly along Patterson Avenue (State Route 6) to its intersection with Pump Road; thence northwardly along Pump Road to its intersection with Ridgefield Parkway and the point of beginning. The polling place for Gayton Precinct is Gayton Library, 10600 Gayton Road.

e. *Godwin Precinct.* Beginning at the intersection of Deep Run Creek and Ridgefield Parkway; thence southwestwardly along Ridgefield Parkway to its intersection with Pump Road; thence southwardly along Pump Road to its intersection with Gayton Road; thence eastwardly along Gayton Road to its intersection with Deep Run Creek; thence northeastwardly along Deep Run Creek to its intersection with Ridgefield Parkway and the point of beginning. The polling place for Godwin Precinct is Godwin High School, 2101 Pump Road.

f. *Lakewood Precinct.* Beginning at the intersection of Flat Branch and Gayton Road; thence westwardly along Gayton Road to its intersection with Copperas Creek; thence southwestwardly along Copperas Creek to its intersection with the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with Patterson Avenue (State Route 6); thence eastwardly along Patterson Avenue (State Route 6) to its intersection with Flat Branch; thence northwardly along Flat Branch to its intersection with Gayton Road and the point of beginning. The polling place for Lakewood Precinct is Lakewood Manor, 1900 Lauderdale Drive.

g. *Lauderdale Precinct.* Beginning at the intersection of Ridgefield Parkway and Cambridge Drive, thence westwardly along Ridgefield Parkway extended approximately 920 feet to the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with Copperas Creek; thence northeastwardly along Copperas Creek to its intersection with Gayton Road: thence northwestwardly along Gayton Road to its intersection with Cambridge Drive; thence northeastwardly along Cambridge Drive to its intersection with Ridgefield Parkway and the point of beginning. The polling place for Lauderdale Precinct is Carver Elementary School, 1801 Lauderdale Drive.

h. *Maybeury Precinct.* Beginning at the intersection of North Parham Road and Patterson Avenue (State Route 6); thence westwardly along Patterson Avenue (State Route 6) to its intersection with North Gaskins Road;

thence southwardly along North Gaskins Road to its intersection with River Road; thence southeastwardly along River Road to its intersection with North Mooreland Road; thence northeastwardly along North Mooreland Road to its intersection with George's Branch; thence northwestwardly along George's Branch to its intersection with Gunby Drive; thence northeastwardly along Gunby Drive to its intersection with Derbyshire Road; thence eastwardly along Derbyshire Road to its intersection with Midway Road; thence northeastwardly along Midway Road to its intersection with Avalon Drive; thence eastwardly along Avalon Drive to its intersection with North Parham Road; thence northeastwardly along North Parham Road to its intersection with Patterson Avenue (State Route 6) and the point of beginning. The polling place for Maybeury Precinct is Maybeury Elementary School, 901 Maybeury Drive.

i. *Mooreland Precinct.* Beginning at the intersection of North Parham Road and River Road and the Virginia Power easement; thence northwestwardly along River Road to its intersection with the boundary line of Goochland County and Henrico County; thence southwestwardly along the boundary line of Goochland County and Henrico County to its intersection with the boundary line of Goochland County, Powhatan County and Henrico County; thence southwardly along the boundary line of Powhatan County and Henrico County to its intersection with the boundary line of Powhatan County, Chesterfield County and Henrico County; thence eastwardly along the boundary line of Chesterfield County and Henrico County to its intersection with South Gaskins Road extended; thence northwardly along South Gaskins Road extended to its intersection with South Gaskins Road and the Chesapeake and Ohio Railroad; thence eastwardly alongthe Chesapeake and Ohio Railroad to its intersection with the Virginia Power easement; thence northwestwardly along the Virginia Power easement to its intersection with River Road and North Parham Road and the point of beginning. The polling place for Mooreland Precinct is Second Baptist Church, 9614 River Road.

j. *Pemberton Precinct.* Beginning at the intersection of East Ridge Road and Three Chopt Road; thence northwestwardly along Three Chopt Road to its intersection with Pemberton Road (State Route 157); thence southwestwardly along Pemberton Road (State Route 157) to its intersection with Quioccasin Road; thence southeastwardly along Quioccasin Road to its intersection with Blue Jay Lane; thence southwestwardly along Blue Jay Lane to its intersection with Farmington Drive; thence westwardly along Farmington Drive to its intersection with Blue Jay Lane; thence southwestwardly along Blue Jay Lane to its intersection with Gayton Road; thence southeastwardly along Gayton Road to its intersection with Patterson Avenue (State Route 6); thence eastwardly along Patterson Avenue (State Route 6) to its intersection with North Parham Road; thence northwardly along North Parham Road to its intersection with Quioccasin Road; thence eastwardly along Quioccasin Road to its intersection with East Ridge Road; thence northeastwardly along East Ridge Road to its intersection with Three Chopt Road and the point of beginning. The polling place for Pemberton Precinct is Pemberton Elementary School, 1400 Pemberton Road.

k. *Pinchbeck Precinct.* Beginning at the intersection of Gayton Road and Patterson Avenue (State Route 6); thence westwardly along Patterson Avenue (State Route 6) to its intersection with Pump Road; thence northwardly along Pump Road to its intersection with Gayton Road; thence eastwardly along Gayton Road to its intersection with Gaskins Road (State Route 157); thence northwardly along Gaskins Road (State Route 157) to its intersection with Quioccasin Road (State Route 157); thence eastwardly along Quioccasin Road (State Route 157) to its intersection with Pemberton Road and Quioccasin Road (State Route 157); thence eastwardly along Quioccasin Road (State Route 157) to its intersection with Blue Jay Lane; thence southwestwardly along Blue Jay Lane to its intersection with Farmington Drive; thence westwardly along Farmington Drive to its intersection with Blue Jay Lane; thence southwestwardly along Blue Jay Lane to its intersection with Gayton Road; thence southeastwardly along Gayton Road to its intersection with Patterson Avenue (State Route 6) and the point of beginning. The polling place for Pinchbeck Precinct is Pinchbeck Elementary School, 1275 Gaskins Road.

l. *Quioccasin Precinct.* Beginning at the intersection of Pemberton Road (State Route 157) and Interstate Route

64; thence northwestwardly along Interstate Route 64 to its intersection with Deep Run Creek; thence southwestwardly along Deep Run Creek to its intersection with Gayton Road; thence eastwardly along Gayton Road to its intersection with Gaskins Road; thence northwardly along Gaskins Road to its intersection with Quioccasin Road (State Route 157); thence eastwardly along Quioccasin Road (State Route 157) to its intersection with Pemberton Road (State Route 157); thence northwardly along Pemberton Road (State Route 157) to its intersection with Interstate Route 64 and the point of beginning. The polling place for Quioccasin Precinct is Quioccasin Middle School, 9400 Quioccasin Road.

m. *Ridgefield Precinct.* Beginning at the intersection of Stoney Run Creek and Church Road; thence westwardly along Church Road to its intersection with Copperas Creek; thence southwestwardly along Copperas Creek to its intersection with Ridgefield Parkway; thence eastwardly along Ridgefield Parkway to its intersection with Stoney Run Creek; thence northwestwardly along Stoney Run Creek to its intersection with Church Road and the point of beginning. The polling place for Ridgefield Precinct is Columbian Center, 2324 Pump Road.

n. *Rollingwood Precinct.* Beginning at the intersection of Forest Avenue and Patterson Avenue (State Route 6); thence eastwardly along Patterson Avenue (State Route 6) to its intersection with the boundary line of the City of Richmond and Henrico County; thence southwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Little Westham Creek; thence northwestwardly along Little Westham Creek to its intersection with Westham Parkway; thence southwestwardly along Westham Parkway to its intersection with Lindsay Drive; thence northwestwardly along Lindsay Drive to its intersection with Forest Avenue; thence southwestwardly along Forest Avenue to its intersection with Silverspring Drive; thence northwestwardly along Silverspring Drive to its intersection with Spottswood Road; thence northeastwardly along Spottswood Road to its intersection with Forest Avenue; thence northeastwardly along Forest Avenue to its intersection with Patterson Avenue (State Route 6) and the point of beginning. The polling place for Rollingwood Precinct is Trinity United Methodist Church, 903 Forest Avenue.

o. *Skipwith Precinct.* Beginning at the intersection of Upham Brook and West Broad Street (U.S. Route 250); thence northwestwardly along West Broad Street (U.S. Route 250) to its intersection with Old Parham Road; thence westwardly along Old Parham Road to its intersection with North Parham Road; thence southwestwardly along North Parham Road to its intersection with Skipwith Road; thence southwardly along Skipwith Road to its intersection with Upham Brook; thence eastwardly along Upham Brook to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Skipwith Precinct is Skipwith Elementary School, 2401 Skipwith Road.

p. *Spottswood Precinct.* Beginning at the intersection of North Parham Road and Patterson Avenue (State Route 6); thence eastwardly along Patterson Avenue (State Route 6) to its intersection with Forest Avenue; thence southwestwardly along Forest Avenue to its intersection with Spottswood Road; thence southeastwardly along Spottswood Road to its intersection with Silverspring Drive; thence southeastwardly along Silverspring Drive to its intersection with Forest Avenue; thence southwestwardly along Forest Avenue to its intersection with Ridge Road; thence northwestwardly along Ridge Road to its intersection with Glendale Drive; thence southwestwardly along Glendale Drive to its intersection with Warrenton Drive; thence northwestwardly along Warrenton Drive to its intersection with Cedarbrooke Lane; thence southwestwardly along Cedarbrooke Lane to its intersection with Seldondale Lane; thence westwardly along Seldondale Lane to its intersection with Ridgeley Lane, thence northwardly along Ridgeley Lane to its intersection with Oakcroft Drive; thence westwardly along Oakcroft Drive to its intersection with North Parham Road; thence northeastwardly along North Parham Road to its intersection with Patterson Avenue (State Route 6) and the point of beginning. The polling place for Spottswood Precinct is Grove Avenue Baptist Church, 8701 Ridge Road.

q. *Tuckahoe Precinct.* Beginning at the intersection of the boundary line of the City of Richmond and Henrico County, College Road and Little Westham Creek; thence northwestwardly along Little Westham Creek to its

intersection with Westham Parkway; thence southwestwardly along Westham Parkway to its intersection with Lindsay Drive; thence northwestwardly along Lindsay Drive to its intersection with Forest Avenue; thence southwestwardly along Forest Avenue to its intersection with Ridge Road; thence northwestwardly along Ridge Road to its intersection with Glendale Drive; thence southwestwardly along Glendale Drive toits intersection with Warrenton Drive; thence northwestwardly along Warrenton Drive to its intersection with Cedarbrooke Lane; thence southwestwardly along Cedarbrooke Lane to its intersection with Seldondale Lane; thence westwardly along Seldondale Lane to its intersection with Ridgeley Lane; thence northwardly along Ridgeley Lane to its intersection with Oakcroft Drive; thence westwardly along Oakcroft Drive to its intersection with North Parham Road; thence southwestwardly along North Parham Road to its intersection with River Road and the Virginia Power easement; thence southwestwardly along the Virginia Power easement to its intersection with the Chesapeake and Ohio Railroad; thence westwardly along the Chesapeake and Ohio Railroad to its intersection with South Gaskins Road and South Gaskins Road extended; thence southwardly along South Gaskins Road extended to its intersection with the boundary line of Chesterfield County and Henrico County; thence eastwardly along the boundary line of Chesterfield County and Henrico County to its intersection with the boundary line of Chesterfield County, the City of Richmond and Henrico County; thence eastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with College Road, Little Westham Creek and the point of beginning. The polling place for Tuckahoe Precinct is Tuckahoe Elementary School, 701 Forest Avenue.

r. *Welborne Precinct.* Beginning at the intersection of North Gaskins Road and Patterson Avenue (State Route 6); thence westwardly along Patterson Avenue (State Route 6) to its intersection with the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with River Road; thence southeastwardly along River Road to its intersection with North Gaskins Road; thence northeastwardly along North Gaskins Road to its intersection with Patterson Avenue (State Route 6) and the point of beginning. The polling place for Welborne Precinct is Welborne United Methodist Church, 920 Maybeury Drive.

s. *West End Precinct.* Beginning at the intersection of Copperas Creek and Church Road; thence northwestwardly along Church Road to its intersection with Wilde Lake Drive; thence southwestwardly along Wilde Lake Drive to its intersection with a graveled lake access drive for the Wilde Lake Association (approximately 360 feet southwest of the intersection with Wilde Lake Drive and Berkeley Pointe Drive); thence southeastwardly along a graveled lake access drive for the Wilde Lake Association to its intersection with the western shore of Wilde Lake; thence southwardly along the western shore of Wilde Lake to the intersection with Harding Branch; thence southwestwardly along Harding Branch to its intersections with the boundary line of Goochland County and Henrico County (Tuckahoe Creek); thence southwardly along the boundary line of Goochland County and Henrico County (Tuckahoe Creek) to its intersection with Ridgefield Parkway (extended approximately 920 feet to the boundary line); thence eastwardly along Ridgefield Parkway to its intersection with Copperas Creek; thence northeastwardly along Copperas Creek to its intersection with Church Road and the point of beginning. The polling place for West End Precinct is Gayton Elementary School, 12481 Church Road.

(5) Varina Magisterial District.

a. *Adams Precinct.* Beginning at the intersection of the Norfolk Southern Railway right-of-way and S. Laburnum Avenue; thence westwardly along the Norfolk Southern Railway right-of-way to its furthest intersection with the boundary line of the City of Richmond and Henrico County; thence northeastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Creighton Road; thence northeastwardly along Creighton Road to its intersection with N. Laburnum Avenue; thence southeastwardly along N. Laburnum Avenue to the intersection of S. Laburnum Avenue, the Norfolk Southern Railway right-of-

way, and the point of beginning. The polling place for Adams Precinct is Adams Elementary School, 600 South Laburnum Road.

b. *Antioch Precinct.* Beginning at the intersection of Interstate Route 295 and the Norfolk Southern Railway; thence northeastwardly along the Norfolk Southern Railway to its intersection with Meadow Road; thence southwardly along Meadow Road to its intersection with Interstate Route 64; thence northeastwardly along Interstate Route 64 to its intersection with the boundary line of New Kent County and Henrico County; thence southeastwardly along the boundary line of New Kent County and Henrico County to its intersection with White Oak Swamp Creek; thence southwestwardly along White Oak Swamp Creek to its intersection with the Chessie System Railway; thence southwestwardly along the Chessie System Railway to its intersection with Elko Road (State Route 156); thence northwestwardly along Elko Road (State Route 156) to its intersection with Old Elko Road; thence northwardly along Old Elko Road to its intersection with Old Elko Road Extended; thence northwardly along Old Elko Road Extended to its intersection with E. Williamsburg Road (U.S. Route 60); thence westwardly along E. Williamsburg Road (U.S. Route 60) to its intersection with Interstate Route 295; thence northwardly along Interstate Route 295 to its intersection with the Norfolk Southern Railway and the point of beginning. The polling place for Antioch Precinct is Antioch Baptist Church, 3868 Antioch Church Road.

c. *Cedar Fork Precinct.* Beginning at the intersection of Mary Washington Street, A.P. Hill Avenue and A.P. Hill Avenue extended; thence northeastwardly along A.P. Hill Avenue extended to its intersection with the boundary line of Hanover County and Henrico County; thence northwestwardly along the boundary line of Hanover County and Henrico County to its intersection with Creighton Road; thence southwestwardly along Creighton Road to its intersection with Cedar Fork Road; thence southwardly along Cedar Fork Road to its intersection with East Cedar Fork Road; thence southwardly along East Cedar Fork Road to its intersection with Nine Mile Road; thence eastwardly along Nine Mile Road to its intersection with A.P. Hill Avenue; thence northeastwardly along A.P. Hill Avenue to its intersection with Mary Washington Street and A.P. Hill Avenue extended and the point of beginning. The polling place for Cedar Fork Precinct is Arthur Ashe Elementary School, 1001 Cedar Fork Road.

d. *Chickahominy Precinct.* Beginning at the intersection of Nine Mile Road (State Route 33) and A.P. Hill Avenue; thence northeastwardly along A.P. Hill Avenue to its intersection with Mary Washington Street and A.P. Hill Avenue extended; thence northeastwardly along A.P. Hill Avenue extended to its intersection with the boundary line of Hanover County and Henrico County; thence southeastwardly along the boundary line of Hanover County and Henrico County, New Kent County and Henrico County; thence southeastwardly along the boundary line of New Kent County and Henrico County to its intersection with Interstate Route 64; thence southwestwardly along Interstate Route 64 to its intersection with Meadow Road; thence northwardly along Meadow Road to its intersection with the Norfolk Southern Railway; thence southwestwardly along the Norfolk Southern Railway to its intersection with Interstate Route 295; thence northwardly along Interstate Route 295 to its intersection with Meadow Road; thence westwardly along Meadow Road to its intersection with Broad Water Creek; thence northwestwardly along Broad Water Creek to its intersection with Graves Road; thence northwestwardly along Graves Road to its intersection with Hanover Road (Old State Route 156); thence northwestwardly along Hanover Road (Old State Route 156) to its intersection with North Airport Drive (State Route 156); thence southwestwardly along North Airport Drive (State Route 156) to its intersection with East Washington Street; thence northwestwardly along East Washington Street to its intersection with North Holly Avenue and West Washington Street; thence northwestwardly along West Washington Street to its intersection with Bridge Street; thence southwestwardly along Bridge Street to its intersection with Nine Mile Road (State Route 33); thence westwardly along Nine Mile Road (State Route 33) to its intersection with A.P. Hill Avenue and the point of beginning. The polling place for Chickahominy Precinct is Donahoe Elementary School, 1801 Graves Road.

e. *Donahoe Precinct.* Beginning at the intersection of Hanover Road and Graves Road; thence southeastwardly

along Graves Road to its intersection with Broad Water Creek; thence southwestwardly along Broad Water Creek to its intersection with Meadow Road; thence eastwardly along Meadow Road toits intersection with Interstate Route 295; thence southwestwardly along Interstate Route 295 to its intersection with White Oak Swamp; thence northwestwardly along White Oak Swamp to its intersection with Beulah Road (approximately 1,200 feet north of the intersection of Beulah Road and La France Road); thence northwardly along Beulah Road to its intersection with Treva Road; thence eastwardly along Treva Road to its intersection with Seabury Avenue; thence northwardly along Seabury Avenue to its intersection with Huntsman Road; thence westwardly along Huntsman Road to its intersection with Sandston Avenue; thence northwardly along Sandston Avenue to its intersection with East Williamsburg Road (U.S. Route 60); thence westwardly along East Williamsburg Road (U.S. Route 60) to its intersection with East Nine Mile Road (State Route 33); thence northwardly along East Nine Mile Road (State Route 33) to its intersection with Howard Street; thence northeastwardly along Howard Street to its intersection with Seven Pines Avenue; thence northwardly along Seven Pines Avenue to its intersection with Defense Avenue; thence northwestwardly along Defense Avenue to its intersection with Algiers Drive; thence northwestwardly along Algiers Drive to its intersection with Bond Street; thence southwestwardly along Bond Street to its intersection with East Nine Mile Road (State Route 33); thence northwestwardly along East Nine Mile Road (State Route 33) to its intersection with Hanover Road; thence northeastwardly along Hanover Road to its intersection with Midage Lane; thence northwestwardly along Midage Lane to its intersection with Carlstone Drive; thence northeastwardly along Carlstone Drive to its intersection with East Washington Street; thence northwestwardly along East Washington Street to its intersection with North Airport Drive (State Route 156);thence northeastwardly along North Airport Drive (State Route 156) to its intersection with Hanover Road; thence southwestwardly along Hanover Road to its intersection with Graves Road and the point of beginning. The polling place for Donahoe Precinct is Donahoe Elementary School, 1801 Graves Road.

f. *Dorey Precinct.* Beginning at the intersection of Strath Road and Darbytown Road; thence southeastwardly along Darbytown Road to its intersection with Britton Road; thence northeastwardly along Britton Road to its intersection with Charles City Road; thence southeastwardly along Charles City Road to its intersection with Yahley Mill Road; thence southwardly along Yahley Mill Road to its intersection with Long Bridge Road; thence southwestwardly along Long Bridge Road to its intersection with New Market Road (State Route 5); thence northwestwardly along New Market Road (State Route 5) to its intersection with the north entrance ramp of Interstate Route 295; thence northwardly along the north entrance ramp of Interstate Route 295 to its intersection with Interstate Route 295; thence northeastwardly along Interstate Route 295 to its intersection with Fourmile Creek; thence northwestwardly along Fourmile Creek to its intersection with Doran Road; thence southwestwardly along Doran Road to its intersection with New Market Road (State Route 5); thence northwestwardly along New Market Road (State Route 5) to its intersection with Strath Road; thence northwardly along Strath Road to its intersection with Darbytown Road and the point of beginning. The polling place for Dorey Precinct is Dorey Park Recreation Center, 7200 Dorey Park Drive.

g. *Eanes Precinct.* Beginning at the intersection of the boundary line of the City of Richmond, Henrico County and Almond Creek; thence northwestwardly along Almond Creek to its intersection with Bickerstaff Road; thence southeastwardly along Bickerstaff Road to its intersection with Darbytown Road; thence southeastwardly along Darbytown Road to its intersection with Willson Road; thence southwardly along Willson Road to its intersection with Yarnell Road; thence southeastwardly along Yarnell Road to its intersection with Strath Road; thence northwardly along Strath Road to its intersection with Darbytown Road; thence southeastwardly along Darbytown Road to its intersection with Britton Road; thence northeastwardly along Britton Road to its intersection with Charles City Road; thence northwestwardly along Charles City Road to its intersection with Williamsburg Road (U.S. Route 60); thence westwardly along Williamsburg Road (U.S. Route 60) to its intersection with the boundary line of the City of Richmond and Henrico County; thence southwestwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Almond Creek and the point of beginning. The polling place for Eanes Precinct

is Varina High School, 7053 Messer Road.

h. *Elko Precinct.* Beginning at the intersection of Charles City Road and Elko Road (State Route 156); thence northeastwardly along Elko Road (State Route 156) to its intersection with Hines Road; thence southwestwardly along Hines Road to its intersection with an unnamed stream (approximately 2,800 feet east of the intersection of Hines Road and Charles City Road); thence northeastwardly along the unnamed stream to its intersection with White Oak Swamp Creek (approximately 7,000 feet west of the intersection of Elko Road (State Route 156) and White Oak Swamp Creek); thence northwestwardly along White Oak Swamp Creek to its intersection with Interstate Route 295; thence northeastwardly along Interstate Route 295 to its intersection with East Williamsburg Road (U.S. Route 60); thence eastwardly along East Williamsburg Road (U.S. Route 60) to its intersection with Old Elko Road extended; thence southeastwardly along Old ElkoRoad extended to its intersection with Old Elko Road; thence southeastwardly along Old Elko Road to its intersection with Elko Road (State Route 156); thence southeastwardly along Elko Road (State Route 156) toits intersection with the Chessie System Railway; thence northeastwardly along the Chessie System Railway to its intersection with White Oak Swamp Creek; thence northeastwardly along White Oak Swamp Creek to its intersection with the boundary line of New Kent County and Henrico County; thence southeastwardly along the boundary line of New Kent County and Henrico County to its intersection with the boundary line of Charles City County, New Kent County and Henrico County; thence southwestwardly along the boundary line of Charles City County and Henrico County to its intersection with Charles City Road; thence southwestwardly along Charles City Road to its intersection with Elko Road and the point of beginning. The polling place for Elko Precinct is Elko Middle School, 5901 Elko Road.

i. *Highland Springs Precinct.* Beginning at the intersection of South Beech Avenue, North Beech Avenue and West Nine Mile Road (State Route 33); thence southeastwardly along West Nine Mile Road (State Route 33) to its intersection with North Holly Avenue and East Nine Mile Road (State Route 33); thence southeastwardly along East Nine Mile Road (State Route 33) to its intersection with North Oak Avenue; thence northeastwardly along North Oak Avenue to its intersection with East Willow Street; thence southeastwardly along East Willow Street to its intersection with East Willow Street extended; thence southeastwardly along East Willow Street extended to its intersection with Tucker's Branch; thence northeastwardly along Tucker's Branch to its intersection with East Washington Street; thence southeastwardly along East Washington Street to its intersection with Carlstone Drive; thence southwestwardly along Carlstone Drive to its intersection with Midage Lane; thence southeastwardly along Midage Lane to its intersection with Hanover Road; thence southwestwardly along Hanover Road to its intersection with East Nine Mile Road; thence southeastwardly along East Nine Mile Road to its intersection with the Southern Railway right-of-way; thence westwardly along the Southern Railway right-of-way to its intersection with South Airport Drive (State Route 156); thence northeastwardly along South Airport Drive (State Route 156) to its intersection with East Beal Street; thence northwestwardly along East Beal Street to its intersection with South Oak Avenue; thence northeastwardly along South Oak Avenue to its intersection with East Read Street; thence northwestwardly along East Read Street to its intersection with South Kalmia Avenue; thence southwestwardly along South Kalmia Avenue to its intersection with East Jerald Street; thence northwestwardly along East Jerald Street to its intersection with South Holly Avenue and West Jerald Street; thence northwestwardly along West Jerald Street to its intersection with South Cedar Avenue; thence northeastwardly along South Cedar Avenue to its intersection with West Read Street; thence northwestwardly along West Read Street to its intersection with South Beech Avenue; thence northeastwardly along South Beech Avenue to its intersection with West Nine Mile Road (State Route 33) and North Beech Avenue and the point of beginning. The polling place for Highland Springs Precinct is Highland Springs High School, 200 S. Airport Drive.

j. *Laburnum Precinct.* Beginning at the intersection of the Norfolk Southern Railway and S. Airport Drive (State Route 156); thence southwardly along S. Airport Drive (State Route 156) to its intersection with W. Williamsburg Road (U.S. Route 60) and Williamsburg Road (U.S. Route 60); thence westwardly along Williamsburg Road (U.S. Route 60) to its intersection with S. Airport Drive Extended; thence southwardly

along S. Airport Drive Extended to its intersection with S. Airport Drive (State Route 156); thence southwardly along S. Airport Drive (State Route 156) to its intersection with Charles City Road; thence northwestwardly along Charles City Road to its intersection with Williamsburg Road (U.S. Route 60); thence eastwardly along Williamsburg Road (U.S. Route 60) to its intersection with Millers Lane; thence northwardly along Millers Lane to its intersection with Millers Lane Extended; thence northwardly along Millers Lane Extended to its intersection with Interstate Route 64; thence eastwardly along Interstate Route 64 to its intersection with Oakleys Lane; thence northwardly along Oakleys Lane to its intersection with the Norfolk Southern Railway; thence eastwardly along the Norfolk Southern Railway to its intersection with S. Airport Drive (State Route 156) and the point of beginning. The polling place for Laburnum Precinct is Montrose Elementary School, 2820 Williamsburg Road.

k. *Mehfoud Precinct.* Beginning at the intersection of Willson Road and Yarnell Road; thence southeastwardly along Yarnell Road to its intersection with Strath Road; thence southwardly along Strath Road to its intersection with New Market Road (State Route 5); thence southeastwardly along New Market Road (State Route 5) to its intersection with Doran Road; thence northeastwardly along Doran Road to its intersection with Fourmile Creek; thence southeastwardly along Fourmile Creek to its intersection with Interstate Route 295; thence southwestwardly along Interstate Route 295 to its intersection with the north entrance ramp of Interstate Route 295; thence southwardly along the north entrance ramp of Interstate Route 295 to its intersection with New Market Road (State Route 5); thence southeastwardly along New Market Road (State Route 5) to its intersection with Kingsland Road; thence southwestwardly along Kingsland Road to its intersection with Varina Road; thence northwardly along Varina Road to its intersection with Mill Road; thence westwardly along Mill Road to its intersection with Osborne Turnpike; thence northwardly along Osborne Turnpike to its intersection with Cornelius Creek; thence northwardly along Cornelius Creek to its intersection with New Market Road (State Route 5); thence southeastwardly along New Market Road (State Route 5) to its intersection with an unnamed stream (approximately 2,850 feet northwest of the intersection of Willson Road and New Market Road (State Route 5)); thence eastwardly along the unnamed stream to its intersection with Willson Road (approximately 800 feet northeast of the intersection of New Market Road (State Route 5)) and Willson Road; thence northeastwardly along Willson Road to its intersection with Yarnell Road and the point of beginning. The polling place for Mehfoud Precinct is Mehfoud Elementary School, 8320 Buffin Road.

l. *Montrose Precinct.* Beginning at the intersection of Interstate Route 64 and Millers Lane extended; thence southwardly along Millers Lane extended to its intersection with Millers Lane; thence southwardly along Millers Lane to its intersection with Williamsburg Road (U.S. Route 60); thence westwardly along Williamsburg Road (U.S. Route 60) to its intersection with the boundary line of the City of Richmond and Henrico County; thence northwardly along the boundary line of the City of Richmond and Henrico County to its intersection with the Norfolk Southern Railway right-of-way; thence eastwardly along the Norfolk Southern Railway right-of-way to its intersection with Interstate Route 64; thence eastwardly along Interstate Route 64 to its intersection with Millers Lane extended and the point of beginning. The polling place for Montrose Precinct is Montrose Elementary School, 2820 Williamsburg Road.

m. *Nine Mile Precinct.* Beginning at the intersection of West Nine Mile Road (State Route 33) and Bridge Street; thence northeastwardly along Bridge Street to its intersection with West Washington Street; thence southeastwardly along West Washington Street to its intersection with North Holly Avenue and East Washington Street; thence southeastwardly along East Washington Street to its intersection with Tucker's Branch; thence southwestwardly along Tucker's Branch to its intersection with East Willow Street extended; thence northwestwardly along East Willow Street extended to its intersection with East Willow Street; thence northwestwardly along East Willow Street to its intersection with North Oak Avenue; thence southwestwardly along North Oak Avenue to its intersection with East Nine Mile Road (State Route 33); thence northwestwardly along East Nine Mile Road (State Route 33) to its intersection with North Holly Avenue and West Nine Mile

Road (State Route 33); thence northwestwardly along West Nine Mile Road (State Route 33) to its intersection with Bridge Street and the point of beginning. The polling place for Nine Mile Precinct is Henrico Adult Education Center, 201 East Nine Mile Road.

n. *Pleasants Precinct.* Beginning at the intersection of Oakleys Lane and Nine Mile Road; thence southeastwardly along Oakleys Lane to its intersection with Gillies Creek; thence southwestwardly along Gillies Creek to its intersection with the Norfolk Southern Railway right-of-way (approximately 1,600 feet east of the intersection of the Norfolk Southern Railway right-of-way and S. Laburnum Avenue); thence southwestwardly along the Norfolk Southern Railway right-of-way to its intersection with Interstate Route 64; thence eastwardly along Interstate Route 64 to its intersection with Oakleys Lane; thence northwardly along Oakleys Lane to its intersection with the Norfolk Southern Railway right-of-way; thence eastwardly along the Norfolk Southern Railway right-of-way to its intersection with S. Airport Drive; thence northeastwardly along S. Airport Drive to its intersection with E. Beal Street; thence northwestwardly along E. Beal Street to its intersection with S. Oak Avenue; thence northeastwardly along S. Oak Avenue to its intersection with E. Read Street; thence northwestwardly along E. Read Street to its intersection with S. Kalmia Avenue; thence southwestwardly along S. Kalmia Avenue to its intersection with E. Jerald Street; thence northwestwardly along E. Jerald Street to its intersection with W. Jerald Street; thence northwestwardly along W. Jerald Street to its intersection with S. Cedar Avenue; thence northeastwardly along S. Cedar Avenue to its intersection with W. Read Street; thence northwestwardly along W. Read Street to its intersection with S. Beech Avenue; thence northeastwardly along S. Beech Avenue to its intersection with W. Nine Mile Road and N. Beech Avenue; thence westwardly along W. Nine Mile Road to its intersection with Nine Mile Road and A.P. Hill Avenue; thence westwardly along Nile Mile Road to its intersection with Oakleys Lane and the point of beginning. The polling place for Pleasants Precinct is Highland Springs Elementary School, 600 West Pleasant Street.

o. *Rolfe Precinct.* Beginning at the intersection of Willson Road and South Laburnum Avenue; thence southwestwardly along South Laburnum Avenue to its intersection with Michael Robinson Way; thence northwestwardly along Michael Robinson Way to its intersection with Messer Road; thence southwestwardly along Messer Road to its intersection with New Market Road (State Route 5); thence northwestwardly along New Market Road (State Route 5) to its intersection with Osborne Turnpike (State Route 5); thence northwardly along Osborne Turnpike (State Route 5) to its intersection with Lanier Avenue; thence eastwardly along Lanier Avenue to its intersection with Whitfield Avenue; thence northwardly along Whitfield Avenue to its intersection with Northbury Avenue; thence eastwardly along Northbury Avenue to its intersection with Old Oakland Road; thence eastwardly along Old Oakland Avenue to its intersection with Bickerstaff Road; thence southeastwardly along Bickerstaff Road to its intersection with Darbytown Road; thence southeastwardly along Darbytown Road to its intersection with Willson Road; thence southwardly along Willson Road to its intersection with South Laburnum Avenue and the point of beginning. The polling place for Rolfe Precinct is Rolfe Middle School, 6901 Messer Road.

p. *Sandston Precinct.* Beginning at the intersection of Charles City Road and S. Airport Drive; thence northwardly along S. Airport Drive to its intersection with S. Airport Drive Extended (approximately 2,650 feet southwest of the intersection of S. Airport Drive and Williamsburg Road); thence northwardly along S. Airport Drive Extended to its intersection with Williamsburg Road (U.S. Route 60); thence eastwardly along Williamsburg Road (U.S. Route 60) to its intersection with S. Airport Drive (State Route 156): thence northwardly along S. Airport Drive (State Route 156) to its intersection with the Southern Railway; thence eastwardly along the Southern Railway to its intersection with East Nine Mile Road (State Route 33); thence southeastwardly along East Nine Mile Road (State Route 33) to its intersection with Bond Street; thence northeastwardly along Bond Street to its intersection with Algiers Drive; thence southeastwardly along Algiers Drive to its intersection with Defense Avenue; thence southeastwardly along Defense Avenue to its intersection with Seven Pines Avenue; thence southwardly along Seven Pines Avenue to its intersection with Howard Street; thence southwestwardly along Howard Street to its intersection with East Nine Mile Road (State Route

33); thence southwardly along East Nine Mile Road (State Route 33) to its intersection with East Williamsburg Road (U.S. Route 60); thence eastwardly along East Williamsburg Road (U.S. Route 60) to its intersection with Sandston Avenue; thence southwardly along Sandston Avenue to its intersection with Huntsman Road; thence eastwardly along Huntsman Road to its intersection with Seabury Avenue; thence southwardly along Seabury Avenue to its intersection with Treva Road; thence westwardly along Treva Road to its intersection with Beulah Road; thence southwardly along Beulah Road to its intersection with White Oak Swamp Creek (approximately 1,200 feet north of the intersection of Beulah Road and La France Road); thence southeastwardly along White Oak Swamp Creek to its intersection with Portugee Road; thence southwardly along White Oak Swamp Creek to a fork in the creek (approximately 400 feet west of the intersection of Poplar Springs Road and White Oak Swamp Creek); thence southwestwardly along White Oak Swamp Creek to its intersection with an unnamed stream (approximately 4,800 feet east of the intersection of White Oak Swamp Creek and Interstate Route 295); thence southwardly along the unnamed stream to its intersection with another unnamed stream; thence southwestwardly along this unnamed stream to its intersection with Charles City Road (approximately 2,000 feet east of the intersection of Turner Road and Charles City Road); thence northwestwardly along Charles City Road to its intersection with S. Airport Drive and the point of beginning. The polling place for Sandston Precinct is Sandston Baptist Church, 100 W. Williamsburg Road.

q. *Sullivans Precinct.* Beginning at the intersection of South Laburnum Avenue and Willson Road; thence southeastwardly along Willson Road to its intersection with an unnamed stream (approximately 800 feet northeast of the intersection of New Market Road (State Route 5) and Willson Road); thence westwardly along the unnamed stream to its intersection with New Market Road (State Route 5); thence northwestwardly along New Market Road (State Route 5) to its intersection with Cornelius Creek; thence southwardly along Cornelius Creek to its intersection with the boundary line of Chesterfield County and Henrico County; thence northwardly along the boundary line of Chesterfield County and Henrico County to its intersection with the boundary line of the City of Richmond and Henrico County; thence northwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Almond Creek; thence northeastwardly along Almond Creek to its intersection with Bickerstaff Road; thence eastwardly along Bickerstaff Road to its intersection with Old Oakland Road; thence westwardly along Old Oakland Road to its intersection with Northbury Avenue; thence southwardly along Northbury Avenue to its intersection with Whitfield Avenue; thence southwardly along Whitfield Avenue to its intersection with Lanier Avenue; thence westwardly along Lanier Avenue to its intersection with Osborne Turnpike (State Route 5); thence southwardly along Osborne Turnpike (State Route 5) to its intersection with New Market Road (State Route 5); thence southeastwardly along New Market Road (State Route 5) to its intersection with Messer Road; thence northeastwardly along Messer Road to its intersection with Michael Robinson Way; thence southeastwardly along Michael Robinson Way to South Laburnum Avenue; thence northeastwardly along South Laburnum Avenue to its intersection with Willson Road and the point of beginning. The polling place for Sullivans Precinct is Varina High School, 7053 Messer Road.

r. *Town Hall Precinct.* Beginning at the intersection of Mill Road and Varina Road; thence southwardly along Varina Road to its intersection with Kingsland Road; thence northeastwardly along Kingsland Road to its intersection with New Market Road (State Route 5); thence eastwardly along New Market Road (State Route 5) to its intersection with Long Bridge Road; thence northeastwardly along Long Bridge Road to its intersection with Bailey Creek; thence southwardly along Bailey Creek to its intersection with the boundary line of Chesterfield County and Henrico County; thence westwardly along the boundary line of Chesterfield County and Henrico County to its intersection with Cornelius Creek; thence northeastwardly along Cornelius Creek to its intersection with Osborne Turnpike; thence southwardly along Osborne Turnpike to its intersection with Mill Road; thence eastwardly along Mill Road to its intersection with Varina Road and the point of beginning. The polling place for Town Hall Precinct is Varina Elementary School, 2551 New Market Road.

s. *Whitlocks Precinct.* Beginning at the intersection of Yahley Mill Road and Charles City Road; thence

westwardly along Charles City Road to its intersection with an unnamed stream (approximately 4,000 feet west of the intersection of Yahley Mill Road and Charles City Road); thence northeastwardly along the unnamed stream to its intersection with White Oak Swamp Creek (approximately 4,800 feet east of the intersection of White Oak Swamp Creek and Interstate Route 295); thence northeastwardly along White Oak Swamp Creek to a fork in the creek (approximately 400 feet west of the intersection of Poplar Spring Road and White Oak Swamp Creek); thence eastwardly along White Oak Swamp Creek to its intersection with an unnamed stream (approximately 7,000 feet west of the intersection of Elko Road (State Route 156) and White Oak Swamp Creek); thence southwestwardly along the unnamed stream to its intersection with Hines Road (approximately 2,800 feet east of the intersection of Hines Road and Charles City Road); thence northeastwardly along Hines Road to its intersection with Elko Road (State Route 156); thence southwardly along Elko Road (State Route 156) to its intersection with Charles City Road (State Route 156); thence northeastwardly along Charles City Road to its intersection with the boundary line of Charles City County and Henrico County; thence southwestwardly along the boundary line of Charles City County and Henrico County to its intersection with the boundary line of Charles City County, Chesterfield County and Henrico County; thence westwardly along the boundary line of Chesterfield County and Henrico County to its intersection with Bailey Creek; thence northwardly along Bailey Creek to its intersection with Long Bridge Road; thence northeastwardly along Long Bridge Road to its intersection with Yahley Mill Road; thence northwardly along Yahley Mill Road to its intersection with Charles City Road and the point of beginning. The polling place for Whitlocks Precinct is Varina Church of the Nazarene, 5350 Darbytown Road.

(Code 1980, §§ 8-2, 8-3; Code 1995, § 9-2; Ord. No. 900, § 1, 6-28-1995; Ord. No. 901, § 1, 6-28-1995; Ord. No. 905, §§ 1, 2, 7-26-1995; Ord. No. 926, § 1, 7-10-1996; Ord. No. 949, § 1, 5-14-1997; Ord. No. 977, § 1, 6-24-1998; Ord. No. 1012, § 1, 6-12-2001; Ord. No. 1014, § 1, 7-24-2001; Ord. No. 1018, § 1, 10-9-2001; Ord. No. 1021, § 1, 1-22-2002; Ord. No. 1036, §§ 1, 2, 8-13-2002; Ord. No. 1042, § 1, 4-22-2003; Ord. No. 1049, § 1, 8-12-2003; Ord. No. 1067, § 1, 7-13-2004; Ord. No. 1106, § 1, 6-26-2007; Ord. No. 1122, § 1, 7-22-2008; Ord. No. 1133, § 1, 3-10-2009)

State law reference—Precincts and polling places, Code of Virginia, § 24.2-307.

Sec. 9-3. Central absentee election district.

There is hereby established a permanent central absentee election district to be used for all elections. Such district shall be located in the Home Demonstration Meeting Room, Room 3027 of the Human Services Building of the county government center at 8600 Dixon Powers Drive. Such election district shall be operated as provided in Code of Virginia, § 24.2-712.

Sec. 9-4. Voter Satellite Offices.

Varina Library, 1875 New Market Road, is established as a voter satellite office.

(Code 1980, § 8-4; Code 1995, § 9-3; Ord. No. 1036, § 3, 8-13-2002)

State law reference—Absentee ballots, Code of Virginia, § 24.2-700 et seq.

Chapter 10 - ENVIRONMENT

*__Cross reference—__Unsafe buildings, § 6-25 et seq.; spot blight abatement, § 6-104 et seq.; pollution of waters in parks, § 14-39.

Article I. FLOODPLAIN MANAGEMENT

Division 1: Purpose and Applicability

Sec. 10-1. Purpose and Applicability

The purpose of this article is to promote and protect the health, safety, and general welfare of county residents and to minimize losses due to flood hazards through provisions designed to:

(a) prevent development and land disturbing activities from increasing flood or drainage hazards;
(b) protect new buildings and major improvements to buildings from flood damage;
(c) protect human life and health from the hazards of flooding;
(d) lessen the burden on taxpayers for future flood and drainage control projects, repairs to flood-damaged public facilities and utilities and flood rescue and relief operations; and
(e) make federally subsidized flood insurance available for property within the county.

This article applies to privately and publicly owned lands within areas designated as a Special Flood Hazard Area (SFHA) and areas adjacent to SFHAs, as outlined in this article. No development shall occur within the SFHA and areas adjacent to SFHAs except in accordance with the provisions of this article.

State law reference: Code of Virginia § 15.2-984.

Sec. 10-2. Compliance and Liability

(a) No land shall hereafter be developed, and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered, except in full compliance with the provisions of this article and any other applicable laws and regulations.
(b) The degree of flood protection sought by this article is deemed reasonable for regulatory purposes and is based on acceptable engineering study methods. However, compliance with this article will not guarantee total protection from flooding or flood damages due to heavy rainfalls, increases in flood heights due to man-made or natural causes such as debris blockage of bridge openings, or other causes.
(c) The county and its officers and employees shall not be responsible for flood damages that result from reliance on this article or any administrative decision related to its enforcement.

Division 2. Definitions

Sec. 10-3. Definitions

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

500-year Floodplain: The land at risk for flooding from a 0.2 percent (500-year) flood in any given year. This area may be identified as a Shaded X Zone or Shaded X5 Zone on the Floodplain Maps.

Accessory or Appurtenant Structure: A structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. An accessory structure is considered

nonresidential for the purposes of this article and may include detached garages, sheds, barns, or greenhouses.

Addition: An extension or increase in the floor area or height of an existing building or structure.

Agricultural Structure: A structure that is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic animals or plants associated with aquaculture activities. An agricultural structure does not include any structure used for human habitation.

Alteration of a Watercourse: A dam, impoundment, channel relocation, change in channel alignment, channelization, change in cross-sectional area of the channel or the channel capacity, or any other change associated with development which may increase the base flood elevation.

ASCE 24: Published by the American Society of Civil Engineers (ASCE), ASCE 24, *Flood Resistant Design and Construction* is a referenced standard in the Uniform Statewide Building Code that provides minimum requirements and expected performance for the siting, design, and construction of buildings and structures in flood hazard areas that are subject to building code requirements.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year. This may also be referred to as the 100-year flood.

Base Flood Elevation (BFE): The water surface elevation of the base flood as shown either on (1) the most recent Federal Emergency Management Agency Flood Insurance Rate Map or Flood Insurance Study or (2) the county's most recent Comprehensive Drainage Map, whichever is higher. For areas without mapped base flood elevations, the developer shall use the 100-year flood elevations and floodway information from federal and state sources when available or, if such information is not available, flood elevations derived from sufficiently detailed hydrologic and hydraulic computations by a professional engineer who certifies the correct use of currently accepted technical concepts.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Community Special Flood Hazard Area: Also referred to as the Community SFHA, the land subject to a one percent or greater chance of flooding in any given year, based on 100-acre drainage areas or less, as identified on the county's current Comprehensive Drainage Maps. These areas do not include and are in addition to FEMA Special Flood Hazard Areas.

Conditional Letter of Map Revision (CLOMR): Either (1) a formal review and comment from FEMA stating that a proposed project complies with the minimum NFIP requirements for the project with respect to delineation of FEMA SFHAs or (2) a letter from the county engineer that provides conditional approval of a study, based on as-built conditions, that changes the location of the Community SFHA. A CLOMR does not revise the Floodplain Maps.

County Comprehensive Drainage Map. The most recent map approved by and maintained by the county engineer on the county's GIS designating the 100-year floodplain in the county. The county engineer may amend the County Comprehensive Drainage Map at any time upon review of additional engineering studies of floodplain areas.

Critical Facility: A structure or other improvement that, because of its function, size, service area, or uniqueness, has the potential to result in serious bodily harm, extensive property damage, or disruption of vital socioeconomic activities if it is destroyed or damaged or if its functionality is impaired. Critical facilities include health and safety facilities, utilities, government facilities, and hazardous materials facilities.

Dam Break Inundation Zone: The area downstream of a dam that would be inundated or otherwise directly affected by the failure of the dam. A dam's dam break inundation zone shall be as shown on the dam break inundation zone map for that dam filed with the Virginia Department of Conservation and Recreation.

Dam: A manmade structure across a watercourse used to restrain water.

Development: Any man-made change to improved or unimproved real estate, including buildings or other structures, as well as mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.

Dry Floodproofing: A combination of measures that results in a structure and its attendant utilities and equipment being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

Elevated Building: A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns, such as posts and piers.

Encroachment: The advance or infringement of uses, fill, excavation, buildings, permanent structures, or development into a floodplain which may impede or alter the flow capacity of a floodplain. Building renovations within the existing building footprint area are not considered an Encroachment.

Erosion: The process of the gradual wearing away of land masses.

FEMA: Federal Emergency Management Agency.

FEMA Special Flood Hazard Area: Also referred to as the FEMA SFHA, the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year as designated by FEMA. The area may be designated on a Flood Insurance Rate Map as Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the FEMA SFHAs and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (*i.e.*, mudflow) and/or flood-related erosion hazards.

Flood or Flooding: Defined as either:

(a) a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, (2) the unusual and rapid accumulation or runoff of surface waters from any source, or (3) mudslides (*i.e.*, mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in a partial or complete inundation of normally dry land.

Flood Damage-Resistant Materials: Any construction materials capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

Floodplain Administrator: The person appointed to administer, implement, and enforce the provisions of this article. This person is also known as the Floodplain and Dam Safety Manager.

Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Maps: The current Flood Insurance Rate Maps and Flood Insurance Study for Henrico County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, effective April 25, 2024, and the current County Comprehensive Drainage Map, effective December 18, 2007, and subsequent revisions or amendments thereto.

Floodplain or Flood-Prone Area: Any land area susceptible to being inundated by water from any source other than a dam break.

Floodproofing: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or prevent flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation. The Floodway is part of the SFHA. This may also be referred to as the Regulatory Floodway.

Freeboard: A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term only includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

GIS: Geographic Information System.

Habitable Building: A structure designed primarily for or used for human habitation. This includes houses, condominiums, townhomes, restaurants, retail establishments, manufacturing buildings, commercial buildings, office buildings, manufactured homes, and similar uses. It does not include Accessory Structures.

Highest Adjacent Grade: The highest natural elevation of the ground surface next to the walls of a proposed structure prior to construction.

Historic Structure: Any structure that is: (a) listed individually in the National Register of Historic Places maintained by the U. S. Department of Interior or preliminarily determined by the U. S. Secretary of the Interior as meeting the requirements for individual listing on the National Register, or (b) certified or preliminarily determined by the U. S. Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district, or (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the U. S. Secretary of the Interior, or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) by an approved state program as determined by the U. S. Secretary of the Interior or (2) directly by the U. S. Secretary of the Interior in states without approved programs.

Hydrologic and Hydraulic Engineering Analysis: Analyses performed by a licensed professional engineer in accordance with standard engineering practices to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Impounding Structure: A dam across a watercourse or a manmade structure outside a watercourse used or to be used to retain or store waters or other materials as defined by Code of Virginia § 10.1-604. The term includes (i) all dams that are 25 feet or greater in height and that create an impoundment capacity of 15 acre-feet or greater and (ii) all dams that are six feet or greater in height and that create an impoundment capacity of 50 acre-feet or greater. The term "impounding structure" does not include: (a) dams licensed by the State Corporation Commission that are subject to a safety inspection program, (b) dams owned or licensed by the United States government, (c) dams operated primarily for agricultural purposes which are less than 25 feet in height or which create a maximum impoundment capacity smaller than 100 acre-feet, (d) water or silt retaining dams approved pursuant to Code of Virginia § 45.1-222 or § 45.1-225.1, or (e) obstructions in a canal used to raise or lower water.

Increased Cost of Compliance (ICC) Coverage: Covers expenses that a property owner must incur above the cost to repair physical damage a building actually sustains from a flooding event to comply with mitigation requirements of state or local floodplain management ordinances or laws. Acceptable mitigation measures are higher elevation, greater floodproofing, relocation, demolition, or any combination thereof.

Land Disturbing Activity: Any clearing, grading, excavating, transporting, or filling of land.

Letter of Map Amendment (LOMA): An amendment to the Flood Insurance Rate Map approved by FEMA based on technical data that establishes that a specific property is not located in a FEMA SFHA. However, a LOMA is site specific and is not shown on the Floodplain Maps.

Letter of Map Change (LOMC): A Letter of Map Change is (1) an official FEMA letter that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study or (2) an official county letter that amends or revises the most recent County Comprehensive Drainage Map.

Letter of Map Revision (LOMR): A revision to the Floodplain Maps based on technical data that shows a change or changes to flood zones or flood elevations or floodplain and floodway delineations or planimetric features. This includes (1) a revision approved by FEMA to revise a FEMA SFHA on a Flood Insurance Rate Map or Flood Insurance Study or (2) a revision approved by the county engineer to revise a Community SFHA on the most recent County Comprehensive Drainage Map.

Levee System: A flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Levee: A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water to provide protection from temporary flooding.

Lowest Adjacent Grade: The lowest natural elevation of the ground surface next to the walls of a structure.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor if such enclosure does not violate the applicable enclosure requirements in Sec. 10-10(b) of this article.

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term Manufactured Home does not include a recreational vehicle. A Manufactured Home may be considered a Residential or Non-Residential Building depending on its use.

Market Value: The value of a building, excluding land value, that is determined by an appraiser certified in Virginia. The tax value of the building may be used for this value.

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Floodplain Maps are referenced.

Mechanical Equipment: Includes electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities.

Mixed-Use Building: A building that has both residential and non-residential uses.

Mudslide: A condition where there is a river, flow, or inundation of liquid mud down a hillside usually as a result of a loss of brush cover and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. A Mudslide (*i.e.*, mudflow) may occur as a distinct phenomenon while a landslide is in progress and will be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

New Construction: Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NFIP: National Flood Insurance Program.

Non-Residential Building: A building or accessory structure where the primary use is commercial or not for human habitation.

No-Rise Certification: A certification statement signed by a professional engineer licensed to practice in the Commonwealth of Virginia certifying that a proposed project will not increase the base flood elevations in the community.

Post-FIRM: Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.

Pre-FIRM: Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.

Principally Above Ground: At least fifty-one percent of the actual cash value of the structure, less land value, is above ground.

Prolonged Contact with Floodwaters: Partial or total inundation by floodwaters for 72 hours or more.

Recreational Vehicle: A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily for use as temporary living quarters for recreational, camping, travel, or seasonal use rather than as a permanent dwelling.

Repetitive Loss Structure: A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a 10-year period for which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each flood event and at the time of the second flood event had increased costs of compliance coverage in the contract for flood insurance.

Residential Building: A non-commercial building designed for habitation by one or more families or a mixed-use building, including any building or portion of a building occupied or designed to be occupied exclusively for residential purposes. The term includes guesthouses, cabins, and sleeping units but does not include a tent, recreational vehicle, hotel or motel, boardinghouse, hospital, or other accommodation used for transient occupancy.

Riverine: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Severe Repetitive Loss Structure: A structure that is covered under a contract for flood insurance made available under the NFIP and has incurred flood related damage for which four or more separate claims payments have been made under flood insurance coverage with each such claim exceeded $5,000 and the cumulative amount of such claims payments exceeded $20,000. The term also includes a structure covered by flood insurance made available under the NFIP for which at least two separate claims payments have been made under such coverage and the cumulative amount of such claims payments exceeds the market value of the insured structure.

Special Flood Hazard Area (SFHA): Land subject to a one percent or greater chance of flooding in any given year. This area includes both FEMA Special Flood Hazard Areas and Community Special Flood Hazard Areas and may also be referred to as the 100-year floodplain.

Start of Construction: The date the building permit is issued for construction, repair, reconstruction, rehabilitation, addition placement, or other improvements, provided the actual start of such activity was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling, or the installation of streets and/or walkways. It also does not include excavation for a basement, footings, piers, or foundations, the erection of temporary forms, or the installation on the property of accessory buildings, such as garages or sheds that are not occupied as dwelling units or as parts of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. This definition does not apply to new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348).

Structure: A walled and roofed building that is principally above ground. Walled is considered "two or more outside rigid walls" and roofed is "a fully secured roof." This may also be referred to as a building.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the Start of Construction of the improvement. This term includes improvements to structures which have incurred Substantial Damage, regardless of the amount of the actual repair work performed. For the purposes of this article, the relocation of a residential structure within the SFHA is deemed a substantial improvement. This term does not, however, include any improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum improvements necessary to assure safe living conditions.

Substantially Impermeable: Use of flood damage-resistant materials and techniques for dry floodproofing portions of a structure, which result in a space free of cracks, openings, or other channels that permit unobstructed passage of water and seepage during flooding and which results in a maximum accumulation of 4 in. of water depth in such space during a period of 24 hours.

Uniform Statewide Building Code (USBC): The current edition of the Virginia Uniform Statewide Building Code as authorized by the Code of Virginia, § 36-98.

Variance: A grant of relief from any requirement of this article. Variances may only be granted in compliance with the provisions of Division 5 of this article.

Violation: The failure of a structure or other development to be fully compliant with this article.

Water Surface Elevation (WSE): The height of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. These heights are shown on maps by reference to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified),

Watercourse: A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Wet Floodproofing: Floodproofing method that relies on the use of flood damage-resistant materials and construction techniques in areas of a structure that are below the elevation required by this article and are intentionally allowed to flood.

Division 3: Administration and Interpretation

Sec. 10-4. Designation of the Floodplain Administrator

The Floodplain Administrator is responsible for administering and implementing this article. However, the Floodplain Administrator may implement this article by:

(a) delegating his or her duties and responsibilities in this article to qualified technical personnel, plan examiners, inspectors, and other employees.

(b) entering into a written agreement or written contract with a community or private sector entity to carry out specific provisions of these requirements. Administration of any part of this article by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. 59.22.

Sec. 10-5. Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include:

(a) reviewing applications for permits to determine whether proposed activities will be located in the SFHA.
(b) interpreting floodplain boundaries and providing available BFE and flood hazard information.
(c) reviewing applications to determine whether proposed activities will be reasonably safe from flooding and requiring new construction and substantial improvements to meet the requirements of these requirements.
(d) reviewing applications to determine whether all necessary permits have been obtained from the federal, state, or local agencies from which prior or concurrent approval is required. These permits shall include permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross-section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the Commonwealth.
(e) verifying that applicants proposing an alteration of a watercourse have notified impacted adjacent communities, the Virginia Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies, such as the Virginia Department of Environmental Quality and the U.S. Army Corps of Engineers, and have submitted copies of such notifications to FEMA.
(f) approving applications and issuing permits to develop in the SFHA if the requirements of this article have been met.
(g) inspecting, or causing to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these requirements.
(h) reviewing Elevation Certificates and Floodproofing Certificates and requiring incomplete or deficient certificates to be corrected.
(i) submitting to FEMA, or requiring applicants to do so, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the county, within six months after such data and information becomes available if the analyses indicate changes in BFEs or boundary changes.
(j) maintaining and permanently keeping records that are necessary for the administration of these requirements, including:
    (1) FISs, FIRMs, and LOMCs; and
    (2) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation to which structures have been floodproofed, inspection records, required design certifications, variances, and records of enforcement actions taken to correct violations of these requirements.
(k) enforcing the provisions of these requirements, investigating violations, issuing notices of violations or stop work orders, and requiring permit holders to take corrective action as needed to comply with this article.
(l) creating, and amending as necessary, a Technical Guidance Manual to help explain the application of this article using charts and other written materials.
(m) advising the county engineer, county manager, board of supervisors, and others regarding the intent of these requirements.
(n) administering the requirements related to proposed work on existing buildings that may be substantially damaged:
    (1) making determinations as to whether damaged structures in the SFHA are substantially damaged.

(2) coordinating with federal, state, and local agencies to assist with substantial damage determinations.
(3) making reasonable efforts to notify owners of substantially damaged structures of their need to obtain permits to repair, rehabilitate, or reconstruct.
(4) prohibiting the non-compliant repair of substantially damaged buildings except for emergency measures to secure a property or temporarily stabilize a building or structure to prevent additional damage.

(o) issuing public service announcements and other information related to permit requests and repair of damaged structures.
(p) providing owners of damaged structures information about the proper repair of damaged structures in SFHAs.
(q) assisting property owners with documentation required to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
(r) notifying FEMA when the corporate boundaries of the county have been modified.
(s) completing and submitting a report concerning participation in the NFIP at the request of FEMA.
(t) considering known flood, mudslide, and flood-related erosion hazards in official actions regarding land management and use throughout the county, even if those hazards have not been specifically delineated via mapping or surveying.
(u) maintaining records of all variance actions, including notifications and justifications for the granting of variances. All issued variances shall be recorded in the annual or biennial report as requested by FEMA.

Sec. 10-6. Use and Interpretation of Floodplain Maps

The county's Floodplain Maps shall include the current effective FEMA FIRMs and the current effective County Comprehensive Drainage Maps in the county's online GIS. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of SFHAs, floodplain boundaries, floodway boundaries, and BFEs.

The following shall apply to the use and interpretation of floodplain maps and data:

(a) Where available topography information, such as GIS maps, LiDAR, and field surveys, indicates that adjacent ground elevations:
(1) are below the BFE, even in areas not delineated as SFHA, the area shall be considered as SFHA and subject to the requirements of this article;
(2) are above the BFE and the area is labelled as SFHA on the floodplain maps, the area shall be regulated as SFHA unless the applicant obtains an approved LOMC.
The Floodplain Administrator may require field survey information to verify adjacent ground elevations from a licensed land surveyor or professional engineer.
(b) Where BFE and floodway data have not been identified, including in areas where SFHAs have not been identified, any other reasonable flood hazard data available from a federal, state, or other source shall be reviewed and used. The Floodplain Administrator is authorized to require the applicant to determine the BFE and/or floodway in accordance with accepted hydrologic and hydraulic engineering practices, and the determination must be made by a licensed professional engineer.
(c) BFEs and designated floodplain or floodway boundaries for effective SFHAs that are more restrictive shall take precedence over BFEs and floodplain or floodway boundaries created by any other source unless

a CLOMR has been approved. Other sources of data shall be reasonably used if such sources show increased BFEs and/or wider floodplain or floodway boundaries than have been adopted for the effective SFHA.

(d) If a Preliminary FIRM and/or a Preliminary Flood Insurance Study has been provided by FEMA:

(1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the effective SFHA for the purposes of administering these regulations.

(2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Sec. 10-6(b) and used where no BFEs and/or floodplain or floodway areas are provided on the effective Floodplain Maps.

(3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary BFEs, floodplain or floodway areas exceed the BFEs and/or designated floodplains or floodway widths on the effective Floodplain Maps. Such preliminary data may be subject to change and/or appeal to FEMA.

Sec. 10-7. SFHA Boundary Changes

The county may revise the delineation of any SFHA when (1) natural or man-made changes have occurred, (2) detailed studies have been conducted by the U. S. Army Corps of Engineers or another qualified entity, or (3) an owner or developer documents the need for a boundary change. The revision must be documented in an approved LOMR.

Division 4: Permit and Development Standards

Sec. 10-8. Floodplain Development Permit Requirements

A Floodplain Development Permit is necessary for any use, activity, or development within a SFHA. All development must strictly comply with this article and other applicable requirements. The application must show compliance with all legal requirements before issuance of such permit, and the Floodplain Administrator shall review all sites to verify they are reasonably safe from flooding. Under no circumstances may any use, activity, or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

The following specific requirements must be met before any development in the floodplain occurs:

(a) The applicant shall submit the application fee, application form, and required information for a Floodplain Development Permit to the Floodplain Administrator. All applications must state the elevation of the lowest floor for all structures to be elevated or the elevation to which the structures will be floodproofed in an Elevation Certificate (FEMA Form 086-0-33).

(b) On receiving the application, the Floodplain Administrator shall determine whether the application is complete. If the Floodplain Administrator determines the application is incomplete, the Floodplain Administrator shall provide written notice of the submission deficiencies and shall not process the application further. When the Floodplain Administrator determines that the application is complete, the Floodplain Administrator shall review the application for compliance with this article.

(c) The Floodplain Administrator must issue a Floodplain Development Permit and include any conditions necessary to ensure compliance with this article.

Sec. 10-9. Development Standards – General

The following provisions apply to all permitted development:

(a) Development shall not cause an increase in the BFE, reduce the flood-carrying capacity of any watercourse, drainage ditch, or other drainage facility or system, or similar adverse impacts. The applicant shall submit a No-Rise Certificate, signed and sealed by a licensed professional engineer, with sufficient supporting technical data such as a hydrologic and hydraulic analysis, as determined by the Floodplain Administrator. Compensatory storage may be utilized to satisfy the no rise requirement for any type of development if engineering data shows the site is hydraulically equivalent and the Floodplain Administrator approves the plans for each compensatory storage area.

(b) Fill may not be placed in the SFHA, including the placement of fill to remove a lot from the SFHA in order to construct a building or structure.

(c) Mechanical equipment shall be designed and/or located to prevent water from entering or accumulating within its components during conditions of flooding.

(d) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(e) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

(f) On-site waste disposal systems shall be located and constructed to avoid their impairment or contamination during flooding.

(g) Any repair, replacement, or reconstruction of a damaged or destroyed building or structure must comply with the requirements of Sec. 10-13.

(h) An owner or developer must obtain a permit from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (as applicable) prior to any proposed alteration or relocation of any channel or watercourse within the county. Furthermore, the applicant shall notify all affected adjacent jurisdictions, the Virginia Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and FEMA when altering or relocating any channel or watercourse mapped in a FEMA SFHA.

(i) Any alteration or relocation of any channel or watercourse must maintain the flood carrying capacity of the channel or watercourse.

(j) There shall be no encroachment, including fill, new construction, substantial improvements, or other development within the floodway unless hydrologic and hydraulic analysis performed in accordance with standard engineering practices show the encroachment will not result in any increase to the BFE. The Floodplain Administrator may require a CLOMR and/or a LOMR.

(k) New or substantially improved Critical Facilities and new or substantially improved residential structures may not be located inside the SFHA.

(l) A new Critical Facility may be located in the 500-year floodplain if the building or structure is outside the SFHA and its lowest floor is elevated to either the BFE plus two feet or the 500-year flood elevation plus one foot, whichever is greater.

(m) New or substantially improved residential structures may not be located closer to a SFHA than 15 feet.

(n) New buildings or structures other than Critical Facilities or residential structures may be constructed in the SFHA if the elevation of the lowest floor, including mechanical equipment, is a minimum of two feet above the BFE.

(o) New construction or substantial improvements located in the 500-year floodplain or that are closer to the SFHA than 40 feet shall have the lowest floor, including mechanical equipment, elevated a minimum of one foot above the BFE.

Sec. 10-10. **Elevation and Construction Standards**

(a) New construction and substantial improvements, including manufactured homes, shall be:
  (1) built in accordance with this article and the USBC, and anchored to prevent flotation, collapse, or lateral movement of the structure,
  (2) constructed with materials and utility equipment resistant to flood damage, and
  (3) constructed with methods and practices that minimize flood damage.

(b) *Enclosures Below the Lowest Floor:* Fully enclosed areas of new construction or substantially improved structures which are below the lowest floor shall:
  (1) not be designed or used for human habitation,
  (2) be used solely for parking of vehicles, building access, or limited storage of maintenance equipment for the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
  (3) be constructed entirely of flood resistant materials;
  (4) include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, flood openings must meet the following minimum design criteria:
    a. there must be a minimum of two openings on different sides of each enclosed area subject to flooding.
    b. the total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding.
    c. there must be openings to allow floodwaters to automatically enter and exit each enclosed area if a building has more than one enclosed area.
    d. the bottom of all required openings shall be no higher than one foot above the adjacent grade.
    e. openings may be equipped with screens, louvers, or other opening coverings or devices that permit the automatic flow of floodwaters in both directions without manual operation or human intervention.

(c) *Accessory Structures*: Detached accessory structures used only for parking of vehicles and/or storage may be permitted with the lowest floor below the BFE if the following conditions are met:
  (1) the structure is not larger than 600 square feet - approximately the size of a one-story two-car garage and walls.
  (2) the structure has flood openings in compliance with the requirements of Sec. 10-10(b)(4) to protect the structure from hydrostatic pressure.
  (3) the structure is anchored to resist flotation, collapse, and lateral movement.
  (4) flood damage-resistant materials are used below the BFE.
  (5) mechanical, electrical, and utility equipment is elevated or dry-floodproofed to or above the BFE. Dry-floodproofing must be certified by a licensed professional engineer or architect.

(d) *Elevation Certificates:* An Elevation Certificate (FEMA Form 086-0-33) must be submitted and approved by the Floodplain Administrator after the lowest floor of a new building or structure has been completed and before further construction has begun. In addition, an Elevation Certificate must be submitted and approved by the Floodplain Administrator after construction is completed to ensure compliance with this article prior to the issuance of a certificate of occupancy or temporary certificate of occupancy. Another certification may be required to certify corrected as-built construction. Failure to submit the

Elevation Certificate or failure to make required corrections shall be cause to withhold the issuance of a certificate of occupancy or temporary certificate of occupancy.

(e) *Recreational Vehicles:* Recreational vehicles may not be parked within the SFHA for more than 180 consecutive days and must be fully licensed and ready for highway use. For purposes of this subsection, a recreational vehicle is ready for highway use if it is on wheels or a jacking system, is attached to the site only by quick disconnect-type utilities and security devices, and has no permanently attached additions.

(f) *Storage of Materials and Equipment:* Storage of hazardous materials is prohibited in the SFHA. Storage of other materials and equipment may be permitted in the SFHA if the materials and equipment will not become debris during a flood by being elevated at or above the BFE or anchored to resist flotation or located in an enclosure or being removable from the site prior to a flood. To treat the materials or equipment as being removable from the site, the owner must provide (1) a copy of the contract with a trucking company to ensure the availability of removal equipment when needed, or (2) evidence of removal equipment on the property if a trucking company will not be used. In either case, the owner must provide a written designation of a location outside the SFHA to which the materials or equipment will be removed.

(g) *Dryland Access:* New roads, driveways, and parking areas located in the SFHA must be designed and constructed so that they will not be overtopped by more than six inches of water during the 100-year flood.

(h) *Swimming Pools:* Accessory swimming pools may be permitted in the SFHA if they are constructed in accordance with this article, the USBC, and ASCE 24.

(i) *Tanks:* The placement of gas and liquid storage tanks must be in compliance with the USBC and ASCE 24.

(j) *Stormwater Management Facilities*: New stormwater management facilities may not be constructed within the SFHA. Stormwater management facilities located adjacent to the SFHA that discharge into it must meet the requirements in Sec. 10-9(a).

(k) *Temporary Structures:* Before issuance of a Floodplain Development Permit by the Floodplain Administrator for a temporary structure, all applicants must submit a plan for removal of the structure in the event of a flood-related severe weather notification (hurricane, tropical storm, flood, flash flood, etc.) which includes the following information:

(1) certification that the requirements of Sec. 10-9(a) and Sec. 10-9(b) have been met;

(2) a specified time period for the temporary use. The time period may not exceed three months and is renewable for up to one additional year;

(3) the name, address, and phone number of the individual responsible for the removal of the structure;

(4) the amount of time prior to the event when the structure will be removed;

(5) a copy of a contract with a trucking company to ensure the availability of removal equipment when needed or evidence of removal equipment on the property if a trucking company will not be used. In either case, the owner must provide a written designation of a location outside the SFHA to which the structure will be removed.

(l) *Temporary Encroachments:* Temporary encroachments into the SFHA may be exempt from the requirements of Sec. 10-9(a) and Sec. 10-9(b) if a Floodplain Development permit is issued. Temporary encroachments include sediment control devices, temporary stream crossings, haul roads and construction entrances, storage of equipment, and soil stockpiling. The following conditions must be met to qualify for the exemption:

(1) The proposed temporary encroachment shall not be in place more than three months and is renewable for up to one additional year with written approval from the Floodplain Administrator. Temporary sediment control devices may be kept in place longer than one year if required bythe appropriate regulatory agency; and,
(2) Supporting documentation, including a hydrologic and hydraulic analysis (if required by the Floodplain Administrator) must be submitted by a licensed professional engineer indicating that the proposed project will not impact any existing buildings or overtop any roadway surfaces.

Sec. 10-11. Dams and Other Water-Impounding Structures

Construction of a dam or other water-impounding structure to impound water shall comply with the following requirements:

(a) The construction's effect upon the BFE above the dam or water-impounding structure shall not endanger human life or property.
(b) The dam or water-impounding structure shall be designed and constructed in accordance with the requirements of the Virginia Dam Safety Act, § 10.1-604 et seq. of the Code of Virginia, as amended, its implementing regulations, and any requirements of the county engineer to minimize hazards below the dam resulting from failure of the dam or water-impounding structure.

Sec. 10-12. Subdivision Proposals

(a) Any subdivision proposal or other proposed development that exceed 50 lots or five acres, whichever is less, in an area where BFE data is not available or the SFHA has not been delineated shall include data using detailed methodologies, including a hydraulic and hydrologic analysis, comparable to those contained in a FIS. Once identified, those areas shall be subject to the requirements of this article.
(b) Any proposed subdivision in a SFHA shall include measures to reduce flood damage.
(c) Any proposed subdivision in a SFHA shall ensure that public utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize flood damage.
(d) Any proposed subdivision in a SFHA shall provide adequate drainage to reduce exposure to flood hazards.

Sec. 10-13. Existing Structures and Uses

(a) A structure or use that lawfully existed before the adoption of this article but does not satisfy the current requirements of this article may continue.
(b) An existing structure in the floodway may not be expanded or enlarged if the proposed expansion or enlargement would result in an increase in the BFE.
(c) If a modification, alteration, repair, reconstruction, or improvement to a structure in a floodplain would cost less than 50 percent of the market value of the structure, the modification, alteration, repair, reconstruction, or improvement must be designed to minimize flood damage. If such structure does not comply with the current requirements of this article, the modification, alteration, repair, reconstruction, or improvement must not increase the amount of nonconformity.
(d) A substantial improvement must meet the requirements of this article for new construction, and the entire structure must conform with the current USBC after the substantial improvement is completed. If a substantial improvement will be located in the 500-year floodplain or will be between 15 and 40 feet

from the SFHA, the lowest floor of the substantial improvement, including mechanical equipment, must be elevated a minimum of one foot above the BFE.

(e) An existing residential structure may not be enlarged if any part of the enlarged structure will be in, or within 15 feet of, the SFHA.

(f) A residential structure may be relocated only if the new location of the structure is entirely outside the SFHA and the new location does not violate the provisions of this article.

Division 5. Appeals and Variances

Sec. 10-14. Variance Application Process

Applicants may seek a variance from the county engineer under Sec. 10-16 or an administrative variance from the Floodplain Administrator under Sec. 10-17.

Applications for variances shall be submitted to the county engineer and filed with the Floodplain Administrator. The Floodplain Administrator shall not accept any application without the required fee. If a variance application is filed because of a natural disaster that is the subject of a federal emergency declaration, the Floodplain Administrator may waive application and advertising fees and give the application expedited processing.

Sec. 10-15. Variance Requirements

No variance shall be granted unless the following minimum requirements are met:

(a) a showing of good and sufficient cause;

(b) a determination that failure to grant the variance would result in exceptional hardship to the applicant;

(c) a determination that such variance will not create or result in:

(1) unacceptable or prohibited increases in flood heights;

(2) additional threats to public safety;

(3) extraordinary public expense;

(4) nuisances;

(5) fraud or victimization of the public; or

(6) conflicts with other existing laws or ordinances;

(d) the granting of the variance will not be detrimental to other property in the vicinity;

(e) the circumstances giving rise to the variance application are not of a general or recurring nature;

(f) the need for the variance arises from the physical character of the property or from the use or development of adjacent property and not from the personal or financial situation of the applicant: and,

(g) the variance shall be the minimum necessary to provide relief.

Sec. 10-16. County Engineer Variance

The county engineer may grant a variance from the requirements of this article when strict application of this article would effectively prohibit or unreasonably restrict the use of the subject property. The variance may include reasonable conditions to obtain compliance with this article to the maximum extent practicable. Variances may be granted for a functionally dependent use if the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

However, the county engineer may not grant a variance for a proposed use, development, or activity within a floodway that will cause an increase of the BFE unless FEMA or the county engineer has issued a CLOMR.

Before granting a variance, the county engineer must determine that the variance application satisfies the requirements of Sec. 10-15 and consider the following additional factors:

(a) the danger to life and property due to increased flood heights or velocities caused by encroachments.
(b) the risk of injury to others if materials are swept onto other lands or transported in floods.
(c) the water supply and sanitation system proposed for the development and their ability to prevent disease, contamination, and unsanitary conditions.
(d) the susceptibility of the proposed facility to flood damage and the effect of such damage on individual owners.
(e) the importance to the community of the services that will be provided by the proposed facility.
(f) the availability of alternative locations for the proposed use that are not subject to flooding.
(g) the compatibility of the proposed use with existing reasonably anticipated development.
(h) the compatibility of the proposed use with the comprehensive plan and county floodplain management program.
(i) vehicular access to the property during floods.
(j) the expected heights, velocity, duration, rate of rise, and sediment transport of foreseeable flood waters on the property.
(k) any other factors particularly relevant to the purposes of this article.

Sec. 10-17. Administrative Variance

The Floodplain Administrator may grant administrative variances for the following uses, development, or redevelopment:

(a) minor filling in the SFHA necessary to protect or restore natural floodplain functions or to stabilize stream banks to protect public roads or utilities. The requirements of Sec. 10-9 must be met.
(b) dry-floodproofing of nonresidential structures in lieu of requiring higher elevation of the structure if the following conditions apply:
    (1) elevating the structure is not reasonably feasible because of the nature of the lot and/or the use of the structure, and
    (2) all areas of the building components below the elevation corresponding to the BFE plus three feet must be watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy; this must be designed and constructed in accordance with the VA USBC and ASCE 24 and be certified by a professional engineer or architect. The following is required regarding the certification:
        a. a Floodproofing Certificate (*FEMA Form 086-0-34*) with supporting data and an inspection and operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures must be provided, and
        b. said certification, operational plan, and inspection and maintenance plan shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, operational plan, and inspection and maintenance plan submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to the issuance of a Certificate of

Occupancy or Temporary Certificate of Occupancy. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make said corrections required shall be cause to withhold the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.

(c) rebuilding of a residential structure within the SFHA or setback area that has been substantially damaged by some cause other than flooding if there is no site outside of the SFHA or setback area for relocation of the structure and the lowest floor, including mechanical equipment, is elevated to the BFE plus two feet. If the structure has an enclosure below the lowest floor, the requirements in Sec. 10-10(c) must be met.

(d) locating stormwater management facilities in the SFHA if a location outside of the SFHA is not feasible, and the following conditions have been met:

(1) the requirements in Sec. 10-9(a) and Sec. 10-9(b) have been met.

(2) engineering data shows that the proposed stormwater management facility will operate effectively for its intended purpose during a 10-year flood event or the required design storm for the project, whichever is greater, and will have structure stability during a 100-year flood event.

Sec. 10-18. Notification

If a variance is granted to construct a structure below the BFE, the Floodplain Administrator shall notify the applicant in writing that construction below the BFE will result in increased premium rates for flood insurance and increase risks to life and property.

Sec. 10-19. Appeal of Variance Decisions

An applicant aggrieved by a decision of the Floodplain Administrator may appeal the decision to the county engineer within 30 days of the decision. The county engineer may modify, reverse, or affirm the Floodplain Administrator's decision.

An aggrieved applicant may appeal a variance decision of the county engineer within 30 days of the county engineer's decision to the Henrico County Circuit Court.

Division 6. Enforcement

Sec. 10-20. Inspections

The Floodplain Administrator, or designee, is authorized to conduct inspections and conduct other investigations to determine whether the property and the use thereof conforms to the requirements of this article. Such inspections shall comply with constitutional search and seizure requirements.

Sec. 10-21. Violations

Violations of this article are unlawful, and any person convicted of a violation of this article shall be subject to the provisions of Sec. 1-13 of this Code. In addition, the county may declare any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this article to be a nuisance subject to abatement.

ARTICLE II. STORMWATER MANAGEMENT

Division 1. Purpose, Definitions, and Applicability

Sec. 10-27. Purpose and authority.

(a) The purposes of this article are to promote and protect the health, safety, and general welfare of the citizens of Henrico County; to protect state waters, stream channels, and other natural resources from the potential impacts of development; and to establish procedures whereby state and federal requirements related to stormwater quality and quantity shall be administered and enforced.

(b) This article sets forth the county's provisions for complying with state requirements for erosion and sediment control, stormwater management, and protection of Chesapeake Bay Preservation Areas as well as for complying with federal requirements in the Clean Water Act. Authority and additional definitions for this article are provided by § 62.1-44.15:24 et seq. (Stormwater Management Act), § 62.1-44.15:51 et seq. (Erosion and Sediment Control Law), and § 62.1-44.15:67 et seq. (Chesapeake Bay Preservation Act) of the Code of Virginia, andthe state regulations implementing these acts.

Sec. 10-28. Definitions.

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or *Virginia Stormwater Management Act* means § 62.1-44.15:24 et seq. of the Code of Virginia.

Administrator means the director of public works or his designee.

Agreement in lieu of an erosion and sediment control plan means a contract executed by the administrator and the owner in lieu of an erosion and sediment control plan for construction of a (1) single-family residence or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent, which specifiesconservation measures to be used during construction.

Agreement in lieu of a stormwater management plan means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of the VSMP for the construction of a (i) single-family residence or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

Applicant means any person executing an agreement in lieu of a plan, submitting an ECP for approval,submitting an application for a permit, or requesting issuance of a permit authorizing land-disturbing activities tocommence.

Best management practices or *BMPs* means the schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems.

Board means the State Water Control Board.

Buffer means a natural or landscaped area or screening device intended to provide a horizontal distance and open space, to preserve vegetation, and to lessen the impact and adverse relationships between dissimilar, unrelated or incompatible land uses, or to provide an area of natural or planted vegetation to protect Chesapeake Bay Preservation Areas and county and state waters from degradation due to land disturbances or uses.

Certificate of competence means a valid certificate of competence from the Board as specified in 9VAC25-850-40 and 9VAC25-850-50.

Chesapeake Bay Preservation Area or *CBPA* means any land as defined in § 24-5802.B of the Code. Chesapeake Bay Preservation Areas shall consist of a resource protection area and a resource management area.

Chesapeake Bay Preservation Act land-disturbing activity or *CBPA land-disturbing activity* means a land-disturbing activity, including clearing, grading, or excavation, that results in land disturbance in a CBPA equal to or greater than 2,500 square feet and less than one acre. The term does not include the following activities as provided in § 62.1-44.15:34 of the Code of Virginia:

1. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of title 45.1 of the Code of Virginia;
2. Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing,contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of § 10.1-1100 et seq. of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in § 10.1-1163(B) of the Code of Virginia;
3. Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
4. Land-disturbing activities less than 2,500 square feet in CBPAs or activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;
5. Discharges to a sanitary sewer or a combined sewer system;
6. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
7. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed to maintain the original line and grade, hydraulic capacity, or original construction of the project; and
8. Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VSMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection A of § 62.1-44.15:34 of the Code of Virginia is required within 30 days of commencing the land-disturbing activity.

Clearing means any activity which removes vegetation, including cutting and/or removal of trees, root mat, or topsoil.

Common plan of development or sale means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

Control measure means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

Clean Water Act or *CWA* means the federal Clean Water Act (33 U.S.C § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, and any subsequent revisions thereto.

Department means the Virginia Department of Environmental Quality.

Development means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreational, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes. For purposes of this article, the regulation of discharges from development does not include exemptions found in 9VAC25-870-300.

District or *soil and water conservation district* means a political subdivision of the state organized in accordance with the provisions of § 10.1-506 et seq. of the Code of Virginia.

Environmental compliance plan or *ECP* means a document containing the information set forth in § 10-32 of the Code that is required to comply with this article.

Erosion and sediment control plan or *ESC plan* means a document containing material, including all major conservation decisions, for the conservation of soil and water resources of a unit or group of units of land. Each plan shall contain the information specified in § 10-34 of the Code.

Excavating means any digging, scooping, or other method of removing earth materials.

Exception means an approved deviation from the requirements applicable to VESCP land-disturbing activities.

Farm building or structure means the same as that term is defined in Code of Virginia, § 36-97 and also includes any building or structure used for agritourism activity, as defined in Code of Virginia, § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

Filling means any depositing or stockpiling of earth materials.

Final stabilization means that one of the following:

1. All soil-disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (*e.g.*, evenly distributed), is mature enough to survive, and will inhibit erosion;
2. For individual lots in residential construction, final stabilization is achieved by either:
    a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or
    b. The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization;
3. For construction projects on land used for agricultural purposes (*e.g.*, pipelines across crop or range land),

final stabilization is achieved by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in subsection 1 or 2 of this definition.

Flood-prone area means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include, but are not limited to, the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

General Construction Permit or *GCP* means the state permit titled GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES set forth at 9VAC25-880-70 that authorizes a category of discharges under the Act and the CWA within a geographical area.

Grading means any excavating or filling of earth materials or any combination thereof which changes the slope or contour of land.

Highly erodible soils means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodiblity index for any soil is defined as the product of the rill formula RKLS/T, where K is the soil susceptibility to water in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the National Soil Survey Handbook of November 1996 in the Field Office Technical Guide of the U.S. Department of Agriculture Natural Resources Soil Conservation Service.

Impervious cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Land development approval process means an administrative procedure for approvals required by the Code, including approvals of construction plans, plans of development, conditional and special use permits, provisional use permits, landscape plans, agreements in lieu of a plan, erosion and sediment control plans, building permits, conditional or final subdivision plats, and construction plans.

Layout means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

Manual means Henrico County Environmental Compliance Manual.

Minor modification means an amendment to an existing General Construction Permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor General Construction Permit modification or amendment does not substantially alter permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

100- year floodplain means the special flood hazard area as defined in § 10-43 of the Code.

Operator means the owner or operator of any facility or activity subject to the Act and this article. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications, or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other state permits or VSMP authority permit conditions (*i.e.*, they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or to comply with other permit conditions). In the context of stormwater discharges from municipal separate storm sewer systems, operator means the operator of the regulated system.

Owner means the owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person in control of a property.

Permittee means the person to whom the permit authorizing land-disturbing activities is issued, including any owner or operator whose construction site is covered under a GCP, or the person who certifies that the approved erosion and sediment control plan, ECP, or agreement in lieu of a plan will be followed.

Person means any individual, corporation, partnership, association, state, municipality, commission, political subdivision, governmental body, any interstate body, or any other legal entity.

Postdevelopment means conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

Predevelopment means conditions at the time the erosion and sediment control plan is submitted to the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish predevelopment conditions.

Prior developed lands means land that has been previously utilized for residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

Resource management area or *RMA* means that component of Chesapeake Bay Preservation Areas defined in § 24-5802.B and article 8, division 5, General Definitions, of chapter 24 of the Code.

Resource protection area or *RPA* means that component of Chesapeake Bay Preservation Areas defined in § 24-5802.B and article 8, division 5, General Definitions, of chapter 24 of the Code.

Regulations means the Virginia Stormwater Management Program regulations set out in 9VAC25-870-10 et seq., as amended.

Silvicultural activities means forest management activities, including, but not limited to, the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the state forester pursuant to § 10.1-1105 of the Code of Virginia, and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

Single-family residence means a noncommercial dwelling that is occupied exclusively by one family.

Site means the land or water area where any facility or land-disturbing activity is physically located orconducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

State means the Commonwealth of Virginia.

State permit means an approval to conduct a land-disturbing activity issued by the Board in the form of a state stormwater individual permit or coverage issued under a state General Construction Permit or an approval issued by the Board for stormwater discharges from a municipal separate storm sewer system. Under these state permits, the state imposes and enforces requirements pursuant to the federal Clean Water Act and regulations,the Act and the Regulations.

State Water Control Law means § 62.1-44.2 et seq. of the Code of Virginia. On July 1, 2013, it incorporated the Chesapeake Bay Preservation Act, the Erosion and Sediment Control Law, and the Stormwater Management Control Act under the jurisdiction of the Board.

State waters means all water, on the surface and under the ground, wholly or partially within or bordering the state or within its jurisdiction, including wetlands.

Stormwater means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater management plan or *SWM plan* means a document containing material describing methods for complying with the requirements of this article. An agreement in lieu of a stormwater management plan as defined in this section shall be considered to meet the requirements of a stormwater management plan.

Stormwater Pollution Prevention Plan or *SWPPP* means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP for construction activities shall identify and require the implementation of control measures and shall include by reference an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

Stream protection area or *SPA* means an area 50 feet in width adjacent to both sides of a stream that extends upstream from the RPA boundary to a point where the drainage area is 100 acres or more. The SPA is measured from the streambank or the limits of the two-year storm flow if the streambank is not defined.

Subdivision means a division of land as defined in § 19-7301 of the Code.

Tidal shore means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Total maximum daily load or *TMDL* means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading, and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

Transporting means any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destruction of the vegetative ground cover, either by tracking or the buildup of earth materials, and erosion and sedimentation.

Variance means an approved deviation from the requirements applicable to VSMP land-disturbing activities.

Virginia Erosion and Sediment Control Program authority or *VESCP authority* means the county department of public works, which is responsible for determining the adequacy of erosion and sediment control plans and their approval.

Virginia Erosion and Sediment Control Program land-disturbing activity or *VESCP land-disturbing activity* means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the state. It includes, but is not limited to, clearing, grading,excavating, transporting, and filling of land. The term does not include the following activities as provided in § 62.1-44.15:51 of the Code of Virginia:

1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;
2. Individual service connections;
3. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided the land-disturbing activity is confined to the area of the road, street or sidewalk that is hard-surfaced;
4. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to title 45.1 of the Code of Virginia;
6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of § 10.1-1100 et seq. of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in § 10.1- 1163(B) of the Code of Virginia;
7. Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
8. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 et seq. of the Code of Virginia), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
9. Disturbed land areas of less than 2,500 square feet in size;
10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
11. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Virginia Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and
12. Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan if the activity were not an

emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

Virginia Stormwater BMP Clearinghouse website means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Act and associated regulations.

Virginia Stormwater Management Program or *VSMP* means a program approved by the Board after June 30, 2013 that has been established to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement as authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

Virginia Stormwater Management Program authority or *VSMP authority* means the county department of public works, which is responsible for determining the adequacy of stormwater management plans and their approval.

Virginia Stormwater Management Program land-disturbing activity or *VSMP land-disturbing activity* means a man-made change to the land surface that potentially changes its runoff characteristics, including clearing, grading, or excavation. The term does not include the following activities as provided in § 62.1-44.15:34 of the Code of Virginia:

1. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of title 45.1 of the Code of Virginia;
2. Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing,contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of § 10.1-1100 et seq. of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in § 10.1-1163(B) of the Code of Virginia;
3. Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
4. Land-disturbing activities that disturb less than one acre of land area except for land-disturbing activity exceeding an area of 2,500 square feet in CBPAs or activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;
5. Discharges to a sanitary sewer or a combined sewer system;
6. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
7. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and
8. Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VSMP authority shall be advised of the disturbance within seven days of commencing the

land-disturbing activity and compliance with the administrative requirements of subsection A of § 62.1-44.15:34 of the Code of Virginia is required within 30 days of commencing the land-disturbing activity.

Water quality impact assessment means an evaluation of the environmental impacts associated with proposed development in Chesapeake Bay Preservation Areas. The evaluation components may be submitted as part of the plan of development process or in a separate document.

Wetlands, nontidal means those wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by current federal regulatory programs under § 404 of the Clean Water Act.

Wetlands, tidal means vegetated and nonvegetated wetlands as defined in § 28.2-1300 of the Code of Virginia.

Sec. 10-29. Applicability.

(a) This article regulates three types of land disturbances and land-disturbing activities as defined in § 10-28 of the Code:

(1) VESCP land-disturbing activity;
(2) VSMP land-disturbing activity; and
(3) CBPA land-disturbing activity.

(b) A land-disturbing activity may be a VESCP land-disturbing activity and/or either a VSMP land-disturbing activity or a CBPA land-disturbing activity.

Division 2. Plan Requirements for Land-Disturbing Activities

Sec. 10-30. General requirements for all land-disturbing activities.

(a) No person shall conduct a land disturbance or a land-disturbing activity until:

(1) An environmental compliance plan meeting the requirements of § 10-32 of the Code has been submitted to and approved by the administrator;
(2) A maintenance agreement or other enforceable mechanism ensuring long term maintenance for permanent stormwater facilities meeting the requirements of § 10-54 of the Code has been submitted to and approved by the administrator;
(3) A financial guarantee in accordance with § 10-46 of the Code has been submitted to andapproved by the administrator; and
(4) A preconstruction meeting in accordance with § 10-48 of the Code has been conducted.

(b) No county department which issues grading, building, or other permits for work resulting in a regulated land-disturbing activity may issue such permits until the applicant demonstrates compliance with the applicable requirements of subsection (a) and has certified that the ECP will be followed. The owner is responsible for obtaining approval even if the land-disturbing activity will be performed by contractors or others.

Sec. 10-31. Applicable design standards, specifications and methods.

The applicant shall use the applicable standards in the Virginia Erosion and Sediment Control Regulations at 9VAC25-840 et seq., the Virginia Erosion and Sediment Control Handbook, the Regulations, the Virginia BMP Clearinghouse, and the Manual in the preparation and submission of an ECP. The plan-approving authority shall be guided by the same standards, regulations and guidelines in considering the adequacy of a plan submittal. When the standards vary between the publications, the state regulations shall take precedence.

Sec. 10-32. Components of environmental compliance plan.

The ECP must contain the following components:

(a) General information
  (1) A statement that it was prepared by a professional registered in the state pursuant to § 54.1-400 et seq. of the Code of Virginia;
  (2) A site plan or map which conforms to a subdivision plat or plan of development which complies with chapters 19 or 24 of the Code;
  (3) A tree protection plan which complies with § 24-5313.C of the Code;
  (4) The location of RPAs, RMAs, SPAs, and all buffers required by conditions of zoning, development, or use;
  (5) A certification by the permittee that:
    a) All wetlands, RPAs RMAs, SPAs, and buffers will be conspicuously flagged or otherwise identified and not disturbed unless authorized; and
    b) The permittee will notify the administrator upon completion of the flagging;
  (6) A comprehensive drainage plan;
  (7) Evidence on the site plan that no more land than is necessary to provide for the proposed use or development shall be disturbed;
  (8) A statement by the permittee acknowledging that the U.S. Army Corps of Engineers and the Department may have additional jurisdiction over wetlands not regulated by the county; and
  (9) Evidence that all applicable U.S. Army Corps of Engineers and state permits necessary for activities in state waters and wetlands, or appropriate waivers of jurisdiction, have been obtained.
(b) An environmental site assessment in accordance with § 10-33 of the Code;
(c) Information addressing the Chesapeake Bay Preservation Act requirements of § 10-39 of the Code;
(d) Information addressing the municipal separate storm sewer system program requirements in chapter 15 of the Manual; and
(e) Other components as applicable to the type of land-disturbing activity:
  (1) An erosion and sediment control plan in accordance with § 10-34 of the Code;
  (2) A stormwater management plan in accordance with § 10-35 of the Code;
  (3) A pollution prevention plan in accordance with § 10-36 of the Code;
  (4) Measures to address applicable TMDLs in accordance with § 10-37 of the Code; and
  (5) A stormwater pollution prevention plan in accordance with § 10-38 of the Code.
(f) *Exception for single-family residential structures*. Unless otherwise required by §§ 10-34 through 10-38 of the Code or by the administrator, the requirements of subsubsections (a)(1), (a)(3), and (b) are not applicable to the construction of single-family residential structures, including additions or modifications to existing single-family residential structures.

Sec. 10-33. Environmental site assessment component of environmental compliance plans.

(a) The environmental site assessment component of the ECP must indicate whether the following features are present on the site:

(1) Surface waters (including wetlands) under the jurisdiction of the state or federal government;
(2) Stream protection area features as described in chapter 6 of the Manual;
(3) Resource protection area features, including:
    a. Tidal wetlands;
    b. Tidal shores;
    c. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
    d. Such other lands as the board of supervisors may designate by ordinance which are necessary to protect the quality of state waters; and
    e. A vegetated buffer area no less than 100 feet in width located adjacent to and landward of the components listed in subsections a. through d. above, and along both sides of any water body with perennial flow.
(4) Resource management area features, including:
    a. Special flood hazard areas as defined in § 10-4 of the Code that are contiguous to resource protection areas;
    b. Highly erodible soils, including steep slopes, that are contiguous to resource protection areas;
    c. Highly permeable soils that are contiguous to resource protection areas;
    d. Nontidal wetlands not included in resource protection areas that are contiguous to resource protection areas; and
    e. Other areas within 100 feet of resource protection areas; and
    f. All areas specifically designated as RMAs by ordinance of the board of supervisors because of their potential effect on water quality.

(b) The applicant shall accurately map the location of all the above features on a site in the ECP.

Sec. 10-34. Erosion and sediment control plan requirements for VESCP land-disturbing activities.

(a) An erosion and sediment control plan must be prepared for VESCP land-disturbing activities.

(b) An ESC plan must include the following:
(1) Measures to control erosion and sediment;
(2) A statement by the permittee that all erosion and sediment control measures shall be maintained;
(3) Information assuring and demonstrating compliance with the minimum standards of the Board's erosion and sediment control regulations. Compliance with the water quantity requirements of § 10-39 of the Code shall be deemed to satisfy the requirements of subsection 19 of 9VAC25-840-40;
(4) Calculations for sediment traps, basins, outlet protection, etc. as applicable;
(5) Clear delineation of the preliminary limits of disturbance necessary for installation of the initial erosion and sediment control measures. The preliminary areas of land disturbance shall be the minimum necessary for installation of the initial erosion and sediment control measures, and the delineation shall include all areas necessary for such installation, including stockpiles, borrow areas, and staging areas;
(6) Clear delineation of the ultimate limits of disturbance; and
(7) A sequence of construction that details construction schedules and the installation, inspection, and maintenance of ESC measures.

(c) An agreement in lieu of an erosion and sediment control plan may be substituted for an ESC plan when the VESCP land-disturbing activity results from the construction of a (i) single-family residential structure, including additions or modifications to an existing single-family detached residential structure, or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent.

(d) A certificate of competence shall not be required for persons carrying out an agreement in lieu of a plan. However, if a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this article.

Sec. 10-35. Stormwater management plan requirements for VSMP and CBPA land-disturbing activities.

(a) A SWM plan must be prepared for VSMP land-disturbing activities and CBPA land-disturbing activities. However, an agreement in lieu of a stormwater management plan may be substituted for a SWM plan when the VSMP land-disturbing activity results from the construction of a (i) single-family residence or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent.

(b) The SWM plan shall contain information demonstrating compliance with the following requirements of chapter 9 of the Manual:

(1) The general SWM plan requirements;
(2) The stormwater quality requirements;
(3) The channel protection requirements; and
(4) The flood protection requirements.

(c) For purposes of computing predevelopment runoff, all pervious lands on the site shall be assumed to be in good hydrologic condition in accordance with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) standards, regardless of conditions existing at the time of computation. Predevelopment runoff calculations utilizing other hydrologic conditions may be utilized, provided that actual site conditions warrant such consideration and their use is approved by the administrator.

(d) Predevelopment and postdevelopment runoff characteristics and site hydrology shall be verified by site inspections, topographic surveys, available soil mapping or studies, and calculations consistent with good engineering practices. Guidance provided in the Virginia Stormwater Management Handbook and by the Virginia Stormwater BMP Clearinghouse shall be considered appropriate practices.

(e) Proposed residential, commercial, or industrial developments shall apply these stormwater management criteria to the development as a whole. Individual lots in new developments, including those developed under subsequent owners, shall not be considered separate land-disturbing activities; rather, the entire development shall be considered a single land-disturbing activity. Hydrologic parameters shall reflect the ultimate development and shall be used in all engineering calculations.

(f) Elements of the stormwater management plans requiring services regulated under article 1 of chapter 4 of title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the state pursuant to § 54.1-400 et seq. of the Code of Virginia.

(g) In lieu of providing the information required by subsection (b), activities grandfathered under § 10-50 of the

Code must comply with the technical criteria in chapter 14 of the Manual. In those cases, stormwater management plans must:

(1) Specify the applicable watershed management area designation and all watershed management practices that will be implemented, including construction of best management practices or a contribution to the county's environmental fund at a rate of $8,000.00 per pound of pollutant removal required for the project in accordance with chapter 14 of the Manual;
(2) Include calculations and other evidence necessary to show that nonpoint source pollution loads of phosphorous and sediments to receiving surface waters during and after development will be controlled in accordance with chapter 14 of the Manual; and
(3) Demonstrate compliance with the 50/10 detention requirements in chapter 14 of the Manual.

Sec. 10-36. Pollution prevention plan requirements for VSMP land-disturbing activities.

(a) A pollution prevention plan must be prepared for VSMP land-disturbing activities.

(b) The pollution prevention plan shall include the following information:

(1) The standard plan sheet provided by the county;
(2) Identification of measures that will be used to minimize the following:
a. The discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters;
b. The exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
c. The discharge of pollutants from spills and leaks, including chemical spill and leak prevention and response procedures;

(3) Identification of practices that will be used to prohibit the following discharges:
a. Wastewater from washout of concrete, unless managed by an appropriate control;
b. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
d. Soaps or solvents used in vehicle and equipment washing.

(c) The pollution prevention plan shall prohibit discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate controls.

(d) The pollution prevention plan shall be implemented and updated by the operator in accordance with § 10-49 of the Code as necessary throughout all phases of the VSMP land-disturbing activity to implement appropriate pollution prevention measures applicable to construction activities.

Sec. 10-37. Total maximum daily load (TMDL) requirements.

(a) To satisfy the TMDL requirements of the General Construction Permit, the following control measures must be used for all VSMP land-disturbing activities:

(1) Nutrients must be applied in accordance with manufacturer's recommendations and shall not be applied during rainfall events;
(2) Permanent or temporary soil stabilization measures shall be applied to denuded areas within seven

days after final grade is reached on any portion of the site;

(3) The operator shall conduct inspections to ensure compliance with the SWPPP and GCP conditions in accordance with the following frequency:
   a. At least once every four business days; or
   b. At least once every five business days and no later than 48 hours following any measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day.

(b) These control measures are not required for CBPA land-disturbing activities.

Sec. 10-38. Stormwater pollution prevention plan requirements for VSMP land-disturbing activities.

(a) A SWPPP must be prepared for all VSMP land-disturbing activities.

(b) A SWPPP must include the following information:

(1) Information complying with the SWPPP requirements in chapter 13 of the Manual;
(2) An ESC plan in accordance with § 10-34 of the Code;
(3) A SWM plan in accordance with § 10-35 of the Code;
(4) A PPP in accordance with § 10-36 of the Code; and
(5) Measures to address applicable TMDLs in accordance with § 10-37 of the Code.

(c) A SWPPP must accomplish the following:

(1) Control the volume and velocity of runoff within the site to minimize soil erosion;
(2) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;
(3) Minimize the amount of soil exposed during construction activity;
(4) Minimize the disturbance of steep slopes;
(5) Minimize sediment discharges from the site;
(6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal, and maximize stormwater infiltration, unless infeasible;
(7) Minimize soil compaction and, unless infeasible, preserve topsoil;
(8) Ensure that stabilization of disturbed areas will be initiated immediately whenever any clearing, grading, excavating, or other earth-disturbing activities have permanently ceased on any portion of the site or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days; and
(9) Utilize outlet structures that withdraw water from the surface, unless infeasible, when discharging from basins and impoundments.

Compliance with an ESC plan developed in accordance with § 10-34 of the Code is deemed to satisfy the requirements of this subsection.

(d) The operator must maintain and update the SWPPP in accordance with § 10-49 of the Code.

Sec. 10-39. Information regarding Chesapeake Bay Preservation Areas in the ECP.

The ECP must include the following features:

(a) The location of all CBPAs, including all land-disturbing activities contemplated therein.
(b) A water quality impact assessment for any proposed development within a RPA, including any buffer area modification, and for any development in RMA which, due to the unique

characteristics of the site or intensity of the proposed development, is considered by the administrator to be environmentally sensitive land. Two types of water quality impact assessments are appropriate:

(1) A minor water quality impact assessment for development which causes no more than 5,000 square feet of land disturbance within CBPAs. A minor water quality impact assessment must demonstrate that the remaining buffer area and additional vegetated area equal to the area of encroachment into the buffer will maximize water quality protection and mitigate the effects of the buffer encroachment;

(2) A major water quality impact assessment for any development which exceeds 5,000 square feet of land disturbance within CBPAs. A major water quality impact assessment must demonstrate that the remaining buffer area and additional vegetated area equal to the area of encroachment into the buffer will maximize water quality protection and will mitigate the effects of the buffer encroachment. In addition, the major water quality impact assessment shall address all the following requirements except those waived by the administrator:

a. Describe the existing topography, soils, hydrology and geology of the site and adjacent lands.

b. Describe the impacts of the proposed development on topography, soils, hydrology, and geology on the site and adjacent lands.

c. Indicate the following:

i. Disturbances or destruction of wetlands and justification for such action;

ii. Disruptions or reduction in the supply of water to wetlands, streams, lakes, rivers, or other water bodies;

iii. Disruptions to existing hydrology, including wetlands and stream circulation patterns;

iv. Source location and description of proposed fill material;

v. Location of dredge material and location of dumping area for such material;

vi. Location of and impacts on shellfish beds, submerged aquatic vegetation, and fish spawning areas;

vii. Estimation of predevelopment and postdevelopment pollutant loads in runoff;

viii. Estimation of the percentage increase in impervious surface on the site and types of surfacing materials used;

ix. Percentage of site to be cleared for the project;

x. Anticipated duration and phasing schedule of the construction project; and

xi. Listing of all required permits from all applicable agencies necessary to develop the project.

d. Describe the proposed mitigation measures for the potential hydrological impacts. Potential mitigation measures include:

i. Proposed erosion and sediment control steps. Steps may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, and the schedule and personnel for site inspection;

ii. Proposed stormwater management system;

iii. Creation of wetlands to replace those lost; and

iv. Minimizing cut and fill.

(c) An acknowledgement that the owner is subject to the CBPA requirements of article 5, division 8, Chesapeake Bay Preservation, of chapter 24 of the Code.

Sec. 10-40. Review and approval of ECPs and supporting documentation.

(a) The applicant shall submit an ECP and supporting documentation addressing the applicable requirements of § 10-32 of the Code to the administrator for review.

(b) The administrator shall approve or disapprove the submittal as follows:
(1) The administrator shall review the submittal within 45 calendar days of the date of submission;
(2) The administrator shall review any submittal that has been previously disapproved within 45 calendar days of the date of resubmission;
(3) During the review period, the administrator shall approve or disapprove the submittal and communicate the decision in writing to the person responsible for the land-disturbing activity or his designated agent. If the submittal is not approved or if the plan is returned for insufficient information, the administrator shall provide the reasons for not approving the submittal in writing and indicate the modifications, additions, terms, and conditions that will permit approval of the submittal. Approval or denial shall be based on the submittal's compliance with the requirements of § 10-32 of the Code. Where available to theapplicant, electronic communication may be considered communication in writing; and
(4) If a submittal meets all requirements of this article and no action is taken within the time specified above, the submittal shall be deemed approved.

(c) The administrator shall not approve an ECP unless it contains all information and control measures required by this article.

Sec. 10-41. Amendments to approved plans.

(a) The administrator shall review field work under the ECP. The administrator may require amendments to an approved ECP to address any deficiencies. In the alternative, the administrator may amend components of the ECP if on-site inspection indicates that the ECP is inadequate to satisfy state or county requirements or if, because of changed circumstances, the ECP cannot be carried out. The persons responsible for carrying out the ECP must agree to the administrator's amendments, and the amendments must be consistent with state law.

(b) Modifications to an approved ECP shall be allowed only after review and written approval by the administrator. The administrator shall have 60 calendar days to either approve or disapprove a request in writing.

(c) If the land disturbance or land-disturbing activity ceases for more than 180 days, the administrator may reevaluate the ECP to determine whether the ECP still satisfies the requirements of this article and to verify that all requirements are still appropriate. If the administrator finds the ECP to be inadequate, the operator must submit amendments to the ECP which the administrator must approve prior to the resumption of the land-disturbing activity.

Division 3. General Construction Permits for Discharges of Stormwater from Construction Activities

Sec. 10-42. General Construction Permit requirements.

(a) General Construction Permit coverage is required for all VSMP land-disturbing activities. A GCP is not required for CBPA land-disturbing activities.

(b) All VSMP land-disturbing activities must satisfy the following requirements:

(1) The owner must submit a GCP application/registration statement to the administrator; however, in accordance with § 62.1-44.15:28 of the Code of Virginia, no registration statement is required for a small construction activity, as defined in Code of Virginia, § 62.1-44.15:24, involving a single-family detached residential structure, within or outside a common plan of development or sale;
(2) The owner must pay the applicable GCP fee set forth in chapter 12 of the Manual to the administrator; and
(3) The administrator must obtain evidence of GCP coverage from the Department's online reporting system, except for VSMP land-disturbing activities resulting from the construction of a single-family detached residential structure within or outside a common plan of development.

(c) No county department may issue grading, building, or other permits for a VSMP land-disturbing activity until the requirements of subsection (b) are satisfied. The owner is responsible for compliance with sections (b)(1) and (b)(2) even if the land-disturbing activity will be performed by others.

Sec. 10-43. Issuance, modification, maintenance, transfer, or termination of General Construction Permits.

(a) Issuance of GCP.
(1) The administrator will process the GCP application using the procedures in chapters 12 and 18 of the Manual. GCPs are issued by the Department.
(2) Prior to issuance of the GCP , the administrator must:
a. Verify the information on the registration statement is accurate and complete;
b. Verify that the ECP has been approved by the VSMP authority; and
c. Verify that all applicable permit fees have been submitted.

(b) Modification of GCP.
(1) The operator must use the procedures in chapters 12 and 18 of the Manual to seek modifications to the GCP.
(2) Modifications requiring changes to the GCP that require review by the administrator require payment of the fees in chapter 12 of the Manual.
(3) Modifications resulting in additional land-disturbing activity are subject to additional permit issuance fees equal to the difference between the initial permit issuance fee paid and the permit issuance fee that applies to the total disturbed acreage.

(c) Maintenance of GCP.
(1) The operator must use the procedures in chapters 12 and 18 of the Manual regarding maintenance of the GCP. Annual maintenance fees in accordance with chapter 12 of the Manual apply to the GCP until the permit is terminated in accordance with subsection (e).

(d) Transfer of GCP.
(1) The operator must use the procedures in chapters 12 and 18 of the Manual to transfer a GCP.
(2) GCP transfers require payment of the transfer fees in chapter 12 of the Manual.

(e) Termination of GCP.

(1) The operator shall submit a notice of termination to the administrator within 30 days of one or more of the following events:
   a. Necessary permanent control measures included in the SWPPP for the site are in place and functioning effectively, and final stabilization has been achieved on all portions of the site for which the operator is responsible. When applicable, long term responsibility and maintenance obligations shall be recorded in the Clerk's Office of the Henrico County Circuit Court prior to submission of a notice of termination;
   b. Another operator has assumed control over all areas of the site that have not been finally stabilized and has obtained coverage for the ongoing discharge;
   c. The operator has obtained coverage under an alternative VPDES or state permit; or
   d. For residential construction only, temporary soil stabilization has been completed and title to the residence has been transferred to the homeowner.

(2) Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in provisions b through d of subsection (e)(1). Authorization to discharge for the condition set forth in provision a of subsection (e)(1) shall be effective upon notification from the Department that the necessary conditions have been met or 60 days after submittal of the notice of termination, whichever occurs first.

(3) The notice of termination shall be signed as set forth in chapter 18 of the Manual.

Sec. 10-44. General Construction Permit time limits on applicability of approved design criteria.

(a) VSMP land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014 shall be conducted in accordance with the technical criteria of chapter 14 of the Manual. Such projects shall remain subject to such technical criteria for two additional state permit cycles. At the conclusion of two additional state permit cycles, portions of the project not under construction shall become subject to the current technical criteria adopted by the Board.

(b) VSMP land-disturbing activities that obtain an initial state permit on or after July 1, 2014 shall be conducted in accordance with the technical criteria in chapter 9 of the Manual, except as provided for in § 10-50 of the Code. Land-disturbing activities conducted in accordance with the technical criteria of chapter 9 of the Manual shall remain subject to such criteria for two additional state permit cycles. At the conclusion of two additional state permit cycles, portions of the project not under construction shall become subject to the current technical criteria adopted by the Board.

(c) Nothing in this section shall preclude an operator from satisfying more stringent technical criteria for land-disturbing activities at its discretion.

Division 4. Maintenance and Financial Guarantees

Sec. 10-45. Long term maintenance provisions for permanent stormwater facilities.

(a) The VSMP authority shall require the owner's written acceptance of long term responsibility for maintenance of stormwater management facilities to control the quality and quantity of runoff. The owner's acceptance shall be set forth in an instrument in a form provided by the VSMP authority. The instrument will, at a minimum:
   (1) Identify the owner of the property, or its successors in interest, as the responsible party;
   (2) State that it runs with the land;

(3) Permit the VSMP authority to have access to the property for regulatory inspections and maintenance, if necessary;
(4) Provide for owner inspections and maintenance as well as the owner's submission of inspection and maintenance reports to the VSMP authority;
(5) Be enforceable by all appropriate governmental parties;
(6) Be submitted to the VSMP authority for review and approval prior to the approval of the ECP; and
(7) Be recorded in the Clerks' Office of the Henrico County Circuit Court prior to (i) recordation of a subdivision plat, if applicable and (ii) prior to the administrator's release of the owner's financial guarantee for all other plans.

(b) Recorded instruments are not required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. The administrator shall send the owners of those facilities an educational mailing once every five years describing the maintenance responsibilities for those facilities.

Sec. 10-46. Financial guarantee.

(a) The owner shall be responsible for the cost of all control measures required by this article.

(b) An applicant other than a state or federal entity must submit a cash escrow, irrevocable letter of credit, or other financial guarantee acceptable to the VSMP authority that will ensure that the VSMP authority can implement control measures at the applicant's expense should the applicant fail, after proper notice, to initiate or maintain control measures required as a result of its land-disturbing activity. Unlessdeemed necessary by the administrator, a financial guarantee is not required for construction on a single-family residential lot.

(c) In accordance with § 10-30 of the Code, no person shall conduct land disturbance or a land-disturbing activity until the owner has submitted a financial guarantee in an amount determined by the administrator. This financial guarantee shall be equal to the approximate total cost of providing environmental compliance control measures and water quality improvements and in a form approved by the county attorney, guaranteeing that the required control measures will be properly and satisfactorily undertaken.

(d) Upon completion of the land disturbance or land-disturbing activity and achievement of full stabilization of the land, the owner or permittee must provide written notification to the administrator. Upon verification of final stabilization of the land disturbance or land-disturbing activity in the projector any section thereof, submission of required stormwater management facility construction record drawings in accordance with § 10-47 of the Code, and a GCP termination statement if applicable, the administrator shall reduce or return the financial guarantee to the owner or permittee within 60 calendardays based upon the percentage of stabilization accomplished in the project or section thereof.

(e) If the measures required by the ECP are not completely constructed, or, if constructed, fail through overload or inadequate maintenance, then the county may, if the owner or permittee does not, install control measures equal to those which would have been furnished by the approved plans or agreement in lieu of a plan. The cost of any such measures taken by the county shall be borne by the owner or permittee and shall be a charge against the financial guarantee. The county shall be entitled to collect from the owner any amount it expended which exceeds the financial guarantee. Within 60 calendar days of the achievement of final stabilization of the land-disturbing activity, the financial guarantee, or the unexpended portion thereof, shall be refunded to the applicant.

Sec. 10-47. Stormwater management facility construction record drawing.

(a) A stormwater management facility construction record drawing shall be developed for each permanent stormwater management facility and submitted to the administrator for approval prior to release of the bond required in § 10-46 of the Code.

(b) The stormwater management facility construction record drawing shall be appropriately sealed and signed by a professional registered in the state.

(c) The stormwater management facility construction record drawing shall include a statement certifying that the stormwater management facility has been constructed in accordance with the approved ECP.

(d) Stormwater management facility record drawings are not required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located.

Division 5. Implementation of plans

Sec. 10-48. Preconstruction meeting required.

(a) In accordance with § 10-30 of the Code, no person shall conduct land disturbance or a land-disturbing activity until a preconstruction meeting has been conducted.

(b) Prior to the preconstruction meeting, the limits of all wetlands, RPAs, SPAs, and other areas to beprotected shall be conspicuously flagged, marked with signage, or otherwise identified as shown on the ECP. The limits of these features will be verified during the preconstruction meeting.

(c) During the preconstruction meeting, the requirements of the ECP will be reviewed.

(d) During the preconstruction meeting for a VSMP land-disturbing activity, the SWPPP must be available for review and shall include:
   (1) A copy of the registration for coverage;
   (2) A copy of the notice of coverage letter;
   (3) A copy of the GCP;
   (4) A narrative description of the nature of the construction activity;
   (5) Identification of the operator's inspection frequency in accordance with § 10-49 of the Code; and
   (6) The location of the on-site rain gauge or a description of the methodology for identifying measurable storm events if the operator inspections are to be performed every seven calendar daysand no later than 48 hours following a measurable storm event.

(e) Prior to the conclusion of the preconstruction meeting for a VESCP land-disturbing activity, the individual holding a certificate of competence who will be in charge and responsible for carrying out the VESCP land-disturbing activity shall be identified and noted on the ESC plan.

(f) Prior to conclusion of the preconstruction meeting for a VSMP land-disturbing activity, the following items must be addressed:

(1) The name, phone number, and qualifications of the qualified personnel conducting inspections for compliance with a SWPPP shall be identified and noted on the SWPPP;
(2) The individuals or positions with delegated authority to sign inspection reports or modify the SWPPP in accordance with the signatory requirements of chapter 18 of the Manual must beidentified and noted on the SWPPP;
(3) The SWPPP shall be signed and dated in accordance with the signatory requirements of chapter 18 of the Manual;
(4) Evidence of GCP coverage must be posted conspicuously near the main entrance of the construction site;
(5) A copy of the SWPPP must be made available at a central location onsite for use by those having responsibilities under the SWPPP whenever they are on the construction site; and
(6) The SWPPP must be available upon request by the Department, the administrator, or the EPA. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location must be posted near the main entrance of the construction site.

(g) The administrator or his designee will sign the ECP, distribute signed copies of the ECP to appropriate parties, and authorize commencement of the land disturbance or land-disturbing activity only after the requirements of the preconstruction meeting are satisfied.

(h) Preconstruction meetings are not required for the construction of single-family residential structures, including additions or modifications to existing single-family detached residential structures, unless deemed necessary by the administrator.

Sec. 10-49. Operator responsibilities.

(a) An operator of a land-disturbing activity is responsible for ensuring compliance with the following:
(1) The plans and documents required by § 10-32 of the Code are submitted for review and approved by the administrator prior to initiating a land disturbance;
(2) A preconstruction meeting in accordance with § 10-48 of the Code is conducted prior to initiating land disturbance;
(3) The approved ECP is implemented;
(4) Maintenance of the environmental control measures in the ECP is continued.

(b) An operator of a VSMP land-disturbing activity is also responsible for ensuring compliance with the following:
(1) The required registration statement is submitted to the Department in a format specified by the Department prior to initiating land disturbance;
(2) Applicable GCP issuance fees as set forth in chapter 12 of the Manual are paid;
(3) Evidence of GCP coverage is submitted to the administrator prior to initiating land disturbance;
(4) A copy of the notice of coverage letter must be posted conspicuously near the main entrance of the construction site and maintained until the GCP is terminated;
(5) The operator conducts site inspections at the following intervals:
a. At least once every four business days; or
b. At least once every five business days and no later than 48 hours following any measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between normal business days, the inspection shall be conducted on the next business day;
(6) Records of required inspections are maintained and included in the SWPPP in accordance with chapter 18 of the Manual;

(7) Identification, including name, phone number and qualifications, of the qualified personnel conducting the required inspections is provided;
(8) The SWPPP is implemented, maintained, and amended in accordance with chapter 18 of the Manual;
(9) Applicable GCP modification, transfer and maintenance fees in accordance with chapter 12 of the Manual are paid;
(10) GCP coverage is terminated in accordance with § 10-43 of the Code;
(11) A copy of the SWPPP is made available at a central location on-site for use by those having responsibilities under the SWPPP whenever they are on the construction site;
(12) The SWPPP and all updates are made available upon request to the Department, the VSMPauthority, the EPA, the VESCP authority, local government officials, or the operator of a municipal separate storm sewer system receiving discharges from the construction activity. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location is posted near the main entrance of the construction site;
(13) A stormwater management facility construction record drawing in accordance with § 10-47 of the Code is submitted prior to release of the financial guarantee required by § 10-46 of the Code; and
(14) SWPPPs and pollution prevention plans for construction activities covered by a previous GCP are reviewed and updated as necessary no later than 30 calendar days following permit coverage to address all applicable requirements of the latest GCP.

Division 6. Grandfathering, variances and exceptions

Sec. 10-50. Grandfathered activities.

(a) Any VSMP or CBPA land-disturbing activity shall be grandfathered and subject to the technical criteria of chapter 14 of the Manual if:

(1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the administrator to be equivalent thereto (i) was approved by the county prior to July 1, 2012, (ii) provided a layout as defined in § 10-28 of the Code, (iii) will comply with the technical criteria of chapter 14 of the Manual, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
(2) A state permit has not been issued prior to July 1, 2014; and
(3) Land disturbance did not commence prior to July 1, 2014.

(b) County, state, and federal projects shall be grandfathered and subject to the technical criteria of chapter 14 of the Manual provided:
(1) There has been an obligation of county, state, or federal funding, in whole or in part, prior to July 1, 2012, or the Department has approved a stormwater management plan prior to July 1, 2012;
(2) A state permit has not been issued prior to July 1, 2014; and
(3) Land disturbance did not commence prior to July 1, 2014.

(c) VSMP and CBPA land-disturbing activities grandfathered under subsections (a) and (b) shall remain subject to the technical criteria of chapter 14 of the Manual for one additional state permit cycle. After one additional state permit cycle, the portions of the project not under construction shall become subject to the current technical criteria adopted by the Board.

(d) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of chapter 14 of the Manual.

(e) Nothing in this section shall preclude an operator from satisfying more stringent technical criteria for land-disturbing activities at its discretion.

Sec. 10-51. Variances from requirements for VESCP land-disturbing activities.

(a) This section applies to VESCP land-disturbing activities.

(b) The administrator may waive or modify any of the requirements of the ESC plan that are deemed inappropriate or too restrictive under the following conditions:

(1) An applicant may request a variance by explaining the reasons in writing. Specific variances which are allowed shall be documented in the plan;
(2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the administrator; and
(3) The administrator shall respond in writing either approving or disapproving the request. If the administrator does not approve a variance within ten calendar days of receipt of the request, the request is denied. Following disapproval, the applicant may resubmit a variance request with additional documentation.

(c) The administrator shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage. Variances shall be the minimum necessary to afford relief, and the administrator shall impose reasonable conditions necessary to protect water quality.

Sec. 10-52. Exceptions to requirements for VSMP land-disturbing activities.

(a) This section applies to VSMP land-disturbing activities as defined in § 10-28 of the Code.

(b) The administrator may only grant exceptions to the requirements of § 10-35 of the Code.

(c) Exception requests must be made in writing and must include the reasons for making the request.

(d) Exception requests may be submitted to the administrator at any time during the plan review and approval process or after the VSMP land-disturbing activity has commenced.

(e) Economic hardship alone is not a sufficient reason for an exception from the requirements of this chapter.

(f) An exception to the requirement that the VSMP land-disturbing activity obtain GCP coverage shall not be granted under any circumstances.

(g) An exception to fully satisfying required phosphorus reductions shall not be granted unless offsite options in accordance with chapter 9 of the Manual have been considered and are not available.

(h) An exception cannot be allowed for use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website except where allowed in accordance with chapter 14 of the Manual.

Division 7. Inspections and Monitoring

Sec. 10-53. Right of entry.

(a) The Department, the VSMP authority, where authorized to enforce this article, any duly-authorized agent of the Department or VSMP authority, or the county may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, to obtain information or conduct surveys or investigations necessary to enforce this article. For the county, this authority shall apply only to those properties from which a discharge enters its municipal separate storm sewer system.

(b) In accordance with a financial guarantee, a VSMP authority may also enter any establishment or upon any property, public or private, to initiate or maintain appropriate actions that are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

Sec. 10-54. Monitoring and inspection of land-disturbing activities.

(a) The administrator shall inspect land-disturbing activities to ensure compliance with the provisions of the ECP required in § 10-30 of the Code.

(b) The administrator shall provide notice of the inspection to the owner, operator, permittee or person responsible for carrying out the ECP.

(c) The administrator will conduct inspections in accordance with the following frequencies:
   (1) Inspections to monitor compliance with the requirements of an ESC plan shall be conducted in accordance with the county's alternate inspection program approved by the Soil and Water Conservation Board or the Board;
   (2) Inspections to monitor compliance with the requirements of a SWM plan shall occur at least once every three months;
   (3) Inspections to monitor compliance with the requirements of a pollution prevention plan shall occur at least once every three months; and
   (4) Inspections to monitor compliance with the measures required to address applicable TMDLs in accordance with § 10-37 of the Code shall occur at least once every three months.

(d) The operator of a VSMP land-disturbing activity shall conduct inspections to ensure compliance with the SWPPP and other GCP conditions in accordance with the following frequency:
   (1) At least once every four business days; or
   (2) At least once every five business days and no later than 48 hours following any measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day.

(e) The operator of a VSMP land-disturbing activity shall maintain and include records of the required inspections in the SWPPP in accordance with chapter 18 of the Manual.

(f) The administrator may require every permit applicant, every permittee, or any person subject to GCP requirements under § 62.1-44.15:24 et seq. of the Code of Virginia to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of its discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the Act. Any personal information shall not be disclosed except

to an appropriate official of the Board, the Department, the U.S. Environmental Protection Agency, or as required by the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

Sec. 10-55. Monitoring and inspection of permanent stormwater facilities.

(a) The VSMP authority shall establish an inspection program that ensures stormwater management facilities are being adequately maintained as designed after completion of land-disturbing activities. The inspection program shall:
   (1) Be approved by the Board;
   (2) Ensure that each stormwater management facility is inspected by the administrator or its designee, not to include the owner, at least once every five years unless it is inspected as provided in subsection (c); and
   (3) Be documented by records.

(b) The owner of a stormwater management facility must provide inspection and maintenance reports to the VSMP authority in accordance with the provisions of the recorded maintenance agreement required by § 10-45 of the Code.

(c) The VSMP authority may utilize the inspection reports submitted by the owner of a stormwater management facility as required by § 10-54 of the Code as part of an inspection program established in subsection (a) of this section if the inspection is conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to § 54.1-400 et seq. of the Code of Virginia, a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor, or who holds an appropriate certificate of competence from the Board.

(d) Stormwater management facilities for which a recorded instrument is not required under § 10-54 of the Code shall not be subject to the requirement for inspections conducted by the VSMP authority. The administrator shall send the owners of those facilities an educational mailing once every five years describing the maintenance responsibilities associated with the facilities.

Division 8. Enforcement and Appeals

Sec. 10-56. Enforcement.

(a) If the administrator determines there is a failure to comply with the provisions of this article, he may pursue the following enforcement measures to ensure compliance:
   (1) Verbal warnings and inspection reports;
   (2) Notices of corrective action;
   (3) Notices to comply and stop work orders in accordance with § 62.1-44.15:37 of the Code of Virginia;
   (4) Criminal penalties in accordance with §62.1-44.15:49(B) and (C) of the Code of Virginia; and
   (5) Injunctions in accordance with §§ 62.1-44.15:42 and 62.1-44.15:48 of the Code of Virginia.

(b) The enforcement measures listed in subsection (a) will be undertaken in accordance with chapter 21 of the Manual.

(c) Nothing in this article removes from the Board its authority to enforce the provisions of the Act and its implementing regulations.

(d) The Department may terminate state permit coverage during its term and require an application for an individual state permit or it may deny a state permit renewal application for a permittee's failure to comply with state permit conditions or on its own initiative in accordance with the Act and this article.

(e) Any person who violates any provision of this article or of any regulation, ordinance, or standard and specification adopted or approved hereunder, including those adopted pursuant to the conditions of a municipal separate storm sewer system permit, or who fails, neglects, or refuses to comply with any order of a VSMP authority authorized to enforce this article, the Department, the Board, or a court, issued as herein provided, shall be subject to a civil penalty not to exceed $32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

(f) Violation of this article shall be a misdemeanor.

Sec. 10-57. Appeals.

(a) A permit applicant, permittee, or person subject to the permit requirements of this article who is aggrieved by a decision of the administrator may file a notice of appeal stating the grounds therefor with the county manager within 15 working days of the decision being appealed. The county manager shall render a written decision on the appeal. The county manager's decision shall be the final decision of the county.

(b) The county manager's decision may be appealed by the filing of a notice of appeal stating the grounds therefor with the Henrico County Circuit Court within 30 days of the county manager's decision.

Secs. 10-58—10-66. - Reserved.

ARTICLE III. NOISE

*__Cross reference—__ Amusements, ch. 4; buildings, ch. 6; offenses, ch. 13; traffic and vehicles, ch. 22; unnecessary noise in operation of vehicle, § 22-36; zoning, ch. 24.

*__State law reference—__ Applicability of local noise ordinances to certain sport shooting ranges, Code of Virginia, § 15.2-917; locality may regulate motorcycle noise, Code of Virginia, § 15.2-919.

Sec. 10-67. Penalty and enforcement.

(a) No person may be charged with a violation of the provisions of section 10-68 unless:

(1) A complainant appears before a magistrate and requests a summons to be issued; or

(2) A violation is committed in the presence of a police officer.

(b) Notwithstanding the provisions of subsection (a), no person may be charged with a violation of subparagraph (2) of section 10-68 occurring between 7:00 a.m. and 11:00 p.m. unless the violation is committed in the presence of a police officer.

(c) Any person convicted of violating any of the provisions of section 10-68 will be punished by a fine not to exceed $500.00. Any person convicted of a second offense within less than five years after a first offense under this article will be punished by a fine not to exceed $1,000.00. Any person convicted of a third offense within less than ten years after a first offense under this article will be punished by a fine not to exceed $2,500.00.

(d) Each day a violation continues unabated constitutes a separate offense.

(e) Criminal enforcement against a person violating this article is not a bar against, or a prerequisite for, taking any other action permitted by this Code or the Code of Virginia to abate the violation.

(Code 1980, § 15-10; Code 1995, § 10-71; Ord. No. 1141, § 1, 2-23-2010)

Sec. 10-68. Prohibited noises enumerated.

It is unlawful for any person to cause or permit to be caused any of the following prohibited sounds or noises:

(1) *Social gatherings and parties.* Allowing any noise between 11:00 p.m. and 7:00 a.m. generated from a gathering of ten or more people that is plainly audible:

a. Inside the confines of the dwelling unit, house or apartment of another person; or

b. In a residential area, at 100 or more feet from the gathering.

(2) *Sound-producing and sound-reproducing devices. T*he use, operation, or playing of any radio, phonograph, television, projector, record, compact disc, tape, digital music, MP3 or DVD player, musical instrument, microphone, loudspeaker, sound amplifier, or similar device designed or used for producing or reproducing sound, regardless of whether such sound-producing or sound-reproducing device is located inside of a structure or outside of or on a structure, in such a manner or with such volume or duration that it is plainly audible:

a. Inside the confines of the dwelling unit, house or apartment of another person; or

b. In residential areas, at 50 or more feet from the device between 11:00 p.m. and 7:00 a.m.

The prohibition in this subparagraph (2) does not apply (i) when the source of the sound is in a commercial establishment located in areas zoned for urban mixed use or (ii) between the hours of 7:00 a.m. and 11:00 p.m. when the source of the sound is a recreational or athletic facility or commercial, industrial, or other non-residential property.

(3) *Noisy animals.* Allowing any animal to cause any sound or noise such that it is plainly audible

a. Inside the confines of the dwelling unit, house or apartment of another person at least once a minute for ten consecutive minutes; or

b. At 100 or more feet from the animal at least once a minute for ten consecutive minutes.

However, this prohibition shall not apply to animal sounds or noises arising between the hours of 7:00 a.m. and 11:00 p.m. on the premises of any commercial kennel, animal boarding place, small animal hospital, veterinarian hospital, or veterinarian clinic, as those terms are defined in chapter 24, or any county animal shelter.

(4) *Trash and recycling collection.* The creation of any sound or noise between 12:00 midnight and 6:00 a.m. that is plainly audible in a residential area, except those areas zoned for urban mixed use, when the sound or noise is produced in connection with the loading or unloading of refuse, waste or recycling collection vehicles.

(5) *Street cleaning and construction.* The creation of any sound or noise between 11:00 p.m. and 6:00 a.m. that is plainly audible in a residential area, except those areas zoned for urban mixed use, when the sound or noise is produced in connection with:

a. The cleaning of streets or parking lots; or

b. Construction or demolition activities.

(6) *Peddlers and hawkers.* Yelling, shouting, whistling, screaming or crying for the purpose of attracting attention to a performance, show, sale or display of merchandise between the hours of 11:00 p.m. and 7:00 a.m. on any public street, sidewalk or parking lot or any privately owned street, sidewalk or parking lot open to the public, except to summon aid in an emergency.

(7) *Amplified sound from vehicles.* Playing, using or operating, or permitting the playing, use or operation of, any radio, stereo, tape player, compact disc player, loudspeaker or other electronic device or mechanical equipment used for the amplification of sound, which is located on or within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of 50 feet or more. The provisions of this subsection shall not apply to the playing of music or jingles by an ice cream truck or similar mobile food service vehicle, provided such vehicle may emit sounds otherwise prohibited by this subsection only

between the hours of 7:00 a.m. and 9:00 p.m.

(8) *Lawn care activities.* Creating any sound or noise plainly audible in residential areas between 11:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or removal or other landscaping, lawn or timbering activities. The provisions of this subsection shall not apply to sound or noise generated by the maintenance of recreational facilities such as golf courses and ball or playing fields.

(Code 1980, § 15-9; Code 1995, § 10-73; Ord. No. 908, 10-11-1995; Ord. No. 1141, § 3, 2-23-2010)

Sec. 10-69. Exemptions.

The prohibitions of section 10-68 shall not apply to any sound or noise generated by any of the following:

(1) Sound or noise which is necessary for the protection or preservation of property or the health, safety, life or limb of any person, including sound or noise caused by restoration of utility service after an interruption.

(2) Sound or noise which is necessary for the maintenance or construction of roads and highways.

(3) Radios, sirens, horns and bells on police, fire or other emergency response vehicles.

(4) Parades, fireworks displays, school-related activities and other such public special events or public activities.

(5) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges or universities.

(6) Athletic contests and other officially sanctioned activities in county parks.

(7) Fire alarms, burglar alarms and car alarms, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises or vehicle served by any such alarm to turn off the alarm.

(8) Religious services, religious events or religious activities or expressions, including, but not limited to, music, singing, bells, chimes and organs which are part of such service, event, activity or expression.

(9) Locomotives and other railroad equipment, and aircraft.

(10) Military activities of the state or of the United States of America.

(11) Agricultural operations, as defined in Code of Virginia, § 3.2-300, provided such operations comply with all applicable laws, regulations and ordinances.

(12) Amateur and professional motorsports competitions and competition-related events such as time trials and practices, provided the competition is sanctioned by a nationally recognized motorsports racing organization and complies with all applicable laws, regulations and ordinances, including permit terms and conditions, if any.

(13) Political gatherings and other activities protected by the First Amendment to the United States Constitution.

(14) Activities for which the regulation of noise has been preempted by federal law.

(Ord. No. 1141, § 4, 2-23-2010)

Secs. 10-70—10-96. Reserved.

ARTICLE IV. TRASH, GARBAGE, REFUSE AND LITTER

***Cross reference—** Dumping wastes on premises other than sanitary landfills, § 17-25; putting glass or other hazardous material on streets, § 22-38; depositing refuse on highway, right-of-way or private property, § 22-39

***State law reference—** Litter control and recycling, Code of Virginia, § 10.1-1414 et seq.

Sec. 10-97. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Litter means all waste material, disposable packages or containers, but does not include the properly disposed waste of the primary processes of mining, logging, sawmilling, farming or manufacturing.

Litter receptacle means a container with a capacity of not less than ten gallons, constructed and placed for use as a depository for litter.

(Code 1980, § 12.1-2; Code 1995, § 10-101)

State law reference—Definition of litter, Code of Virginia, § 10.1-1414.

Sec. 10-98. Securing or covering loads.

(a) *Required.* No person shall transport gravel, sand, coal or other nonagricultural and nonforestry products in a truck, trailer or semitrailer along streets, roads or highways of the county, unless the load is secured to the vehicle or is covered by a tarpaulin or other suitable cover, securely fastened to the body of the vehicle, and of such size and shape as necessary to cover the entire load.

(b) *Exceptions.* This section shall not apply to pickup trucks, public service company vehicles, or emergency snow removal equipment while engaged in snow removal operations.

(c) *Penalty.* Violation of this section shall constitute a traffic infraction punishable by a fine not to exceed $200.00.

(Code 1980, § 11-5; Code 1995, § 10-102; Ord. No. 976, § 1, 5-27-1998)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 46.2-1156(B).

Sec. 10-99. Allowing escape of load material.

(a) *Prohibited.* No vehicle shall be operated or moved on any highway unless it is constructed, maintained and loaded to prevent its contents from dropping, sifting, leaking or otherwise escaping.

(b) *Exceptions.* This section shall not apply to any:

(1) Motor vehicle which is used exclusively for agricultural purposes as provided in Code of Virginia, § 46.2-698, and is not licensed in any other state;

(2) Agricultural vehicle, tractor or other vehicle exempted from registration and licensing requirements under state law; or

(3) Motor vehicle transporting forest products, poultry or livestock.

(c) *Penalty.* Violation of this section shall constitute a traffic infraction punishable by a fine not to exceed $200.00.

(Code 1980, § 12.1-4; Code 1995, § 10-103; Ord. No. 976, § 2, 5-27-1998)

State law reference—Similar provisions, Code of Virginia, § 46.2-1156(A).

Sec. 10-100. Unlawful storage or accumulation of refuse.

(a) *Prohibited storage or accumulation.* It shall be unlawful for any owner of property to allow the storage or accumulation of trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other substances that might endanger the health or safety of other residents of the county. For purposes of this section, "clutter" includes mechanical equipment, household furniture, containers, and similar items

that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate.

(b) *Use of containers required.* All garbage, trash, refuse, litter, clutter, except on land zoned for or in active farming operation, and other debris shall be placed in watertight containers and be kept covered until transported to the county landfill or until taken from the premises by trash or garbage collectors or otherwise disposed of as permitted by law.

(c) *Penalty.* Violation of this section shall be a class 4 misdemeanor.

(Code 1980, §§ 11-8, 12.1-5; Code 1995, § 10-104)

State law reference— Authority to remove trash, weeds, etc., Code of Virginia, § 15.2-901.

Sec. 10-101. Notice of violation; summons or warrant.

County inspectors shall commence enforcement of section 10-100 by issuing a written notice to the owner in person or by mail at his last known address, informing him of the date and nature of the violation. All other violations of this article shall be enforced by summons or warrant.

(Code 1980, § 12.1-10; Code 1995, § 10-105)

Sec. 10-102. Cleanup of premises by county; lien for unpaid charges.

If the owner refuses or fails to clean up the property after receiving the notice required by section 10-101, the county inspector may issue a summons and the county's agents or employees may remove trash, garbage, refuse, litter, clutter, except on land zoned for or in active farming operation, and other substances that might endanger the health of other residents of the county, and the cost and expenses of removal shall be charged to the owner. Such costs and expenses may be collected by the county as taxes and levies are collected. Every charge to the owner and lienholder under this section which remains unpaid shall constitute a lien against such property on a parity with liens for unpaid local real estate taxes.

(Code 1980, § 12.1-8; Code 1995, § 10-106)

State law reference— Similar provisions, Code of Virginia, § 15.2-901(B).

Sec. 10-103. Violations of article; penalty.

The imposition of punishment for violation of any provision of this article shall not excuse the violation or permit it to continue, and appropriate proceedings may be instituted to prevent continuation of the violation.

(Code 1980, § 11-13; Code 1995, § 10-107)

Secs. 10-104—10-134. Reserved.

ARTICLE V. WEEDS AND GRASS

***Cross reference—** Buildings, ch. 6; zoning, ch. 24.

***State law reference—** Locality may provide for cutting of grass and weeds, Code of Virginia, §§ 15.2-901, 15.2-1215; local authority to control certain noxious weeds, Code of Virginia, § 15.2-902.

Sec. 10-135. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Owner means the principal occupants and persons holding title to any land in the county.

Weeds means grass, weeds, bushes, poison ivy, poison oak or any other foreign growth other than trees, ornamental shrubbery, flowers and garden vegetables.

(Code 1980, § 11-15; Code 1995, § 10-151)

Sec. 10-136. Cutting of weeds required.

(a) It shall be a nuisance for the owner of any developed property to permit weeds more than 12 inches in height within 150 feet of adjacent property and public streets.
(b) It shall be a nuisance for the owner of any undeveloped property to permit weeds more than 12 inches in height within 150 feet of adjacent developed property.
(c) This section shall not apply to land more than 50 feet from the boundary line of property developed for residential use if such land is enrolled in a state or federal conservation program and is more than two acres in size.
(d) This section shall not apply to land in a public utility transmission easement that is more than 50 feet from the boundary line of property developed for residential use or from public streets.

(Code 1980, § 11-16; Code 1995, § 10-153)

State law reference— Authority to prohibit weeds, Code of Virginia, § 15.2-901, authority for subsection (b), Code of Virginia, § 15.2-1215.

Sec. 10-137. Inspection of nuisance; notice to cut.

When the director of community revitalization has determined from inspections that a nuisance as defined in Section 10-136 exists, he shall notify the owner of the land upon which the nuisance exists to cut or cause to be cut the weeds within such reasonable time as is specified in the notice. Such notice shall be in writing, shall be delivered by hand or mailed to the last known address of the owner and of the principal occupant if different from the owner, and shall be complied with by such owner or principal occupant. One written notice per growing season shall be reasonable notice.

(Code 1980, § 11-18; Code 1995, § 10-155; Ord. No. 942, § 1, 4-10-1997)

Sec. 10-138. Performance of work by county; collection of costs.

If such weeds are not cut within the required time as provided for in the notice under section 10-137, the director of community revitalization shall cause such weeds to be cut and shall charge and collect the cost thereof from the owner or principal occupant of the property in any manner provided by law for the collection of state or local taxes. Every such charge in excess of $200 which has been assessed against the owner of such property and which remains unpaid shall constitute a lien against such property on a parity with liens for unpaid local real estate taxes.

(Code 1980, § 11-19; Code 1995, § 10-156; Ord. No. 915, § 1, 4-24-1996; Ord. No. 942, § 1, 4-10-1997)

State law reference— Assessment and collection of charges, Code of Virginia, §§ 15.2-901(B), 15.2-1115, 15.2-

1215.

Secs. 10-139—10-163. Reserved.

ARTICLE VI. RATS

***Cross reference—** Animals, ch. 5; buildings, ch. 6.

Sec. 10-164. Purpose.

It is the purpose of this article to control rats in the county by declaring unlawful certain acts which cause the proliferation of rats and by providing penalties for violations. This article is intended to add to and not supersede existing laws governing or prohibiting litter, weed and garbage control and the disposal of waste.

(Code 1980, § 12.2-1; Code 1995, § 10-181)

Sec. 10-165. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building means that which is built or constructed, including, without limitation, buildings for any occupancy or use whatsoever, or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

Owner means the principal occupants or persons holding title to any land or building in the county.

Premises means a lot, plot or parcel of land, including the buildings or structures thereon.

Rat. The term "rat" or any term including the term "rat" shall include mice.

Rat eradication means the elimination or extermination of rats within and without buildings and from rat harborages of any kind by any or all of the accepted measures, such as baiting, fumigation, trapping, clubbing, etc., so that such buildings and rat harborages are completely freed of rats and there is no evidence of rat infestation remaining.

Rat harborage means any condition which provides shelter, nutrition or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a building of any kind.

Ratproofing means a form of construction preventing the ingress of rats into buildings from the exterior or from one building to another. It consists essentially of treating or closing all actual or potential openings in the exterior walls, ground or first floors, basements, roofs and foundations that may be reached by rats from the ground, by climbing or by burrowing, with material or equipment which is impervious to rat gnawing.

(Code 1980, § 12.2-2; Code 1995, § 10-182)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 10-166. Penalty for refusal to implement rat eradication or eliminate rat harborages.

If, after receipt of the written notice or an order from the director of community revitalization under this article, the owner, occupant or other person responsible refuses to implement rat eradication or eliminate

rat harborages, such owner or individual shall, upon conviction, be guilty of a class 4 misdemeanor. Each day that the violation continues shall constitute a separate offense.

(Code 1980, § 12.2-8; Code 1995, § 10-183; Ord. No. 942, § 2, 4-10-1997)

Sec. 10-167. Control of rats required.

It shall be the duty of each owner or occupant to keep his building and premises ratproofed, freed of rats, and maintained in a ratproof and rat-free condition and to eradicate any rat harborage.

(Code 1980, § 12.2-3; Code 1995, § 10-184)

Sec. 10-168. Maintenance of ratproofing devices.

It shall be unlawful for the owner, occupant, contractor, public utility company, plumber, any repairman or any other person to remove and fail to restore in like condition the ratproofing from any building for any purpose, or to make any new openings that are not closed or sealed against the entrance of rats.

(Code 1980, § 12.2-4; Code 1995, § 10-185)

Sec. 10-169. Report of violation.

Any person aggrieved by the presence of rats in violation of this article may report such presence to the director of community revitalization.

(Code 1980, § 12.2-5; Code 1995, § 10-186; Ord. No. 942, § 2, 4-10-1997)

Sec. 10-170. Inspection of site of violation; notice to control rats.

Upon receipt of a report under section 10-169, the director of community revitalization shall cause the site of the reported violation to be inspected pursuant to applicable constitutional and statutory provisions. When the director of community revitalization has determined from such reports and inspections or otherwise that a violation in fact exists, he shall notify the owner or the occupant of the building or premises to take immediate steps to ratproof the building and eliminate rat harborages on the premises within such reasonable time as specified in the notice. Such notice shall be given in writing, shall be delivered by hand or mailed to the last known address of the owner and of the principal occupant, if different from the owner, and shall be complied with by such owner.

(Code 1980, § 12.2-6; Code 1995, § 10-187; Ord. No. 942, § 2, 4-10-1997)

Sec. 10-171. Performance of work by county; payment of costs.

If the owner or occupant fails to implement rat eradication and ratproofing or eliminate rat harborages within the time required in the notice provided for in section 10-170, the director of community revitalization shall cause reasonable steps to be taken to implement rat eradication and ratproofing or eliminate rat harborages from the building or premises. If the owner, occupant or other person responsible denies free access for such purposes, the director of community revitalization may proceed after obtaining a warrant. Costs and expenses incurred by the county in implementing rat eradication or eliminating rat harborages on private property shall be assessed against the owner or occupant of the building or premises or any other person responsible for the condition on the property. The assessment shall be collected as taxes and levies are

collected.

(Code 1980, § 12.2-7; Code 1995, § 10-188; Ord. No. 942, § 2, 4-10-1997)

State law reference— Authority to collect costs of nuisance abatement, Code of Virginia, § 15.2-900.

Secs. 10-172—10-195. Reserved.

ARTICLE VII. ILLICIT DISCHARGE DETECTION AND MONITORING

***Cross reference—** Buildings, ch. 6; culverts, § 18-4.

***State law reference—** Locality may adopt stormwater control ordinance consistent with state law, Code of Virginia, § 15.2-2114; local stormwater ordinances, Code of Virginia, § 10.1-603.14:1.

Sec. 10-196. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the director of public works or his designee.

Discharge means to dispose, deposit, spill, pour, inject, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, leaked or placed by any means.

Illicit discharge means any discharge to a storm sewer that is not composed entirely of stormwater, except discharges pursuant to a VPDES permit or discharges resulting from firefighting activities. This definition shall not include the discharges listed in section 10-199(b) unless such discharges are identified by the county as sources of pollutants to waters of the United States.

Industrial discharge means discharges from any conveyance which are used for collecting and conveying stormwater and which are directly related to manufacturing, processing or raw materials storage areas at an industrial plant, as defined by federal stormwater management regulations.

Person means any individual, firm, corporation, partnership, association, organization or other entity, including governmental entities, or any combination thereof.

Storm sewer system means the system of roads, streets, catchbasins, curbs, gutters, ditches, pipes, lakes, ponds, channels, storm drains and other facilities located within the county which are designed or used for collecting, storing or conveying stormwater or through which stormwater is collected, stored or being conveyed.

Stormwater means runoff from rain, snow or other forms of precipitation and surface runoff and drainage.

(Code 1980, § 21.1-1; Code 1995, § 10-215)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 10-197. Enforcement of article; penalty for violation.

(a) *Violations deemed misdemeanor; continuing violations; fine.* Any person who willfully or negligently violates any provision of this article shall be guilty of a misdemeanor punishable by confinement in jail for not more

than 12 months and a fine of not less than $2,500.00 nor more than $32,500.00, either or both. Any defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine of not less than $10,000.00. Each day of violation of each requirement shall constitute a separate offense.

(b) *Liability for costs for testing, containment, etc.* Any person who, intentionally or otherwise, commits any of the acts prohibited by section 10-199 shall be liable to the county for all costs of testing, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system.

(c) *Civil penalty.* Any person who violates any provision of this article shall be subject to a civil penalty not to exceed $32,500.00 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense. The court assessing such penalties may, at its discretion, order such penalties to be paid into the treasury of the county for the purpose of abating, preventing or mitigating environmental pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.

(d) *Enjoinment.* The director may bring legal action to enjoin the continuing violation of this article and the existence of any other remedy shall be no defense to any such action.

(e) *Remedies cumulative.* The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action that one or more of the remedies set forth in this section has been sought or granted.

(Code 1980, § 21.1-4; Code 1995, § 10-216)

State law reference—Penalties, Code of Virginia, §§ 10.1-603.14, 10.1-602.14:1.

Sec. 10-198. Inspections and monitoring.

(a) The director shall have authority to carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with the conditions of the county's VPDES permit, including the prohibition of illicit discharges to the storm sewer system. The director may monitor stormwater outfalls or other components of the storm sewer system as may be appropriate in the administration and enforcement of this article.

(b) The director shall have the authority to require pollution prevention plans from any person whose discharges cause or may cause a violation of the county's VPEDS permit.

(Code 1980, § 21.1-3; Code 1995, § 10-217)

Sec. 10-199. Discharges to storm sewer system.

(a) It shall be unlawful to:

(1) Cause or allow illicit discharges to the county's storm sewer system;

(2) Discharge materials other than stormwater to the storm sewer system by spills, dumping or disposal without a VPDES permit;

(3) Cause or allow industrial discharges into the storm sewer system without a VPDES permit; or

(4) Violate any condition or provision of this article or any permit granted for stormwater discharges.

(b) The following activities shall not be unlawful as illicit discharges under this article unless the State Water Control Board or the director determines the activity to be a significant source of pollutants to surface waters:

(1) Water line flushing;

(2) Landscape irrigation;

(3) Diverted stream flows;

(4) Rising ground waters;

(5) Uncontaminated groundwater infiltration (as defined at 40 CFR Part 35.2005(20));

(6) Uncontaminated pumped groundwater;

(7) Discharges from potable water sources;
(8) Foundation drains;
(9) Air conditioning condensation;
(10) Irrigation water;
(11) Springs;
(12) Water from crawl space pumps;
(13) Footing drains;
(14) Lawn watering;
(15) Individual residential car washing;
(16) Charity and fund-raising car washing;
(17) Flows from riparian habitats and wetlands;
(18) Dechlorinated swimming pool discharges;
(19) Street wash water;
(20) Discharges or flows from firefighting activities; and
(21) Other activities generating discharges identified by the Department of Environmental Quality as not requiring VPDES authorization.

(c) If the State Water Control Board or the director determines that an activity listed in subsection (b) is a significant source of pollutants to surface waters, the director shall notify the person performing such activity and shall order that such activity be stopped or conducted in such manner as to avoid the discharge of pollutants into surface waters. The failure to comply with any such order shall constitute a violation of the provisions of this article.

(Code 1980, § 21.1-2; Code 1995, § 10-218)

Sec. 10-200. Compliance with county design standards.

All stormwater management facilities, including best management practices (BMPs) for water quality and quantity management, shall comply with the current edition of the Stormwater Guidelines Manual maintained by the county engineer.

(Code 1995, § 10-219; Ord. No. 972, § 1, 3-24-1998)

Chapter 11 - FIRE PREVENTION AND PROTECTION

*__Cross reference—__Buildings, ch. 6; smoke detectors, § 6-56 et seq.; fires in parks, § 14-47.

*__State law reference—__Fire protection, Code of Virginia, § 27-1 et seq.

Sec. 11-1. Applicability of Virginia Statewide Fire Prevention Code.

Except as set out in section 11-20, the current edition of the Virginia Statewide Fire Prevention Code setting forth regulations for the prevention of, and protection from, fire shall be administered and enforced in the county by the division of fire. Future amendments and revisions of the Virginia Statewide Fire Prevention Code shall be implemented upon their effective date.

(Code 1980, § 10-1; Code 1995, § 11-1; Ord. No. 1060, § 1, 11-25-2003)

State law reference—Uniform statewide fire prevention code, Code of Virginia, §§ 27-97, 27-98.

Sec. 11-2. Penalty; time limit for correction of violations.

The imposition of a penalty for any violation shall not excuse the violation or permit it to continue. All persons shall be required to correct or remedy violations or defects within a reasonable time.

(Code 1980, § 10-22; Code 1995, § 11-2)

Sec. 11-3. Enforcement of this chapter and fire prevention code.

The Statewide Fire Prevention Code and the provisions of this chapter shall be enforced by the fire chief or his designee. Whenever this chapter declares an act or omission to be unlawful or to constitute a misdemeanor, the fire chief or his designee shall obtain an arrest warrant or summons against the violator.

(Code 1980, § 10-20; Code 1995, § 11-3)

State law reference—Enforcement of fire code, warrants, Code of Virginia, §§ 27-34.2, 27-98.2.

Sec. 11-4. Appeals.

Appeals shall be made to the building code and examining board of appeals by any person aggrieved by a decision or interpretation of the fire chief.

(Code 1980, § 10-21; Code 1995, § 11-4)

State law reference—Enforcement and appeals regarding fire code, Code of Virginia, § 27-98 et seq.

Sec. 11-5. Authority of members of division of fire.

(a) While the division of fire is answering an alarm or operating at an emergency incident where there is imminent danger, the actual occurrence of fire or explosion, or the uncontrolled release of hazardous materials which threaten life or property, or is returning to the station, the officer in charge shall have the authority to maintain order at the emergency incident or its vicinity, direct the actions of the firefighters or emergency medical services personnel at the incident, keep bystanders or other persons at a safe distance from the incident and emergency equipment, facilitate the speedy movement and operation of emergency equipment and firefighters or emergency medical services personnel, cause an investigation to be made into

the origin and cause of the incident and, until the arrival of a police officer, direct and control traffic in person or by deputy and facilitate the movement of traffic. The officer in charge shall display his firefighter's badge or other means of identification.

(b) Notwithstanding any other provision of law, this authority shall extend to the activation of traffic control signals at a fire station.

(c) The authority granted under the provisions of this section may not be exercised to inhibit or obstruct members of law-enforcement agencies or rescue squads from performing their normal duties when operating at such emergency incident. Personnel from the news media, such as the press, radio and television, when gathering the news may enter at their own risk into the incident area only when the officer in charge has deemed the area safe and only into those areas of the incident that do not, in the opinion of the officer in charge, interfere with the fire department or firefighters or emergency medical services personnel dealing with such emergencies, in which case the chief or other officer in charge may order such person from the scene of the emergency incident.

(d) Any person refusing to obey the orders of the officer in charge shall be guilty of a class 4 misdemeanor. The officer in charge shall have the power to make arrests for violation of the provisions of this section.
(Code 1980, §§ 10-2, 14-8; Code 1995, § 11-5)

State law reference—Similar provisions, Code of Virginia, § 27-15.1.

Sec. 11-6. Physical examinations for firefighters.

The county manager shall employ physicians to perform physical examinations of every salaried and volunteer firefighter entering the service of the division of fire.

(Code 1980, § 10-19; Code 1995, § 11-6)

State law reference—Performance of medical examination, Code of Virginia, § 27-40.1:1.

Sec. 11-7. False alarms.

It shall be a misdemeanor to call or summon any ambulance or firefighting equipment without just cause.

(Code 1980, § 10-4; Code 1995, § 11-7)

Cross reference—Fire alarm systems, § 3-56 et seq.

State law reference—Similar provisions, Code of Virginia, § 18.2-212.

Sec. 11-8. Boarding or tampering with vehicle or equipment of fire division.

It shall be unlawful for any person to cling to, attach himself to, climb upon or into, board or swing upon any fire division emergency vehicle without permission. It shall also be unlawful to manipulate, tamper with, or attempt to manipulate or tamper with, any levers, valves, switches, starting devices, brakes, pumps or any equipment or protective clothing on or a part of any fire emergency vehicle.

(Code 1980, § 10-5; Code 1995, § 11-8)

Sec. 11-9. Damaging vehicle of fire division; injuring firefighters.

(a) It shall be unlawful for any person to damage or deface, or to attempt or conspire to damage or deface, any fire division emergency vehicle.

(b) It shall be unlawful to injure, or to attempt or conspire to injure, fire division personnel while they are performing duties in the course of their employment.
(Code 1980, § 10-6; Code 1995, § 11-9)

State law reference— Damaging property, Code of Virginia, § 18.2-137 et seq.

Sec. 11-10. Blocking hydrants and connections.

It shall be unlawful to damage, deface, obscure from view, obstruct or restrict access to any fire hydrant or any fire division connection for the pressurization of fire suppression systems, including fire hydrants and fire division connections on private property.

(Code 1980, § 10-7; Code 1995, § 11-10)

State law reference— Authority to prohibit parking near fire hydrants, Code of Virginia, § 46.2-1306; damaging property, Code of Virginia, § 18.2-137 et seq.

Sec. 11-11. Use of hydrants.

No person shall use or operate any fire hydrant intended for use of the fire division unless such person secures a permit from the department of public utilities.

(Code 1980, § 10-8; Code 1995, § 11-11)

Sec. 11-12. Division of fire to recommend location of hydrants and mains; notification of division when hydrants are placed in or removed from service.

The division of fire shall recommend the location or relocation of new or existing fire hydrants and the placement or replacement of new or inadequate water mains located on private property when necessary to provide adequate fire flow and distribution patterns. A fire hydrant shall not be placed into or removed from service until the division of fire is notified.

(Code 1980, § 10-9; Code 1995, § 11-12)

Sec. 11-13. Private fire protection system required for certain uses.

The owners of new and existing shipyards, oil storage plants, lumberyards, amusement or exhibition parks, educational and institutional complexes, places of public assembly, and other uses involving high fire or life hazards which are located more than 150 feet from a public street or which require a quantity of water which the department of public utilities determines is beyond the capabilities of the public water distribution system shall provide properly placed fire hydrants or fire suppression systems. The division of fire may require the installation of a fire hose and equipment in accordance with approved standards and may require the establishment of a trained fire brigade. Private hydrants or fire suppression systems shall not be placed in or removed from service unless approved by the division of fire.

(Code 1980, § 10-10; Code 1995, § 11-13)

Sec. 11-14. Obstructing or tampering with hydrant or fire appliance.

No person shall obstruct, remove, tamper with or otherwise disturb any fire hydrant or fire appliance required by the Statewide Fire Prevention Code, except for the purpose of extinguishing fires, training, testing, recharging or making necessary repairs, or for other reasons approved by the division of fire.

Whenever a fire appliance is removed as permitted in this section, it shall be replaced or repaired as directed by the fire chief or his designee.

(Code 1980, § 10-11; Code 1995, § 11-14)

Sec. 11-15. Sale of unapproved or defective fire extinguishers.

No person shall sell, trade, loan or give away any fire extinguisher that is not approved by the division of fire as to form, type, kind or contents or which is not in proper working order. The requirements of this section shall not apply to the sale, trade or exchange of obsolete or damaged equipment for junk if such units are permanently disfigured or marked as junk.

(Code 1980, § 10-12; Code 1995, § 11-15)

Sec. 11-16. Parking or storage of vehicles used to transport inflammable liquid prohibited in residential areas; exceptions.

It shall be unlawful for any person to park or store any truck, trailer or other vehicle designed or used to transport gasoline, kerosene, fuel oil or other inflammable liquid on the streets, alleys, public rights-of-way or private property in any residential area, except while making a delivery or being used under a permit of the division of fire.

(Code 1980, § 10-14; Code 1995, § 11-16)

Cross reference—Stopping, standing and parking, § 22-151 et seq.; zoning, ch. 24.

Sec. 11-17. Burning of leaves.

(a) Notwithstanding any other provision of this Code, it shall be unlawful for any person to burn leaves in the open in any area designated by the board of supervisors for leaf pickup service without charge by the county on a scheduled basis. In areas where scheduled leaf pickup service is not provided free of charge by the county, leaf burning is permitted between 8:00 a.m. and 8:00 p.m. from October 15 to February 14, except on hard-surfaced roadways of any street maintained by the county. Between February 15 and April 30, leaf burning is permitted in areas where scheduled leaf pickup service is not provided free of charge by the county between 4:00 p.m. and 8:00 p.m., except on hard-surfaced roadways of any streets maintained by the county.

(b) Notice of leaf pickup service areas shall be by publication of a description of the areas and schedules for free leaf pickup service at least once a week for two successive weeks in a newspaper having general circulation in the county.

(Code 1980, § 10-15.1; Code 1995, § 11-17; Ord. No. 982, § 1, 10-14-1998)

Cross reference—Environment, ch. 10; burning leaves, trash or other materials on hard-surfaced roadways prohibited, § 18-5.

State law reference—Regulations for the open burning of wood, brush, etc., Code of Virginia, §§ 10.1-1142, 10.1-1158.

Sec. 11-18. Safety requirements for open burning; state burning permits.

It shall be unlawful for any person to burn, or to procure another to burn, brush, grass, leaves, debris or other inflammable material unless the person has either cut and piled the material to be burned or has carefully cleared around the material to be burned, or has taken other precautions necessary to prevent the

spread of fire and controls the fire until it has completely burned out or been extinguished. No one shall burn any materials without obtaining all permits required by state law, including the Virginia Statewide Fire Prevention Code.

(Code 1980, § 10-16; Code 1995, § 11-18)

Sec. 11-19. Open burning prohibited during drought conditions.

(a) Whenever the fire chief declares that a drought condition exists or that forest lands, brush lands and fields have become so dry or parched as to create an extraordinary fire hazard in part or all of the county, it shall be unlawful for any person to burn brush, grass, leaves, trash, debris or any other inflammable material or to ignite or maintain any open fire. The fire chief's declaration shall remain effective until the fire chief declares the condition to have terminated.

(b) When any such declaration is issued, amended or rescinded, the fire chief shall promptly post a copy of the declaration, amendment or rescission at the front door of the county courthouse and at each fire station in the area of the county in which the emergency has been declared. In addition, the fire chief shall publish the declaration, amendment or rescission in a newspaper of general circulation.

(Code 1980, § 10-18; Code 1995, § 11-19; Ord. No. 982, § 2, 10-14-1998)

Cross reference— Fires in parks, § 14-47; water shortages, § 23-264 et seq.

Sec. 11-20. Possession, sale, storage or use of fireworks prohibited.

(a) This section is adopted pursuant to authority granted localities by Code of Virginia, § 27-97, and Virginia Statewide Fire Prevention Code section 101.5 to adopt fire prevention regulations that are more restrictive than the Virginia Statewide Fire Prevention Code.

(b) No person shall store, possess, offer for sale, expose for sale, sell at retail or use or explode any fireworks, as that term is defined in the Virginia Statewide Fire Prevention Code, except that a person may conduct a supervised public display of fireworks pursuant to a permit granted by the fire marshal.

(c) Applications for permits shall be made in writing at least 60 days before the date of the supervised public display of fireworks. The sale, possession, discharge and distribution of fireworks for such display shall be lawful only under the terms and conditions and for the purpose set forth in the permit. A permit shall not be transferable nor extend beyond the date or dates set forth therein.

(d) For purposes of this section, the term "fireworks" shall include "permissible fireworks" as that term is defined in the Virginia Statewide Fire Prevention Code.

(e) For purposes of this section, "fireworks" shall not include automobile flares, paper caps containing not more than an average of 0.25 grains (16 mg) of explosive content per cap, or any toy pistols, toy canes, toy guns, and other devices using such caps.

(Code 1995, § 11-20; Ord. No. 1060, § 2, 11-25-2003)

Chapter 12 - MASSAGE ESTABLISHMENTS

*__Cross reference—__Obscenity and nudity, § 13-84 et seq.; adult businesses, § 14-181 et seq.; license tax, § 20-350 et seq.

ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beauty salon means an establishment not located in a residence which provides one or more of the following services in exchange for consideration: hair care, skin care, makeovers, facials, manicures, pedicures or body waxing.

Care facility means a hospital, nursing home, convalescent care facility, assisted living facility, life care facility or group care facility.

Certified massage therapist means any person who administers a massage to a patron, in exchange for consideration, and who is qualified as a certified massage therapist pursuant to the requirements of Code of Virginia, §§ 54.1-3000 and 54.1-3029.

Health club means an establishment which provides health and fitness equipment and programs for its patrons' use. A health club may be located in a hotel or motel but not in a guest room in a hotel or motel.

Massage.

(1) The term "massage" means the treatment of soft tissues for therapeutic purposes by the application of massage and body work techniques based on the manipulation or application of pressure or stroking, kneading, rubbing, tapping, pounding, vibrating, or manipulating the external parts of the body with the hands or with the aid of any mechanical or electrical apparatus or instrument, with or without such supplementary aids as rubbing alcohol, liniment, antiseptics, oils, powers, creams, lotions, ointments, or similar preparations or by the application of air, liquid or vapor baths of any kind.

(2) The term "massage" shall not include placing hands on, touching, fondling or massaging the sexual or genital parts of another or exposing one's sexual or genital parts to any other persons.

(3) The term "massage" also shall not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic therapy, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.

Massage establishment means a fixed place of business where a certified massage therapist gives a patron a massage.

Patron means the person receiving the massage.

Public gathering means any event occurring in the county that is open to the general public and involves more than 50 persons.

Seated massage means a massage of the upper body or feet while the massage patron is fully clothed and seated in a chair.

Sexual or genital parts means the genitals, pubic area, buttocks or anus of any person and the breasts of a female person.

Tanning salon means an establishment which has as it primary business the provision of tanning services in exchange for consideration.

(Code 1980, § 13-1; Code 1995, § 12-1; Ord. No. 983, § 1, 11-24-1998)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 12-2. Exemptions from chapter provisions.

This chapter shall not apply to the following classes of individuals while engaged in the performance of the duties of their respective professions:

(1) Physicians, surgeons, chiropractors and osteopaths who are duly licensed to practice their respective professions in the state and their employees acting under their direction and supervision in connection with the practice of medicine, chiropractic or osteopathy by recognized means.
(2) Physical therapists who are duly licensed to practice physical therapy by the state.
(3) Employees of nursing homes and hospitals which are duly licensed by the state, provided that the employees are acting at the direction and under the supervision of licensed health care professionals.
(4) Nurses who are registered under the laws of the state.
(5) Trainers of any amateur, semiprofessional or professional athlete or athletic team.
(6) Barbers and beauticians who are duly licensed under the laws of the state and who administer massage only to the scalp, face, neck or shoulders.
(Code 1980, § 13-9; Code 1995, § 12-2; Ord. No. 983, § 2, 11-24-1998)

Sec. 12-3. Display of certificate.

Each certified massage therapist shall conspicuously post his current certificate issued by the state board of nursing in a public area at his massage establishment.

(Code 1980, § 13-4; Code 1995, § 12-3; Ord. No. 983, § 3, 11-24-1998)

Sec. 12-4. Unlawful acts by certified massage therapists or patrons.

(a) It shall be unlawful for a certified massage therapist to:
(1) Place his hands upon, to touch with any part of his body, to fondle in any manner, or to massage a sexual or genital part of a patron;
(2) Expose his sexual or genital parts or any portion thereof to a patron;
(3) Expose the sexual or genital parts or any portion thereof of a patron; or
(4) Fail to conceal with a fully opaque covering the sexual or genital parts of his body while in the presence of a patron.
(b) It shall be unlawful for a patron to:
(1) Place his hands upon, to touch with any part of his body, to fondle in any manner, or to massage a sexual or genital part of a certified massage therapist;
(2) Expose his sexual or genital parts or any portion thereof to a certified massage therapist;
(3) Expose the sexual or genital parts or any portion thereof of a certified massage therapist; or
(4) Fail to conceal with a fully opaque covering the sexual or genital parts of his body while in the presence

of a certified massage therapist.
(Code 1980, §§ 13-2, 13-8(b), 13-22; Code 1995, § 12-7; Ord. No. 983, § 7, 11-24-1998)

Secs. 12-5—12-26. Reserved.

ARTICLE II. WHEN AND WHERE MASSAGE MAY BE GIVEN

Sec. 12-27. When and where massage may be given.

(a) It shall be unlawful for any person to give a massage in exchange for consideration within the county unless:

(1) The massage is given for medical, relaxation, remedial or hygienic purposes; and

(2) The person giving the massage is a certified massage therapist.

(b) A certified massage therapist may give a massage in the county only at the following locations and under the following conditions, provided that, regardless of location, the certified massage therapist shall possess his certificate issued by the state board of nursing:

(1) At a massage establishment;

(2) At the regular place of business, not located in a residence, of the massage patron during the regular business hours of such business, provided that a certified massage therapist may only give a seated massage at this location;

(3) At a beauty salon;

(4) At a care facility;

(5) At a health club;

(6) At a public gathering;

(7) At a tanning salon; and

(8) Except as otherwise prohibited in this section, at a residence.

(Code 1980, § 13-15; Code 1995, § 12-52; Ord. No. 983, § 15, 11-24-1998)

State law reference—Qualifications for a certified massage therapist, Code of Virginia, § 54.1-3029.

Chapter 13 - OFFENSES

*__Cross reference—__Court costs, §§ 2-126 et seq.; repair, removal or security of buildings and other structures harboring illegal drug use, § 10-1; Repair, removal or security of buildings and other structures harboring a bawdy place, § 10-4; noise, § 10-67 et seq.; unnecessary noise in operation of vehicle, § 22-36.

ARTICLE I. IN GENERAL

Secs. 13-1—13-18. Reserved.

ARTICLE II. CONDUCT

Sec. 13-19. Authority to regulate assemblies.

(a) The chief of police or the county manager or his designee is empowered to regulate, restrict or prohibit any assembly of persons or the movement of persons or vehicles when there exists an imminent threat of any civil commotion or disturbance in the nature of a riot which constitutes a clear and present danger thereof.

(b) Any person violating any regulation, restriction or prohibition promulgated by the chief of police or the county manager or his designee pursuant to subsection (a) of this section shall be deemed guilty of a misdemeanor.

(Code 1980, § 15-1; Code 1995, § 13-31)

Cross reference—Parades, § 22-19 et seq.

State law reference—Authority of county to delegate such authority, Code of Virginia, § 15.2-925.

Sec. 13-20. Disorderly conduct.

(a) 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:

(1) 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 persons at whom, individually, such conduct is directed;

(2) Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any funeral, memorial service, or meeting of the governing body of any political subdivision of this state or a division or agency thereof, or of any school, literary society or place of religious worship, if the disruption prevents or interferes with the orderly conduct of the funeral, memorial service or meeting, or has a direct tendency to cause acts of violence by the persons at whom, individually, the disruption is directed; or

(3) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption prevents or interferes with the orderly conduct of the operation or activity, or has a direct tendency to cause acts of violence by the persons at whom, individually, the disruption is directed.

(b) However, the conduct prohibited under subsections (a)(1) through (3) of this section shall not be deemed to include the utterance or display of any words or to include conduct made punishable by provisions of the Code of Virginia, title 18.2 (Code of Virginia, § 18.2-1 et seq.), other than Code of Virginia, § 18.2-415.

(c) The person in charge of any such building, place, conveyance, meeting, operation or activity 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.
(Code 1980, § 15-5; Code 1995, § 13-32; Ord. No. 1094, § 1, 3-13-2007)

State law reference—Similar provisions, Code of Virginia, § 18.2-415.

Sec. 13-21. Providing false information on school registration forms.

Any person who knowingly gives false information on a form used for the purpose of student registration or placement in the county school system, except false statements as to the age, punishable as provided in Code of Virginia, § 22.1-264, shall be guilty of a misdemeanor; provided that such form shall state that the giving of false information on the form is a class 4 misdemeanor.

(Code 1980, § 15-6; Code 1995, § 13-33)

State law reference—Penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 13-22. Obstructing free passage.

(a) *Purpose.* The purpose of this section is to ensure the free and safe passage of pedestrians and vehicles within public rights-of-way, buildings and facilities, and within places open to the public, while preserving the rights of citizens to engage in free speech and assembly protected by the First Amendment to the Constitution of the United States.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Loiter means to stand around or remain, or to park or remain parked in a motor vehicle at a public place or any other place open to the public and to engage in any conduct prohibited under this law. Loiter also means to collect, gather, congregate, or be a member of a group or a crowd of people who are gathered together in any public place or any other place open to the public and to engage in any conduct prohibited under this law.

Place open to the public means any place open to the public or any place to which the public is invited or may reasonably expect to be invited and in, on, or around any privately-owned place of business, private parking lot or private institution, including shopping centers, malls, places of worship and cemeteries, or any place of amusement and entertainment, whether or not a charge of admission or entry thereto is made. It includes the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building.

Public place means any public street, road, highway, alley, land, sidewalk, crosswalk or other public way, any public resort, place of amusement, park or playground, any public building or grounds appurtenant thereto, school buildings, school grounds, public parking lot, or any other publicly-owned property.

(c) *Prohibited conduct.* It shall be unlawful for any person to loiter at, on or in a public place or place open to the public in the following manner:

(1) To unreasonably hinder, impede or obstruct the free passage of pedestrians or vehicles.

(2) To threaten or do physical harm to another person.

(3) To threaten or do physical harm to public or private property.

(d) *Lawful assembly.* Nothing herein shall be construed to prohibit a lawful assembly, picket, parade or procession.

(Code 1980, § 15-7; Code 1995, § 13-34; Ord. No. 1099, § 1, 3-27-2007)

State law reference— Authority to prohibit loitering, Code of Virginia, § 15.2-926.

Sec. 13-23. Public intoxication.

(a) It shall be unlawful for any person to be intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature. Any person violating this section shall, upon conviction, be guilty of a class 4 misdemeanor.

(b) A law-enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to a court-approved detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center.

(Code 1980, § 15-11; Code 1995, § 13-35; Ord. No. 1062, § 1, 2-24-2004; Ord. No. 1095, § 1, 3-13-2007)

State law reference— Similar provisions, Code of Virginia, § 18.2-388.

Sec. 13-24. Solicitation.

(a) In this section, the term "prohibited sexual acts" means adultery, fornication or any act in violation of Code of Virginia, § 18.2-361.

(b) Any person who offers money or its equivalent to another for the purpose of engaging in prohibited sexual acts as defined in subsection (a) of this section and thereafter does any substantial act in furtherance thereof shall be guilty of solicitation of prostitution and shall be guilty of a misdemeanor.

(Code 1980, § 15-12; Code 1995, § 13-36)

State law reference— Prostitution, Code of Virginia, § 18.2-346 et seq.

Sec. 13-25. Unauthorized resale of tickets prohibited.

It shall be unlawful for any person to resell for profit any ticket for admission to any sporting event, theatrical production, lecture, motion picture, state fair or any other event open to the public for which tickets are ordinarily sold, except in the case of religious, charitable or educational organizations where all or a portion of the admission price reverts to the sponsoring group and the resale for profit of such ticket is authorized by the sponsor of the event and the manager or owner of the facility in which the event is being held. Violation of this section shall constitute a class 3 misdemeanor.

(Code 1980, § 15-12.1; Code 1995, § 13-38; Ord. No. 906, § 1, 8-9-1995)

State law reference— Authority to so provide, Code of Virginia, § 15.2-969.

Sec. 13-26. Trespass after having been forbidden to do so; penalties.

(a) If any person without authority of law goes upon or remains 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 by such persons 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 portion or area thereof at a place where it may be reasonably seen, or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to Code of Virginia, §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2—16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, 16.1-279.1, 19.2-152.8, 19.2-152.9 or 19.2-152.10, or an ex parte order issued pursuant to Code of Virginia, § 20-103, and, after having been served with such order, he shall be guilty of a

class 1 misdemeanor. This section shall not be construed to affect in any way the provisions of Code of Virginia, §§ 18.2-132—18.2-136.

(b) Any owner of real property may, in writing on a form prescribed by the chief of police, designate the county division of police as a "person lawfully in charge thereof" as that term is used in subsection (a) of this section, for the purpose of forbidding another to go or remain upon the lands, buildings or premises of such owner. Such designation shall include a legal address, detailed description of the lands, buildings or premises to which it applies; shall be signed by a person who can demonstrate that he is the owner of the property, or is legally authorized to act for the property owner; shall include a provision holding the county harmless and indemnifying the county for any claims arising from or in connection with the enforcement of this section; and shall be kept on file in the office of the chief of police or in such other location within the division of police as the chief of police deems appropriate.

(c) A property owner's designation of the division of police as a person lawfully in charge of the owner's property becomes effective when the chief of police or his designee delivers in person or mails to the property owner a copy of the property owner's designation which has been signed by the chief of police or his designee. A copy of the designation signed by the chief of police or his designee shall be kept on file as described in subsection (b) of this section. The decision whether to accept any designation is solely within the discretion of the chief of police or his designee, who may base his decision on such factors including, but not limited to, resource levels of the division of police and the proper allocation of resources.

(d) Either the property owner or the chief of police or his designee may rescind or reject the designation of the division of police as a person lawfully in charge of the owner's property totally, partially or temporarily at any time by written notification, which notification shall be kept on file with the property owner's designation as described in subsection (b) of this section.

(e) Such designation of the division of police as a person lawfully in charge of the property shall be limited to the sole purpose of enforcing this section.

(f) In any prosecution under this section, a certified copy of the property owner's designation of the division of police as a person lawfully in charge of the property, along with a certified copy of attestation by the chief of police or his designee that (i) the chief of police or his designee has accepted the designation; (ii) the designation has not been rescinded by the property owner or rejected by the chief of police or his designee; and (iii) the designation is in writing and on file in the office of the chief of police or in such other location within the division of police as the chief of police deems appropriate, shall be admissible in any court in a prosecution under this section as evidence of the facts therein stated, without proof of seal of signature of the person whose name is signed to it.

(Code 1995, § 13-39; Ord. No. 1041, § 1, 2-25-2003)

State law reference— Trespass, Code of Virginia, § 18.2-119; authority to provide for designation of police to enforce trespass violations, Code of Virginia, § 15.2-1717.1.

Secs. 13-27—13-55. Reserved.

ARTICLE III. WEAPONS

*__Cross reference—__ Firearms and other dangerous devices prohibited in parks and recreation areas, § 14-41; concealed handgun permits, § 15-51.

*__State law reference—__ Local control of firearms restricted, Code of Virginia, § 15.2-915 et seq.; shooting along streets, etc., generally, Code of Virginia, § 18.2-286 et seq.

Sec. 13-56. Commercial district defined.

As used in this article, the term "commercial district" shall mean any business, office, or office service

district as so classified and defined by chapter 24.

(Code 1995, § 13-68; Ord. No. 1081, § 2, 11-8-2005)

Sec. 13-57. Discharging pneumatic guns.

(a) For purposes of this section, the term "pneumatic gun" means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. "Pneumatic gun" includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

(b) It shall be unlawful for any person to discharge any pneumatic gun from or across any public street, public sidewalk, public alley or public land or public place in the county.

(c) Nothing in this section is designed to prevent organized groups from erecting, maintaining and using properly constructed rifle or pistol ranges which meet the requirements of chapter 24 and are approved by the chief of police as to safety. Commercial or private areas designated for use of pneumatic paintball guns may be established and operated for recreational use. Equipment designed to protect the face and ears shall be provided to participants at such recreational areas, and signs must be posted to warn against entry into the paintball area by persons who are unprotected or unaware that paintball guns are in use.

(d) Nothing in this section is designed to prohibit the use of pneumatic guns on or within private property with permission of the owner or legal possessor thereof when conducted with reasonable care to prevent a projectile from crossing the bounds of the property.

(e) It shall be unlawful and constitute a class 4 misdemeanor for any person to violate any of the provisions of this section.

(Code 1980, § 15-13; Code 1995, § 13-61)

State law reference— Authority to regulate discharge of pneumatic guns, Code of Virginia, § 15.2-915.4; discharging pneumatic guns across street or road, Code of Virginia, § 18.2-286.

Sec. 13-58. Discharging weapons near school property.

(a) As used in this section, the term "school property" includes real property owned by, used by or held for any public or private school.

(b) No person shall discharge any rifle, shotgun, pistol, revolver, pellet gun or other firearm within 100 yards of school property, or use BB guns, crossbows, spearguns or bows and arrows within 300 feet of school property.

(c) No person shall discharge any rifle, shotgun, pistol, revolver, pellet gun, BB gun or other firearm, crossbow, speargun or bow and arrow on school property; except that bows and arrows may be used when part of an organized program under the supervision of an employee of the school or the county.

(d) This section shall not be applicable to law enforcement officials engaged in the discharge of their duties. This section shall not apply in any national or state park or forest, or wildlife management area.

(e) The violation of this section is a class 4 misdemeanor.

(Code 1980, § 15-14.1; Code 1995, § 13-62)

State law reference— Authority to prohibit such discharge of firearm near school, Code of Virginia, § 29.1-527; authority to regulate discharge of pneumatic guns, Code of Virginia, § 15.2-915.4; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 13-59. Discharging firearms.

(a) it shall be unlawful for any person to discharge any firearm from, on or across any street, sidewalk, alley, roadway or public land or public place in the county or upon, from or across any land located within the boundaries of any residential or industrial district as so classified and defined by chapter 24 or any commercial district. This section shall not apply to any law enforcement officer in the performance of his official duties or to any other person whose such willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law. Nothing in this section is designed to prevent organized groups from erecting, maintaining and using properly constructed rifle or pistol ranges which meet the requirements of chapter 24 and are approved by the chief of police as to safety.

(b) This section shall not apply to the killing of deer pursuant to Code of Virginia, § 29.1-529 with firearms. Such exemption shall apply on land of at least five acres that is zoned for agricultural use.

(c) Violation of this section shall constitute a class 4 misdemeanor.

(Code 1980, § 15-14; Code 1995, § 13-63)

State law reference— Authority to regulate discharge of firearms, etc., Code of Virginia, § 15.2-1209; discharging firearms across street or road, Code of Virginia, § 18.2-286.

Sec. 13-60. Hunting with firearms near primary or secondary highway.

(a) No person shall hunt or attempt to hunt with a firearm any game bird or game animal while such hunting or attempting to hunt is on or within 100 yards of any primary or secondary highway in the county.

(b) For the purpose of this section, the terms "hunt" and "attempt to hunt" shall not include the necessary crossing of such highways for the bona fide purpose of going into or leaving a lawful hunting area.

(c) Violation of this section shall be a class 3 misdemeanor.

(Code 1980, § 15-14.4; Code 1995, § 13-65)

State law reference— Authority to so provide, Code of Virginia, § 29.1-526.

Sec. 13-61. Shooting arrows from bows.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arrow means a shaft-like projectile intended to be shot from a bow.

Bow includes all compound bows, crossbows, longbows and recurve bows having a peak draw weight of ten pounds or more. The term "bow" does not include bows having a peak draw weight of less than ten pounds or that are designed or intended to be used principally as toys.

(b) Except as provided in subsection (c) of this section, it shall be unlawful for any person to shoot an arrow from a bow from, on or across any street, sidewalk, alley, roadway or public land or public place in the county or outdoors upon, from or across any land located within the boundaries of any residential or industrial district as so classified and defined by chapter 24 or any commercial district.

(c) The following activities shall be permitted:

(1) The shooting of arrows from bows on school property when part of an organized program under the supervision of an employee of the school or the county. As used in this subsection, the term "school" includes real property owned by, used by, or held for any public or private school.

(2) The shooting of arrows from bows in county parks as permitted by section 14-29.

(3) The shooting of arrows from bows at archery ranges which meet the requirements of chapter 24.

(d) The exemption in this subsection does not authorize the shooting of an arrow in or across any road, or within the right-of-way thereof. Subsection (b) of this section does not apply to the killing of deer pursuant to

Code of Virginia, § 29.1-529 on land of at least two acres that is zoned for agricultural use.

(e) Violation of this section shall constitute a class 4 misdemeanor.

(Code 1995, § 13-67; Ord. No. 1081, § 1, 11-8-2005)

State law reference—Shooting arrow across road, Code of Virginia, § 18.2-286; authority to prohibit shooting of arrows in certain locations, Code of Virginia, § 15.2-1209; penalty for class 4 misdemeanor, Code of Virginia, § 15.2-11.

Sec. 13-62. Possession of firearms, ammunition, and components in certain public buildings and facilities.

(a) *Prohibition.* The knowing possession, carrying, or transportation of any firearms, ammunition, or components or combination thereof is prohibited in any:

1. Building, or part thereof, owned or used by the county, or by any authority or local governmental entity created or controlled by the county, for governmental purposes; and

2. Recreation or community center facility operated by the county, or by any authority or local governmental entity created or controlled by the county.

(b) *Permissible security measures.* To implement this section, the director of public safety or his designee may provide for security measures, such as the use of metal detectors and increased use of security personnel, designed to reasonably prevent unauthorized access by a person with any firearms, ammunition, or components or combination thereof to buildings or facilities identified in subsection (a).

(c) *Exceptions*. The prohibition in subsection (a) does not apply to:

1. Sworn law enforcement officers and personnel or retired law enforcement officers to the extent exempted by the federal Law Enforcement Officer's Safety Act of 2004.

2. The personnel and volunteers of museums that display firearms or living history reenactors, performers, actors, or interpreters, who may possess firearms that are not loaded with projectiles when such persons are participating in, or traveling to or from, historical interpretive events or are acting in any play, stage show, or presentation.

3. Private security personnel under contract with the county, or an authority or local governmental entity created or controlled by the county, who may possess firearms, ammunition, components or combinations thereof when acting within the scope of their contract with the county, or the authority or other local governmental entity created or controlled by the county.

4. Military personnel when acting in the scope of their official duties.

5. Firearms, ammunition, components or combinations thereof that are secured out of sight in a locked vehicle that is parked on public property by persons conducting business with the county or authority or local governmental entity, for the reasonable duration of that business.

6. The activities of a Senior Reserve Officers' Training Corps program operated at a public or private institution of higher education in accordance with the provisions of 10 U.S.C. § 2101 et seq.

7. The activities of any intercollegiate athletics program operated by a public or private institution of higher education and governed by the National Collegiate Athletic Association or any club sports team

recognized by a public or private institution of higher education where the sport engaged in by such program or team involves the use of a firearm.

The activities described in subsections (c)(6) and (c)(7) must follow strict guidelines developed by such institutions for these activities and must be conducted under the supervision of staff officials of such institutions.

(d) *Notice.* Notice of the restrictions imposed by this section will be posted at all entrances to any:

1. Building, or part thereof, owned or used by the county, or by any authority or local governmental entity created or controlled by the county, for governmental purposes; and

2. Recreation or community center facility operated by the county, or by any authority or local governmental entity created or controlled by the county.

(e) *Application to portions of buildings*. In any building or facility identified in subsection (a) that is not owned by the county, or by an authority or local governmental entity created or controlled by the county, the provisions of this section apply only to the part of the building or facility being used for a governmental purpose and only when such building or facility, or part thereof, is being used for a governmental purpose.

(f) *Penalties.* Any person violating this section is guilty of a class 2 misdemeanor, except that a person violating this section with the intent to intimidate or harass any person is guilty of a class 1 misdemeanor. Nothing herein is intended to limit the authority of the court to defer dispositions in the court's discretion under Code of Virginia, § 19.2-298.02.

(g) *Prima facie evidence of knowing violation.* The refusal of any person after having been asked to cease possessing, carrying, or transporting any firearms, ammunition, or components or combination thereof in any location identified in subsection (a) will be prima facie evidence of a knowing violation of this section.

Secs. 13-63—13-83. Reserved.

ARTICLE IV. OBSCENITY AND NUDITY

***Cross reference—** Massage establishments, ch. 12; adult businesses, § 14-181 et seq.

***State law reference—** Obscenity, Code of Virginia, § 18.2-372 et seq.; locality may adopt ordinances paralleling certain statutory provisions, Code of Virginia, § 15.2-926.2.

Sec. 13-84. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Obscene means that which, considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in the description or representation of such matters, and which, taken as a whole, does not have serious literary, artistic, political or scientific value.

(Code 1980, § 15-15; Code 1995, § 13-91)

Cross reference— Definitions and rules of construction, § 1-2.

State law reference— Similar provisions, Code of Virginia, § 18.2-372.

Sec. 13-85. Exceptions to article.

Nothing contained in this article shall be construed to apply to:

(1) The purchase, distribution, exhibition or loan of any book, magazine or other printed or manuscript material by any library, school or institution of higher learning, supported by public appropriation.

(2) The purchase, distribution, exhibition or loan of any work of art by any museum of fine arts, school or institution of higher learning, supported by public appropriation.

(3) The exhibition or performance of any play, drama, tableau or motion picture by any theater, museum of fine arts, school or institution of higher learning, supported by public appropriation.

(Code 1980, § 15-25; Code 1995, § 13-93)

State law reference—Similar provisions, Code of Virginia, § 18.2-383.

Sec. 13-86. Obscene items enumerated.

Obscene items shall include:

(1) Any obscene book;

(2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, drawing, bumper sticker, photograph, film, negative, slide, motion picture or videotape recording;

(3) Any obscene figure, object, article, instrument, novelty device, or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words or sounds; or

(4) Any obscene writing, picture or similar visual representation, or sound recording, stored in an electronic or other medium retrievable in a perceivable form.

(Code 1980, § 15-16; Code 1995, § 13-94)

State law reference—Similar provisions, Code of Virginia, § 18.2-373.

Sec. 13-87. Manufacture, sale or distribution of obscene items prohibited.

(a) It shall be unlawful for any person knowingly to:

(1) Prepare any obscene item for the purposes of sale or distribution;

(2) Print, copy, manufacture, produce or reproduce any obscene item for purposes of sale or distribution;

(3) Publish, sell, rent, lend, transport in intrastate commerce or distribute or exhibit any obscene item, or offer to do any of these things; or

(4) Have in his possession with intent to sell, rent, lend, transport or distribute any obscene item. Possession in public or in a public place of any obscene item shall be deemed prima facie evidence of a violation of this section.

(b) For the purposes of this section, the term "distribute" shall mean to deliver in person, by mail, by messenger or by any other means by which obscene items may pass from one person to another.

(Code 1980, § 15-17; Code 1995, § 13-95)

State law reference—Similar provisions, Code of Virginia, § 18.2-374.

Sec. 13-88. Obscene exhibitions and performances prohibited.

It shall be unlawful for any person knowingly to:

(1) Produce, promote, prepare, present, manage, direct, carry on or participate in any obscene exhibitions or performances, including the exhibition or performance of any obscene motion picture, play, drama, show, entertainment, exposition, tableau or scene, provided that no employee of any person or legal entity operating a theater, garden, building, structure, room or place which presents such obscene exhibition or performance shall be subject to prosecution under this section if the employee is not the manager of the theater or an officer of such entity, and has no financial interest in such theater other than receiving salary and wages; or

(2) Own, lease or manage any theater, garden, building, structure, room or place and lease, let, lend or permit such theater, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance or to fail to post prominently therein the name and address of a person resident in the locality who is the manager of such theater, garden, building, structure, room or place.

(Code 1980, § 15-18; Code 1995, § 13-96)

State law reference—Similar provisions, Code of Virginia, § 18.2-375.

Sec. 13-89. Distribution of advertisements for obscene items or performances.

It shall be unlawful for any person knowingly to prepare, print, publish or circulate, or cause to be

prepared, printed, published or circulated, any notice or advertisement of any obscene item proscribed in section 13-86, or of any obscene performance or exhibition proscribed in section 13-88, stating or indicating where such obscene item, exhibition or performance may be purchased, obtained, seen or heard.

(Code 1980, § 15-19; Code 1995, § 13-97)

State law reference—Similar provisions, Code of Virginia, § 18.2-376.

Sec. 13-90. Posting obscene material; posting of advertisements for obscene items or performances.

It shall be unlawful for any person knowingly to expose, place, display, post up, exhibit, paint, print or mark, or cause to be exposed, placed, displayed, posted, exhibited, painted, printed or marked, in or on any building, structure, billboard, wall or fence, or on any street, or in or upon any public place, any placard, poster, banner, bill, writing or picture which is obscene, or which advertises or promotes any obscene item proscribed in section 13-86, or any obscene exhibition or performance proscribed in section 13-88, or knowingly to permit such placard, writing or picture to be displayed on property belonging to or controlled by him.

(Code 1980, § 15-20; Code 1995, § 13-98)

State law reference—Similar provisions, Code of Virginia, § 18.2-377.

Sec. 13-91. Coercing acceptance of obscene articles or publications.

It shall be unlawful for any person, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication, to require that the purchaser or consignee receive for resale any other article, book or other publication which is obscene; nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books or publications, or by reason of the return thereof.

(Code 1980, § 15-21; Code 1995, § 13-99)

State law reference—Similar provisions, Code of Virginia, § 18.2-378.

Sec. 13-92. Employing or permitting minor to assist in offense.

It shall be unlawful for any person knowingly to hire, employ, use or permit any minor to do or assist in doing any act or thing constituting an offense under this article.

(Code 1980, § 15-22; Code 1995, § 13-100)

State law reference—Similar provisions, Code of Virginia, § 18.2-379.

Sec. 13-93. Production of obscene photographs or motion pictures.

A person shall be guilty of a class 3 misdemeanor if the person knowingly:

(1) Photographs himself or any other person for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; or

(2) Models, poses, acts or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution.
(Code 1980, § 15-24; Code 1995, § 13-102)

State law reference—Similar provisions, Code of Virginia, § 18.2-382.

Sec. 13-94. Showing previews of certain motion pictures.

It shall be unlawful for any person to exhibit any trailer or preview of any motion picture which has a motion picture industry rating which would not permit persons in the audience viewing the feature motion picture to see the complete motion picture from which the trailer or preview is taken.

(Code 1980, § 15-28; Code 1995, § 13-105)

State law reference—Similar provisions, Code of Virginia, § 18.2-386.

Sec. 13-95. 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 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.

(Code 1980, § 15-29; Code 1995, § 13-106)

State law reference—Similar provisions, Code of Virginia, § 18.2-387.

Sec. 13-96. Public nudity.

(a) As used in this section, the term "state of nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks or to cover any of them with less than a fully opaque covering, or the showing of the female breast or any portion thereof below the top of the nipple, or the covering of the breast or any portion thereof below the top of the nipple with less than a fully opaque covering.
(b) Every person who knowingly, voluntarily and intentionally appears in public or in a public place or in a place open to the public or open to public view in a state of nudity, or employs, encourages or procures another person so to appear, shall be guilty of a misdemeanor punishable by confinement in jail for not more than six months or a fine of not more than $500.00, or both.
(c) Nothing contained in this section shall be construed to apply to the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher learning or other similar establishment which is primarily devoted to such exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, art or drama as differentiated from commercial or business advertising, promotion or exploitation of nudity for the purpose of advertising, promoting, selling or serving products or services or otherwise advancing the economic welfare of a commercial or business enterprise, such as a hotel, motel, bar, nightclub, restaurant, tavern, or dance hall.
(d) No person shall be in violation of this section for breast feeding a child in any public place or any place where others are present.
(Code 1980, § 15-33; Code 1995, § 13-107; Ord. No. 1025, § 1, 3-12-2002)

Editor's note—

This section survived constitutional challenge in *Boyd v. County of Henrico,* 42 Va. App. 495, 592 S.E.2d 768 (2004).

State law reference— Indecent exposure, Code of Virginia, § 18.2-387.

Sec. 13-97. Unlawful acts relating to juveniles.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) *Juvenile* means a person less than 18 years of age.

(2) *Nudity* means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

(3) *Sexual conduct* means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is female, breast.

(4) *Sexual excitement* means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(5) *Sadomasochistic abuse* means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(6) *Harmful to juveniles* means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

a. Predominantly appeals to the prurient, shameful or morbid interest;

b. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for juveniles; and

c. Is utterly without redeeming social importance for juveniles.

(7) *Knowingly* means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

a. The character and content of any material described in this section which is reasonably susceptible of examination by the defendant; and

b. The age of the juvenile; provided, however, that an honest mistake shall constitute an excuse from liability under this section if the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.

(8) *Video or computer game* means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, television gaming system, console, or other technology.

(b)

(1) It shall be unlawful for any person knowingly to sell, rent or loan to a juvenile, or to knowingly display for commercial purpose in a manner whereby juveniles may examine and peruse:

a. Any book, picture, photography, drawing, sculpture, video, motion picture film, CD-ROM, DVD-ROM similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles;

b. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in subsection (b)(1)a. of this section, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a

whole, is harmful to juveniles.

(2) However, if a person uses services of an Internet service provider or an electronic mail service provider in committing acts prohibited under this subsection, such Internet service provider or electronic mail service provider shall not be held responsible for violating this subsection.

(c) It shall be unlawful for any person knowingly to sell to a juvenile an admission ticket or pass to or knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles, or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by juveniles not admitted to any such premises.

(d) It shall be unlawful for any juvenile falsely to represent to any person mentioned in subsection (b) of this section or subsection (c) of this section, or to his agent, that such juvenile is 18 years of age or older, with the intent to procure any material set forth in subsection (b) of this section, or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection (c) of this section.

(e) It shall be unlawful for any person knowingly to make a false representation to any person mentioned in subsection (b) or (c) of this section, or to his agent, that he is the parent or guardian of any juvenile, or that any juvenile is 18 years of age, with the intent to procure any material set forth in subsection (b) of this section, or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection (c) of this section.

(f) No person shall sell, rent, or loan any item described in subsection (b)(1)a or (b)(1)b of this section to any individual who does not demonstrate his age in accordance with the provisions of Code of Virginia, § 18.2-371.2(C).

(Code 1980, §§ 15-31, 15-32; Code 1995, § 13-108; Ord. No. 995, § 1, 11-9-1999)

State law reference—Similar provisions, Code of Virginia, §§ 18.2-390, 18.2-391.

Secs. 13-98—13-124. Reserved.

ARTICLE V. CURFEW

*__State law reference—__Localities may impose curfew on minors between 10:00 p.m. and 6:00 a.m., Code of Virginia, § 15.2-926.

DIVISION 1. GENERALLY

Secs. 13-125—13-146. Reserved.

DIVISION 2. MINORS

Sec. 13-147. Duty of parent or guardian.

(a) *Purpose.* The purpose of this division is to:

(1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the county;

(2) Promote the safety and well-being of the county's youngest citizens, persons 16 years of age and under, whose inexperience renders them particularly vulnerable to becoming participants in unlawful drug activities, and to being victimized by older perpetrators of crime; and

(3) Foster and strengthen parental responsibility for children.

(b) *Definitions.* The following words and phrases as used in this chapter shall have the meanings ascribed to

them in this section:

Curfew or *curfew hours* refers to the hours of 11:00 p.m. through 6:00 a.m.

Emergency refers to unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents or other similar circumstances.

Minor refers to any person 16 years of age and under who has not been emancipated by court order entered pursuant to Code of Virginia, § 16.1-333.

Officer means any police or other law enforcement officer charged with the duty of enforcing the laws of the Commonwealth of Virginia and the Code.

Parent refers to:

(1) A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement);

(2) A person who is the biological or adoptive parent with whom a minor regularly resides;

(3) A person judicially appointed as a legal guardian of the minor; and/or

(4) A person 18 years of age or older standing in loco parentis (as indicated by a written authorization in the possession of a minor from an individual listed in subsection (1), (2), or (3) of this definition), for the person to assume the care or physical custody of the child.

Person refers to an individual, not to any association, corporation, or any other legal entity.

Public place refers to any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, parking lots, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, shopping centers and stores.

Remain refers to the following actions:

(1) To linger or stay at or upon a place; or

(2) To fail to leave a place when requested to do so by an officer or by the owner, operator, or other person in control of that place.

(c) *Exceptions to curfew.* It shall be unlawful for a parent of any minor to permit, allow or encourage such minor to remain in any public place in the county during curfew, unless accompanied by the parent of such minor. This section shall not apply to minors who are engaged in the following activities:

(1) Attending, or going to or returning from without detour or stop, an activity supervised by adults and sponsored by a school, civic, religious or other public organization or agency, or by another similar organization or entity;

(2) Going to or returning from an employment activity without detour or stop;

(3) Moving about in the event of an emergency; or

(4) Exercising First Amendment or other rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

(Code 1980, § 15-2; Code 1995, § 13-151; Ord. No. 1096, § 1, 3-13-2007)

State law reference— Authority to adopt, Code of Virginia, § 15.2-926.

Sec. 13-148. Duty of managers of public places.

It shall be unlawful for the proprietor, manager or other person having charge or control of any public place, except a theater, opera house or motion picture show, provided there is conspicuously posted at all times at the box office or place for the purchase of tickets of admission and at the place of entrance thereto a notice containing substantially the provisions of section 13-149, to permit, allow or encourage any minor to remain in or around such place during curfew unless accompanied by a parent.

(Code 1980, § 15-3; Code 1995, § 13-152; Ord. No. 1096, § 2, 3-13-2007)

Sec. 13-149. Duty of minors.

It shall be unlawful for any minor to remain in any public place in the county during curfew hours, except as provided in section 13-147, unless accompanied by a parent.

(Code 1980, § 15-4; Code 1995, § 13-153; Ord. No. 1096, § 3, 3-13-2007)

Chapter 14 - PARKS AND RECREATION

*__Cross reference—__County property, § 2-106 et seq.; fires in parks, § 14-47; streets, sidewalks and other public property, ch. 18.

*__State law reference—__Authority to operate or establish parks, recreation areas and swimming pools, or system of hiking, biking and horseback riding trails, Code of Virginia, § 15.2-1806.

ARTICLE I. IN GENERAL

Secs. 14-1—14-30. Reserved.

ARTICLE II. PARK RULES

*__State law reference—__Authority to operate or establish parks, recreation areas and swimming pools, or system of hiking, biking and horseback riding trails, Code of Virginia, § 15.2-1806.

Sec. 14-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the director of the division of recreation and parks or his designee.

Park means all property owned, maintained or operated by the county for public recreational use.

(Code 1980, § 15.1-2; Code 1995, § 14-31)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 14-32. Penalty.

Any person who violates any of the provisions of this article shall be deemed to be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100.00.

(Code 1980, § 15.1-28; Code 1995, § 14-32)

Sec. 14-33. Applicability of article.

This article shall apply to all park and recreational property owned, maintained or operated by the county.

(Code 1980, § 15.1-1; Code 1995, § 14-33)

Sec. 14-34. Persons exempted from article.

Notwithstanding any other provision in this article to the contrary, it shall not be a violation of this article if a person engaging in an otherwise prohibited activity is either an employee of the county acting within the scope of his employment, or if the person engaging in the otherwise prohibited activity is an agent or an independent contractor to the county acting within and pursuant to the scope of his duties.

(Code 1980, § 15.1-27; Code 1995, § 14-34)

Sec. 14-35. Hours of operation.

No person, except a bona fide camper with prior written approval from the director, or a law enforcement officer or county employee in the course of his respective employment, shall enter or remain in any park except during such hours as shall be designated and posted by the county as the hours of operation.

(Code 1980, § 15.1-16; Code 1995, § 14-35)

Cross reference— Camping permits, § 14-46.

Sec. 14-36. Damaging park property.

(a) No person shall in any manner pick, pull, pull up, tear, tear up, dig, dig up, cut, cut down, break, burn, injure, deface, disturb, destroy, mutilate, disfigure, remove, scar, take or gather in any manner, in whole or in part, any part of any park, building, sign, equipment or other property, including, but not limited to, any tree, flower, fern, shrub, vine, turf, plant, rock, artifact, fossil or mineral found, growing or being upon the land of any park.

(b) Notwithstanding any other provision in this section to the contrary, the director may issue permits in writing to permit collecting, for scientific or educational purposes, trees, flowers, ferns, shrubs, vines, turf, plants, rocks, artifacts, fossils or minerals, or any part thereof, in any park.

(Code 1980, § 15.1-3; Code 1995, § 14-36)

State law reference— Damage to public buildings, vegetation, etc., Code of Virginia, §§ 18.2-138, 18.2-140.

Sec. 14-37. Protection of wildlife.

(a) No person shall capture, pursue, molest, injure, attempt to injure, kill or attempt to kill any animal in any park.

(b) No person shall disturb the nest of any animal in any park.

(Code 1980, §§ 15.1-4, 15.1-5; Code 1995, § 14-37)

Cross reference— Animals, ch. 5.

Sec. 14-38. Use of park refuse containers.

No person shall deposit, dump, place or abandon any garbage, refuse or trash, as defined in section 17-1, not generated in a park, in any park refuse container.

(Code 1980, § 15.1-6; Code 1995, § 14-38)

Sec. 14-39. Pollution of waters.

No person shall bathe or wash any dog, other animal, vehicle or clothing in any stream, lake or other water of any park, or throw, cast, lay, drop, discharge, direct, deposit or abandon into any stream, lake or other water of any park, or in any storm sewer or drain flowing into such water, any substance, matter or thing, in whatever form, which may directly or indirectly result in the pollution of such waters.

(Code 1980, § 15.1-7; Code 1995, § 14-39)

Cross reference— Environment, ch. 10.

State law reference— Authority to prevent pollution of waters, Code of Virginia, § 15.2-1200.

Sec. 14-40. Sewage disposal.

No person shall dispose of sewage or dishwater within any park except by transferring the sewage or dishwater to a receptacle provided by the county for such purposes or by storing it in a completely closed container.

(Code 1980, § 15.1-18; Code 1995, § 14-40)

Cross reference— Sanitary sewage disposal, § 23-29 et seq.

Sec. 14-41. Dangerous devices.

No person, other than any law enforcement officer, firefighter or county security officer in the course of his respective employment, shall have in his possession, in any park, any air or gas-powered gun, slingshot, bow and arrow, crossbow, dart device, boomerang or any other device, other than a firearm, designed for high-speed missile projection, except in areas designated and posted by the county as areas in which one or more of these devices are permitted for recreational use.

(Code 1980, § 15.1-8; Code 1995, § 14-41; Ord. No. 1040, § 1, 2-25-2003; Ord. No. 1070, § 1, 8-10-2004)

Cross reference— Weapons, § 13-61 et seq.

Sec. 14-42. Motor vehicles.

(a) *Prohibited vehicles.* Except by the express authorization of the board of supervisors, the county manager or the county manager's designee:

(1) No person shall operate within any park a motorized vehicle of a type not licensable by the state for regular use upon public highways, except that motorized golf carts furnished by the county may be operated within areas designated and posted by the county for their use.

(2) No person shall operate within any park a farm tractor, other farm machinery or any type of vehicle used primarily for earth-moving operations, whether or not licensable by the state for regular use upon public highways.

(b) *Mopeds.* No person shall operate any type of motor vehicle or motor-assisted bicycle commonly referred to as a moped in areas of any park other than established roadways or parking lots.

(c) *Parking.* No person shall park a motor vehicle or motor-assisted bicycle in areas of any park other than those designated and posted by the county as parking areas, and any violation shall be punishable as provided in section 22-162.

(d) *Repair of vehicles.* No person shall repair or otherwise maintain any motor vehicle or motor-assisted bicycle within any park, except for minimum repair or maintenance of a disabled vehicle when such repair or maintenance is necessary to make such vehicle operable.

(Code 1980, §§ 15.1-9—15.1-12; Code 1995, § 14-42)

Cross reference— Traffic and vehicles, ch. 22.

Sec. 14-43. Commercial enterprises.

(a) No person shall sell or offer for sale, hire or lease or let out any object or merchandise, property, privilege, service or any other thing, or engage in any business or erect any building, booth, tent, stall or any other structure whatsoever, except for bona fide camping purposes, within any park without prior written

permission from the director.

(b) No person to whom property of any park has been entrusted for personal use shall hire, lease, let out or sell such property to any other person.

(Code 1980, § 15.1-13; Code 1995, § 14-43)

Sec. 14-44. Advertisements and announcements.

No person may erect or post within any park any sign, notice or advertisement of any nature, nor shall any person operate any musical instrument, radio, talking machine, phonograph, tape recorder or drum, or make any noise, for the purpose of attracting attention to any exhibition of any kind within a park, without prior express, written permission from the director as part of an approved reservation of park or recreational property of the county.

(Code 1980, § 15.1-14; Code 1995, § 14-44)

Cross reference—General noise ordinance, § 10-72 et seq.

Sec. 14-45. Control of animals; riding horses.

(a) No person shall have within the park any animal unless it is either caged, securely penned or on a leash not more than ten feet in length, except that owners or custodians with dogs who are within a county-designated off-leash, fenced dog exercise area shall not be subject to these requirements.

(b) No person shall ride a horse in any park except in areas designated and posted by the county for horseback riding.

(Code 1980, § 15.1-15; Code 1995, § 14-45)

Cross reference—Animals, ch. 5.

Sec. 14-46. Camping.

No person shall set up an overnight camp or lodging site in any park except with prior written approval of the director, and in areas designated and posted by the county as camping areas.

(Code 1980, § 15.1-17; Code 1995, § 14-46)

Sec. 14-47. Fires.

(a) No person shall kindle, build, maintain or use a fire other than in grills, and in places provided or designated by the county for such purposes, except by prior written permission from the director.

(b) Any fire within the confines of any park shall be continuously under the care and supervision of a competent person 16 years of age or older from the time such fire is kindled until the time it is extinguished.

(c) No person shall throw away or discard a lighted match, cigarette, cigar or other burning object in any park, without first extinguishing it.

(Code 1980, §§ 15.1-19—15.1-21; Code 1995, § 14-47)

Cross reference—Fire prevention and protection, ch. 11.

Sec. 14-48. Use of picnic facilities.

Persons with reservations issued by the director shall have priority in the use of picnic facilities. Failure to relinquish picnic facilities to a person with such a reservation shall be unlawful and shall constitute trespassing.

(Code 1980, § 15.1-22; Code 1995, § 14-48)

Sec. 14-49. Regulation of sports and games.

No person shall engage in any sports activity or game in any park or recreational property except at such times and in such areas as may be designated and posted by the director for such purpose.

(Code 1980, § 15.1-23; Code 1995, § 14-49; Ord. No. 895, § 1, 5-24-1995)

Sec. 14-50. Fishing.

No person shall fish in park water except in those areas designated and posted by the county for such purpose. Persons fishing must possess a valid fishing license as provided in the Code of Virginia.

(Code 1980, § 15.1-24; Code 1995, § 14-50)

Sec. 14-51. Swimming.

No person shall swim, wade or bathe in any water or boat launch in any park except at such times and at such places as the director may designate.

(Code 1980, § 15.1-25; Code 1995, § 14-51)

Sec. 14-52. Use of restrooms and dressing rooms.

No person over the age of six years shall, in any park, use a washroom, restroom, bathhouse or dressing room designated and posted by the county for use by members of the opposite sex.

(Code 1980, § 15.1-26; Code 1995, § 14-52)

Sec. 14-53. Noise restrictions.

No person may, within any park or recreational property of the county, use, operate, play, or permit to be used, operated, or played any radio, phonograph, television, projector, record, compact disc, tape, digital music, MP3 or DVD player, musical instrument, microphone, loudspeaker, sound amplifier, or similar device designed or used for producing or reproducing sound in such a manner or with such volume that it is plainly audible:

1. Outside the confines of an enclosed facility, where such device is located within the enclosed facility;
2. At a distance of 200 or more feet from the location of such device; or
3. Beyond the boundaries of the park in which the device is located.

The prohibition in this section does not apply when the source of the sound is a device used, operated, or played (i) as part of an event sponsored by the county or (ii) pursuant to the express, written permission of the director as part of an approved reservation of park or recreational property of the county.

Sec. 14-54. Rules and regulations.

The director may publish rules and regulations to implement the provisions of this article for park amenities, including picnic facilities, playground facilities, recreation facilities, and athletic fields. Any violation of such rules and regulations is grounds for expulsion therefrom, enforceable by law enforcement.

Secs. 14-55—14-69. Reserved.

ARTICLE III. BOATS AND BOATING

***State law reference—** Boating generally, Code of Virginia, § 29.1-700 et seq.; authority to adopt regulations concerning vessel operation on waters within territorial limits, Code of Virginia, § 29.1-744.

DIVISION 1. GENERALLY

Secs. 14-70—14-99. Reserved.

DIVISION 2. NO WAKE AREAS

***State law reference—** No wake zones authorized, Code of Virginia, § 29.1-744(D).

Sec. 14-100. Prohibited acts.

No person shall operate a motorboat or vessel in any creek, cove or body of water referred to in this article at such a speed as to create a wake, swell or displacement wave or one capable of causing damage to the life, limb or property of any person on the water or shore when a sign has been posted on land or in the water indicating "no wake."

(Code 1980, § 15-34; Code 1995, § 14-100)

Sec. 14-101. Penalty.

Any person who shall violate any provision of this division shall be guilty of a class 4 misdemeanor.

(Code 1980, § 15-39; Code 1995, § 14-101)

State law reference—-Penalties, Code of Virginia, § 29.1-746; class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 14-102. Designation of areas.

The areas in the county in or on the waterways within the county which are designated as no wake areas are as follows: those areas of the James River situated in the county where the placement of "no wake" signs has been authorized by the state board of game and inland fisheries.

(Code 1980, § 15-35; Code 1995, § 14-102)

Sec. 14-103. Placement or removal of signs by private persons.

Any person who owns land in the county adjoining, adjacent or contiguous to a cove on the James River may apply to the county manager for a "no wake" sign to be placed or removed within a cove or upon land adjoining a cove. The county manager shall approve, disapprove or approve with modifications the application and forward it to the director of the board of game and inland fisheries, who shall approve, disapprove or approve with modifications within 30 days the placement and type of marker to be used or the removal of "no wake" buoys or other markers. The cost of the purchase and placement or the removal of the buoys or markers shall be borne by the person requesting the placement or removal of the buoys or markers. Any buoy or marker which is not placed in conformance with the regulations of the board of game and inland fisheries or which is not properly maintained may be removed by the department of game and inland fisheries. "No wake" buoys or other markers placed prior to July 1, 2001, shall only be removed when no longer required for the safe and efficient operation of vessels.

(Code 1980, § 15-36; Code 1995, § 14-103)

Sec. 14-104. Placement or removal of signs by county manager.

The county manager is hereby authorized to place or remove or cause to be placed or removed no wake signs at such locations as may be approved by the state board of game and inland fisheries.

(Code 1980, § 15-37; Code 1995, § 14-104)

Sec. 14-105. Temporary suspension of regulations.

Subject to the written approval of the county manager and the director of the state board of game and inland fisheries, the division of recreation and parks is authorized to suspend enforcement of the provisions of this division for purposes of conducting ski or boat shows sponsored by the division of recreation and parks.

(Code 1980, § 15-38; Code 1995, § 14-105)

Chapter 15 - POLICE

*__Cross reference—__Police alarm systems, § 3-19 et seq.; court costs, § 2-126 et seq.

*__State law reference—__Police, Code of Virginia, § 15.2-1701 et seq.

ARTICLE I. IN GENERAL

Secs. 15-1—15-18. Reserved.

ARTICLE II. DIVISION OF POLICE

*__Cross reference—__Administration, ch. 2; officers and employees, § 2-48 et seq.

DIVISION 1. GENERALLY

Sec. 15-19. Physical examinations of police officers.

The county manager or his authorized representative is hereby authorized and directed to employ such physicians and establish such procedures as may be necessary for the performance of the physical examination of every police officer who shall enter the service of the division of police of the county.

(Code 1980, § 16-1; Code 1995, § 15-31)

State law reference—Pensions and retirement of police officers, Code of Virginia, § 51.1-807 et seq.; disabilities resulting from activities in discharge of duty, Code of Virginia, § 51.1-813.

Sec. 15-20. Employment of off-duty police officers and deputy sheriffs.

Upon individual application to, and approval by, the chief of police or the sheriff, as appropriate, police officers and deputy sheriffs may engage in off-duty employment, including employment which may occasionally require such officers to use their police powers in the performance of such employment, subject to such rules, regulations and conditions applying to such off-duty employment as the chief of police and sheriff, respectively, may prescribe for their departments.

(Code 1995, § 15-32; Ord. No. 948, § 1, 5-14-1997)

Secs. 15-21—15-43. Reserved.

DIVISION 2. RECORDS, PERMITS AND SERVICES

Sec. 15-44. Conformance with state law.

The provisions of this division shall be implemented in such a manner that the provisions of the Government Data Collection and Dissemination Practices Act, Code of Virginia, § 2.2-3800 et seq., the provisions of the Virginia Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq., and the provisions of Code of Virginia, title 16.1, ch. 11, art. 12 (Code of Virginia, § 16.1-299 et seq.) and Code of Virginia, §§ 19.2-388—19.2-390, will not be violated.

(Code 1980, § 16-2; Code 1995, § 15-51)

Sec. 15-45. Disposition of fees.

All fees for services performed in accordance with this division shall be paid into the general fund of the county.

(Code 1980, § 16-8; Code 1995, § 15-52)

Sec. 15-46. - Records of arrests and disposition of cases.

(a) There shall be kept in the division of police such record of arrests and disposition of cases based thereon as the director of public safety shall require. The director may make such factual information contained in such record available to any governmental law enforcement officer or agent or authorized representatives of the armed forces of the United States, and such information shall be made available to such persons without charge. He may make such information available to other persons who may apply therefor in writing on forms prescribed by the director upon the payment of a fee of $5.00 to defray the cost of providing such service; provided that the director receives written authorization from the party who is the subject of the investigation resulting in the request for information. The director shall be authorized to exempt organizations from paying the $5.00 fee if, in his opinion, such organization provides services free of charge to the division of police which are reasonably adequate to offset the revenue to be derived from the fee imposed in this section. The director may waive the requirement of receiving written authorization upon terms approved by the county attorney designed to comply with title VI of the Consumer Credit Protection Act, 15 USC 1601 et seq.

(b) The director shall not make any such information available unless he is satisfied that the requesting party has a bona fide reason for making such a request.

(Code 1980, § 16-3; Code 1995, § 15-53)

State law reference— Arrest records, exceptions, Code of Virginia, §§ 2.2-3706, 15.2-1722; fee for records, Code of Virginia, § 2.2-3704.

Sec. 15-47. Records of offenses reported.

There shall be kept in the division of police such record of offenses reported and the disposition thereof as the director of public safety shall require. The director may make such factual information contained in such record available to any governmental law enforcement officer or agent or authorized representatives of the armed forces of the United States, and such information shall be made available without charge to such persons. He may make such information available to all other persons who apply therefor in writing on forms prescribed by the director upon payment of a fee of $10.00 to defray the cost of providing such service; provided, however, that such information shall not contain the identity of any suspects or persons charged with the offense. The director shall not make any such information available unless he is satisfied that the requesting party has a bona fide reason for making such a request and the director receives written authorization from the party who is the subject of the investigation resulting in the request for information. The director may waive the requirement of receiving written authorization upon terms approved by the county attorney designed to comply with title VI of the Consumer Credit Protection Act, 15 USC 1601 et seq.

(Code 1980, § 16-4; Code 1995, § 15-54)

State law reference— Arrest records, exceptions, Code of Virginia, §§ 2.2-3706, 15.2-1722; fee for records, Code of Virginia, § 2.2-3704.

Sec. 15-48. Fingerprinting.

Unless otherwise provided in this Code or in the Code of Virginia, a fee of $10.00 for the first card and $5.00 for each successive card shall be charged for recording fingerprint impressions on fingerprint cards when requested by any person. Such fee shall be used to aid in defraying the cost of providing such service. No fee shall be charged an applicant for county employment, nor shall a fee be charged for such service performed at the request of an agency of the county government or another law enforcement officer or agent or authorized representative of the armed forces of the United States.

(Code 1980, § 16-5; Code 1995, § 15-55; Ord. No. 1082, § 1, 11-8-2005)

State law reference— Authority to fingerprint certain persons and set fees, Code of Virginia, § 19.2-392.

Sec. 15-49. Photographs.

(a) There shall be kept in the division of police files of photographs made during the course of police investigations. The director may make copies of such photographs available to parties involved in civil litigation and their attorneys. No such copies shall be made available until all criminal charges have been disposed of in the various courts and the period of time set for appeals has expired. Copies shall not be furnished until a charge of $10.00 per copy has been paid.

(b) Nothing contained in this section shall require the division of police to cause photographs to be made of every report investigated. This section is intended only to provide for furnishing of copies of those photographs which may be available.

(Code 1980, § 16-6; Code 1995, § 15-56)

State law reference— Authority to set fees for photographs of traffic accidents, Code of Virginia, § 46.2-381.

Sec. 15-50. Traffic accident reports.

(a) There shall be kept in the division of police such record of traffic accidents as the director of public safety shall require. The director may make copies of such reports available to any person directly involved or injured in a particular accident, or as a result thereof, their attorney or other authorized representative, any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident or any party who suffered property damage as a result thereof. The fee shall be $5.00 per copy, to defray the cost of providing such service.

(b) Copies of accident reports furnished to other governmental units shall be made without charge.

(c) The provisions of this section shall only apply to the standard report form provided by the state department of motor vehicles and shall not be construed to include any supplemental reports made by the investigating police officer or statements made by witnesses.

(Code 1980, § 16-7; Code 1995, § 15-57)

Cross reference— Traffic and vehicles, ch. 22.

State law reference— Accident reports, copies, Code of Virginia, § 46.2-380; accident reports required by county, Code of Virginia, § 46.2-381.

Sec. 15-51. Concealed handgun permit.

(a) A fee of $35.00 shall be charged for conducting an investigation pursuant to Code of Virginia, § 18.2-308 of an applicant for a concealed handgun permit.

(b) No fee shall be charged for the issuance of such permit to a person who has retired from service as:

(1) A magistrate in the Commonwealth;

(2) A special agent with the Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55;

(3) A law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55;

(4) A law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia or any of the territories of the United States, after completing 15 years of service; or

(5) A law-enforcement officer with any combination of the agencies listed in subsections (b)(2) through (b)(4) of this section, after completing 15 years of service.

(Code 1995, § 15-58; Ord. No. 902, § 1, 7-12-1995; Ord. No. 971, § 1, 3-25-1998; Ord. No. 1115, § 1, 10-23-2007)

Cross reference— Weapons, § 13-56 et seq.

State law reference— When carrying concealed weapons lawful, Code of Virginia, § 18.2-308.

Secs. 15-52—15-75. Reserved.

ARTICLE III. UNCLAIMED PERSONAL PROPERTY

*__Cross reference—__ Disposition of unclaimed bicycles and mopeds, § 22-284.

*__State law reference—__ Authority of the county to dispose of unclaimed property, Code of Virginia, § 15.2-1719.

Sec. 15-76. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Unclaimed personal property means any personal property belonging to another which has been acquired by a law enforcement officer pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner and which the state treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Code of Virginia, § 55-210.1 et seq.).

(Code 1980, § 16-20; Code 1995, § 15-81)

State law reference— Similar provisions, Code of Virginia, § 15.2-1719.

Sec. 15-77. When sale or retention by division of police authorized.

In accordance with Code of Virginia, § 15.2-1719, whenever unclaimed personal property has been in the possession of the division of police and unclaimed for a period of more than 60 days, the chief of police or his duly authorized agent may cause the property to be sold at public sale or retained for use by the division of police.

(Code 1980, § 16-19; Code 1995, § 15-82; Ord. No. 947, § 1, 5-14-1997)

State law reference— Authority to so provide, Code of Virginia, § 15.2-1719.

Secs. 15-78—15-103. Reserved.

ARTICLE IV. DEALERS IN PRECIOUS METALS AND GEMS

*__Cross reference—__ License tax, § 20-350 et seq.

*__State law reference—__ Dealers in precious metals, Code of Virginia, § 54.1-4100 et seq.; local ordinances regulating dealers in precious metals and gems, Code of Virginia, § 15.2-4111.

Sec. 15-104. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Coin means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, stamped by authority of a government with certain marks and devices, and having a certain fixed value as money.

Dealer means any person engaged in the business of purchasing secondhand precious metals or gems; removing in any manner precious metals or gems from manufactured articles not then owned by the person; or buying, acquiring or selling precious metals or gems removed from manufactured articles. The term "dealer" includes all employers and principals on whose behalf a purchase is made, and any employee or agent who makes any purchase for or on behalf of his employer or principal. The definition of "dealer" shall not include persons engaged in the following:

(1) Purchases of precious metals or gems directly from other dealers, manufacturers, wholesalers for retail or wholesale inventories, provided that the selling dealer has complied with the provisions of this article.
(2) Purchases of precious metals or gems from a qualified fiduciary who is disposing of the assets of an estate being administered by the fiduciary.
(3) Acceptance by a retail merchant of trade-in merchandise previously sold by the retail merchant to the person presenting that merchandise for trade-in.
(4) Repairing, restoring or designing jewelry by a retail merchant, if such activities are within his normal course of business.
(5) Purchases of precious metals or gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants, wholesalers or dealers, or by mail originating outside the state.
(6) Persons regularly engaged in the business of purchasing and processing nonprecious scrap metals which incidentally may contain traces of precious metals recoverable as a byproduct.

Gem means any item containing precious or semiprecious stones customarily used in jewelry.

Precious metals means any item except coins composed in whole or in part of gold, silver, platinum or platinum alloys.

(Code 1980, § 12-148.1; Code 1995, § 15-110)

State law reference— Similar provisions, Code of Virginia, § 54.1-4100.

Sec. 15-105. Penalties.

(a) *Criminal penalty.* Any person violating any of the provisions of this article shall be guilty of a class 2 misdemeanor for the first offense. Upon conviction of any subsequent offense, he shall be guilty of a class 1 misdemeanor.

(b) *Revocation of permit.* Upon the first conviction by any court of a person for violation of any provision of this article, the chief of police may revoke his permit to engage in business as a dealer under this article for a period of one full year from the date the conviction becomes final. Such revocation shall be mandatory upon a second conviction.

(Code 1980, § 12-148.10; Code 1995, § 15-111)

Cross reference— Definitions and rules of construction, § 1-2.

State law reference— Similar provisions, Code of Virginia, § 54.1-4110; penalty for misdemeanors, Code of Virginia, § 18.2-11.

Sec. 15-106. Exemptions.

(a) The chief of police or his designee may waive by written notice implementation of any one or more of the provisions of this article, except section 15-113, for particular numismatic, gem, or antique exhibitions or craft shows sponsored by nonprofit organizations, provided that the purpose of the exhibitions is nonprofit in nature, notwithstanding the fact that there may be casual purchases and trades made at such exhibitions.

(b) The provisions of this article do not apply to the sale or purchase of coins.

(c) The provisions of this article do not apply to any bank, branch thereof, trust company or bank holding company, or any wholly owned subsidiary thereof, engaged in buying and selling gold and silver bullion.

State law reference— Similar provisions, Code of Virginia, § 54.1-4109.

Sec. 15-107. Permit.

(a) *Required.* No person shall engage in the county in the activities of a dealer without first obtaining a permit from the chief of police.

(b) *Application; issuance; fee.* To obtain a permit, the dealer shall file with the chief of police an application form which shall include the dealer's full name, aliases, address, age, date of birth, sex, fingerprints and photograph; the name, address and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of an application fee of $200.00, the dealer shall be issued a permit by the chief of police or his designee, provided that the applicant has not been convicted of a felony or a crime of moral turpitude within seven years prior to the date of application. The permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any ordinance similar in substance to this article.

(c) *Duration; renewal.* The permit shall be valid for 12 months from the date thereof and may be renewed in the same manner as such permit was initially obtained, with an annual permit fee of $200.00. No permit shall be transferable.

(d) *Inspection of weighing devices.* Before a permit may be issued, the dealer must have all weighing devices used in the business inspected and approved by local or state weights and measures officials and present written evidence of such approval to the chief of police.

(e) *Notification of business closings; location of business.* If the business of the dealer is not operated without interruption, with Saturdays, Sundays and recognized holidays excepted, the dealer shall notify the chief of police of all closings and reopenings of such business. The business of a dealer shall be conducted only from the fixed and permanent location specified in his application for a permit.

(Code 1980, § 12-148.9; Code 1995, § 15-112)

State law reference— Similar provisions, Code of Virginia, § 54.1-4108.

Sec. 15-108. Bond or letter of credit required.

(a) Every dealer shall secure a permit as required by section 15-107, and each dealer, at the time of obtaining this permit and before the permit shall be operative, shall enter into a recognizance to the county secured by a corporate surety authorized to do business in the state, in the penal sum of $10,000.00, conditioned upon due observance of the terms of this article. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the state a letter of credit in favor of the county for $10,000.00.

(b) A single bond upon an employer or principal may be written or a single letter of credit issued to cover all employees and all transactions occurring at a single location.

(Code 1980, § 12-148.7; Code 1995, § 15-113)

State law reference—Similar provisions, Code of Virginia, § 54.1-4106.

Sec. 15-109. Private action for recovery on bond or letter of credit.

Any person aggrieved by the misconduct of any dealer who has violated the provisions of this article may maintain an action for recovery in any court of proper jurisdiction against the dealer and his surety. Recovery against the surety shall be only for that amount of the judgment which is unsatisfied by the dealer.

(Code 1980, § 12-148.8; Code 1995, § 15-114)

State law reference—Similar provisions, Code of Virginia, § 54.1-4107.

Sec. 15-110. Records of transactions; furnishing of copies of records to police.

(a) Every dealer shall keep at his place of business an accurate and legible record of each purchase of precious metals or gems and of each transaction involving the removal of precious metals or gems from any manufactured article not then owned by the dealer. The records shall be retained by the dealer for at least 24 months and shall set forth the following:

(1) A complete description of all precious metals or gems purchased from each seller. The description shall include all names, initials, serial numbers or other identifying marks or monograms on each item purchased, the true weight or carat of any gem and the price paid for each item.

(2) The date, time and place of receiving the items purchased.

(3) The full name, residence address, workplace, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, and other identifying marks of the seller or of the person for whom the service of removal of precious metals or gems from any manufactured article not then owned by the dealer is performed.

(4) Verification of the identification by the exhibition of a government-issued identification card bearing a photograph of the person selling the precious metals or gems, such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon.

(5) A statement of ownership from the seller.

(6) A receipt bearing the legible handwritten signature of the seller or the person for whom the service of removal is performed, acknowledging such sale or service.

(7) A digital image of the form of identification used by the person involved in the transaction, and a digital image of precious metals and gems purchased from each seller.

(8) A digital image of the seller or of the person for whom the service of removal of precious metals or gems is performed. The photograph shall show, at a minimum, the part of the body from the chest to the top of the head of such person. The photograph shall be no smaller than 1½ inches by 1½ inches in size.

(b) The information required by subsections (a)(1) through (3) and (a)(6) of this section shall appear on each bill of sale for all precious metals and gems purchased by the dealer.

(c) Every dealer shall also furnish to the chief of police, within 24 hours of the time of purchase or service of removal, in an electronic format prescribed by the chief of police, the information required by subsections (a)(1) through (8), together with any bill of sale.
(Code 1980, § 12-148.2; Code 1995, § 15-115)

State law reference—Similar provisions, Code of Virginia, § 54.1-4101.

Sec. 15-111. Examination of records and property; seizure of stolen property.

Every dealer or his employee shall admit to his place of business during regular business hours the chief of police or his designee or any law-enforcement officer of the state or federal government. The dealer or his employee shall permit the officer to:

(1) Examine all records required by this article and any article listed in a record which is believed by the officer to be missing or stolen; and
(2) Search for and take into possession any article known to him to be missing, or known or believed by him to have been stolen.
(Code 1980, § 12-148.2:1; Code 1995, § 15-116)

State law reference—Similar provisions, Code of Virginia, § 54.1-4101.1.

Sec. 15-112. Credentials and statement of ownership required from sellers.

No dealer shall purchase precious metals or gems without first ascertaining the identity of the seller by requiring an identification issued by a government agency with a picture of the seller thereon and at least one other corroborating means of identification, and obtaining a statement of ownership from the seller.

(Code 1980, § 12-148.3; Code 1995, § 15-117)

State law reference—Similar provisions, Code of Virginia, § 54.1-4102.

Sec. 15-113. Prohibited purchases.

(a) No dealer shall purchase precious metals or gems from any seller who is under 18 years of age.
(b) No dealer shall purchase precious metals or gems from any seller who the dealer believes or has reason to believe is not the owner of such items, unless the seller has written and duly authenticated authorization from the owner permitting and directing such sale.
(Code 1980, § 12-148.4; Code 1995, § 15-118)

State law reference—Similar provisions, Code of Virginia, § 54.1-4103.

Sec. 15-114. Retention of purchases and serviced items by dealer.

A dealer shall retain all precious metals or gems purchased for a minimum of 15 calendar days from the date on which a copy of the bill of sale is received by the chief of police. Until the expiration of this retention period, the dealer shall not sell, alter or dispose of the purchased items in whole or in part or remove them from the county. If the dealer performs the service of removing precious metals or gems, he shall retain the metals or gems removed and the article from which the removal was made for a period of 15 calendar days after receiving such article and precious metals or gems.

(Code 1980, § 12-148.5; Code 1995, § 15-119)

State law reference—Similar provisions, Code of Virginia, § 54.1-4104.

Sec. 15-115. Records of sales.

Each dealer shall maintain for at least 24 months an accurate and legible record of the name and address of the person to whom he sells any precious metal or gem in its original form after the waiting period required by section 15-114. This record shall also show the name and address of the seller from whom the dealer purchased such item.

(Code 1980, § 12-148.6; Code 1995, § 15-120)

State law reference—Similar provisions, Code of Virginia, § 54.1-4105.

Secs. 15-116—15-143. Reserved.

ARTICLE V. PAWNBROKERS

***Cross reference—**License tax, § 20-50 et seq.

***State law reference—**Pawnbrokers, Code of Virginia, § 54.1-4000 et seq.

Sec. 15-144. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Pawnbroker means any natural person who lends or advances money or other things for profit on the pledge and possession of personal property or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the property or other things back to the seller at a stipulated price.

(Code 1980, § 12-148.11; Code 1995, § 15-150; Ord. No. 979, § 1, 8-12-1998)

State law reference—Similar provisions, Code of Virginia, § 54.1-4000.

Sec. 15-145. Penalties.

(a) *Criminal penalty.* Any licensed pawnbroker who violates any of the provisions of this article, except as otherwise provided in section 15-146, shall be guilty of a class 4 misdemeanor.
(b) *Suspension or revocation of license.* In addition to the penalty provided in subsection (a) of this section, the court may revoke or suspend the pawnbroker's license for second and subsequent offenses.
(c) *Violation of Virginia Consumer Protection Act.* Any violation of this article shall constitute a prohibited practice in accordance with Code of Virginia, § 59.1-200, and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (Code of Virginia, § 59.1-196 et seq.).
(Code 1980, § 12-148.17; Code 1995, § 15-151; Ord. No. 979, § 2, 8-12-1998)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 54.1-4014; penalty for class 4 misdemeanor, Code of Virginia, § 18-11.

Sec. 15-146. License.

(a) *Required.* No natural person shall engage in the business of a pawnbroker without first obtaining a license from the chief of police.

(b) *Application; issuance.* Prior to the issuance of the license, the applicant shall furnish to the chief of police an order of the circuit court issued pursuant to Code of Virginia, § 54.1-4001, as amended, authorizing the county to issue the license, and evidence of a bond meeting the requirements set out in section 15-151. In addition, the applicant shall complete an application on a form furnished by the chief of police which shall require the applicant to furnish:

(1) His full name, aliases, address, date of birth, driver's license number, sex, fingerprints and photograph;

(2) The name, address and telephone number of the applicant's employer;

(3) A sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges whether within or without the Commonwealth;

(4) The proposed location of the applicant's place of business;

(5) A statement of whether the applicant will purchase, sell or take possession of firearms; and

(6) Certification from the director of planning or his designee that operation of the business of a pawnbroker at the proposed location is a permitted use of the premises.

Upon furnishing the court order, filing the application and paying an application fee of $200.00, the applicant shall be issued a license by the chief of police. The license may be denied if the applicant has been denied a license or has had a license revoked under any ordinance similar in substance to this article.

(c) *Duration; renewal; transfer.* The license shall be valid for 12 months from the date thereof, and may be renewed in the same manner as the initial license was obtained, with an annual license fee of $200.00. No license shall be transferable.

(d) *Location of business.* The license shall designate the building in which the licensee shall carry on business. No person shall engage in the business of a pawnbroker in any location other than the one designated in his license, except with consent of the circuit court which authorized issuance of the license and upon written notification of the chief of police.

(e) *Penalty.* Any natural person who violates the provisions of this section shall be guilty of a class 1 misdemeanor. Each day's violation shall constitute a separate offense.

(Code 1980, § 12-148.12; Code 1995, § 15-152; Ord. No. 979, § 3, 8-12-1998)

State law reference— License issuance, requirements, Code of Virginia, § 54.1-4001.

Sec. 15-147. Limitation on number of pawnshops.

Not more than ten places in the county shall be licensed where the business of a pawnbroker may be conducted, none of which shall be located closer than one mile to any other.

(Code 1980, § 12-148.13; Code 1995, § 15-153)

State law reference— Authority to establish limitation on number of pawnshops, Code of Virginia, § 54.1-4002.

Sec. 15-148. Records of transactions; credentials of persons pawning goods.

(a) Every pawnbroker shall keep at his place of business an accurate and legible record of each loan or transaction occurring in the course of his business, including transactions in which secondhand goods, wares or merchandise are purchased for resale. The account shall be recorded at the time of the loan or transaction on a form approved by the chief of police and shall include:

(1) A description, serial number, and a written statement of ownership signed by the pledgor of the goods, articles or things pawned or pledged or received on account of money loaned thereon or purchased for

resale;

(2) The time, date and place of the transaction;

(3) The amount of money loaned thereon at the time of the pledge or paid as the purchase price;

(4) The rate of interest to be paid on such loan;

(5) The fees charged by the pawnbroker, itemizing each fee charged;

(6) The full name, residence address, telephone number and driver's license number or other form of identification of the person pawning or pledging or selling the goods, articles or things, together with a particular description, including the height, weight, date of birth, race, gender, hair and eye color, and any other identifying marks of such person;

(7) Verification of the identification by the exhibition of a government-issued identification card bearing a photograph of the person pawning, pledging or selling the goods, article, or thing, such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;

(8) A digital image of the form of identification used by the person involved in the transaction;

(9) As to loans, the terms and conditions of the loan, including the period for which any such loan may be made; and

(10) All other facts and circumstances respecting such loan or purchase.

(b) A pawnbroker may maintain at his place of business an electronic record of each transaction involving goods, articles or things pawned or pledged or purchased. If maintained electronically, a pawnbroker shall retain the electronic records for at least one year after the date of the transaction and make such electronic records available to any duly authorized law-enforcement officer upon request.

(c) For each loan or transaction, a pawnbroker may charge a service fee for making the daily electronic reports to the appropriate law-enforcement officers required by section 15-149, creating and maintaining the electronic records required under this section, and investigating the legal title to property being pawned or pledged or purchased. Such fee shall not exceed five percent of the amount loaned on such item or paid by the pawnbroker for such item or $3.00, whichever is less.

(d) No goods, article, or thing shall be pawned or pledged or received on account of money loaned or purchased for resale if the original serial number affixed to the goods, article, or thing has been removed, defaced, or altered.

(e) Every pawnbroker shall comply with regulations promulgated by the superintendent of state police specifying:

(1) The nature of the particular description for the purposes of subsection (a)(6) of this section; and

(2) The nature of identifying credentials of the person pawning, pledging, or selling the goods, article, or thing. Such identifying credentials shall be examined by the pawnbroker and an appropriate record thereof retained.

(Code 1980, § 12-148.14; Code 1995, § 15-154; Ord. No. 979, § 4, 8-12-1998)

State law reference—Similar provisions, Code of Virginia, § 54.1-4009.

Sec. 15-149. Daily reports to police; content.

Every pawnbroker shall prepare a daily report of all goods, articles or things pawned or pledged with him or sold to him that day and file such report by noon of the following day with the chief of police. The report shall include the pledgor's or seller's name, residence and driver's license number or other form of identification, a photograph or digital image of the form of identification used by the pledgor or seller, and a description of the goods, articles or things pledged or sold. A pawnbroker shall compile and maintain the daily report in an electronic format and shall file the required daily reports electronically with the

appropriate law-enforcement officer through use of any electronic means of reporting approved by the law-enforcement officer.

(Code 1980, § 12-148.15; Code 1995, § 15-155; Ord. No. 979, § 5, 8-12-1998)

State law reference—Similar provisions, Code of Virginia, § 54.1-4010.

Sec. 15-150. Examination of records and property; seizure of stolen goods.

(a) Every pawnbroker and every employee of the pawnbroker shall admit to the pawnbroker's place of business, during regular business hours, any duly authorized county law-enforcement officer, the chief of police or his designee or any law-enforcement official of the state or federal government. The pawnbroker or employee shall permit the officer to:

(1) Examine all records required by this article or Code of Virginia, title 54.1, ch. 40 (Code of Virginia, § 54.1-4000 et seq.), as amended, and any article listed in a record which is believed by the officer to be missing or stolen; and

(2) Search for and seize any article known to him to be missing, or known or believed by him to have been stolen.

(b) However, the officer shall not take possession of any article without providing to the pawnbroker a receipt.

(Code 1980, § 12-148.16; Code 1995, § 15-156; Ord. No. 979, § 6, 8-12-1998)

State law reference—Similar provisions, Code of Virginia, § 54.1-4011.

Sec. 15-151. Bond required; private action on bond.

(a) No natural person shall be licensed as a pawnbroker or engage in the business of a pawnbroker without having in existence a bond with surety in the minimum amount of $50,000.00 to secure the payment of any judgment recorded under the provisions of subsection (b) of this section.

(b) Any person who recovers a judgment against a licensed pawnbroker for the pawnbroker's misconduct may maintain an action in his own name upon the bond of the pawnbroker if the execution issued upon such judgment is wholly or partially unsatisfied.

(Code 1995, § 15-157; Ord. No. 979, § 7, 8-12-1998)

State law reference—Similar provisions, Code of Virginia, § 54.1-4003.

Sec. 15-152. Memorandum to be given pledgor; fee; lost ticket charge.

Every pawnbroker shall at the time of each loan deliver to the person pawning or pledging anything a memorandum or note, signed by him, containing the information required by section 15-148. A lost-ticket fee of $5.00 may be charged, provided that the pawner is notified of the fee on the ticket.

State law reference—Similar provisions, Code of Virginia, § 54.1-4004.

Sec. 15-153. Sale of goods pawned.

No pawnbroker shall sell any pawn or pledge item until it has been in his possession for the minimum term set forth in the memorandum, but not less than 30 days, plus a grace period of 15 days and a statement of ownership is obtained from the pawner. If a motor vehicle is pawned, the owner of the motor vehicle shall comply with the requirements of Code of Virginia, § 46.2-637. In the event of default by the pawner, the pawnbroker must comply with the requirements of Code of Virginia, § 46.2-633. Otherwise, the pawnbroker

must comply with the requirements of Code of Virginia, § 46.2-636 et seq. All sales of items pursuant to this section may be made by the pawnbroker in the ordinary course of his business.

State law reference—Similar provisions, Code of Virginia, § 54.1-4005.

Sec. 15-154. Interest chargeable.

(a) No pawnbroker shall ask, demand or receive a greater rate of interest than ten percent per month on a loan of $25.00 or less, or seven percent per month on a loan of more than $25.00 and less than $100.00, or five percent per month on a loan of $100.00 or more, secured by a pledge of tangible personal property. No loan shall be divided for the purpose of increasing the percentage to be paid the pawnbroker. Loans may be renewed based on the original loan amount. Loans may not be issued that compound the interest or storage fees from previous loans on the same item.

(b) An annual percentage rate computed and disclosed under the provisions of the federal Truth in Lending Act shall not be deemed a violation of this section.

State law reference—Similar provisions, Code of Virginia, § 54.1-4008.

Sec. 15-155. Property pawned or purchased not to be disfigured or changed.

No property received on deposit or pledged or purchased by any pawnbroker shall be disfigured or its identity destroyed or affected in any manner:

(1) So long as it continues in pawn or in the possession of the pawnbroker while in pawn; or

(2) In an effort to obtain a serial number or other information for identification purposes.

State law reference—Similar provisions, Code of Virginia, § 54.1-4012.

Sec. 15-156. Care of tangible personal property; evaluation fee.

(a) Pawnbrokers shall store, care for and protect all of the tangible personal property in the pawnbroker's possession and protect the property from damage or misuse. Nothing in this article shall be construed to mean that pawnbrokers are insurers of pawned property in their possession.

(b) A pawnbroker may charge a monthly storage fee for any items requiring storage, which fee shall not exceed five percent of the amount loaned on such item.

State law reference—Similar provisions, Code of Virginia, § 54.1-4013.

Secs. 15-157—15-180. Reserved.

ARTICLE VI. ADULT BUSINESSES

***Cross reference—**Massage establishments, ch. 12; obscenity and nudity, § 13-84 et seq.; license tax, § 20-350 et seq.

Sec. 15-181. Definitions.

The following words, terms and phrases, when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult bookstore or *adult video store* means an establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, videotapes, computer disks, CD-ROMs, DVD-ROMs, virtual reality devices or similar media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult business means any adult bookstore, adult video store, adult model studio, adult motel, adult movie theater, adult nightclub, adult store, business providing adult entertainment, or any other establishment that regularly exploits an interest in matter relating to specified sexual activities or specified anatomical areas or regularly features live entertainment intended for the sexual stimulation or titillation of patrons.

Adult entertainment means dancing, modeling or other live entertainment if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CD-ROMs, DVD-ROMs, or other media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult merchandise means magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CD-ROMs, DVD-ROMs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or, lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.

Adult model studio means a commercial establishment, including a lingerie store or novelty store, in which a person performs or simulates specified sexual activities, exposes specified anatomical areas, or engages in other performances intended for the sexual stimulation or titillation of patrons.

Adult motel means a motel, hotel, or similar commercial establishment that:

(1) Provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;

(2) Offers a sleeping room for rent for a time period of less than ten hours; or

(3) Allows a tenant or occupant to subrent the sleeping room for a time period of less than ten hours.

Adult movie theater means an enclosed building regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons, excluding movies that have been rated "G," "PG," "PG-13," or "R" by the Motion Picture Association of America.

Adult nightclub means a restaurant, bar, club, or similar establishment that regularly features adult entertainment.

Adult store means an establishment having adult merchandise as a substantial or significant portion of its stock-in-trade.

Employee means an individual working or performing services for any adult business, including any independent contractor who provides services on behalf of any adult business to the patrons of such business, whether or not the individual receives any remuneration, gratuity, or tips of any kind, or pays the permittee or manager for the right to perform or entertain in the adult business.

Live entertainment means entertainment provided in person including, but not limited to, musical

performances, music played by disc jockeys, public speaking, dramatic performances, dancing, modeling, or comedy performances.

Specified anatomical areas means less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means human genitals in a state of sexual stimulation or arousal; sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock or female breast, including masturbation.

(Code 1995, § 15-157; Ord. No. 992, § 1, 10-12-1999; Ord. No. 1024, § 1, 3-12-2002)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 15-182. Permit required from chief of police—Application; issuance; duration; renewal.

(a) Every person either operating or desiring to operate an adult business, in addition to obtaining any required business license from the director of finance, shall apply to the chief of police, or his designee, for a permit to conduct such activity. Each such application shall be accompanied by a fee in the amount of $200.00.

(b) Information required on and with the permit application shall include, but not be limited to, the following:

(1) The applicant's full name, age, sex, race, weight, height, hair and eye color, address, telephone number, date and place of birth and social security number.

(2) Names and addresses of references.

(3) Whether the applicant has been convicted of any felony or misdemeanor and, if so, the nature of the offense, when and where convicted and the penalty or punishment assessed.

(4) Whether the applicant holds or has held, in the name of this business or any other, any other permits under this article or a similar adult use ordinance from another locality within the past five years, and, if so, the names and locations of such other permitted businesses.

(5) Whether the applicant has been denied a permit or has had a permit revoked under any statute or ordinance requiring a permit to operate an adult business and, if so, when and where the denial or revocation occurred.

(6) Photograph and fingerprints of applicant.

(7) Name, including any fictitious names, and address of the business for which a permit is sought.

(8) A criminal records check of the applicant shall be provided by the applicant with the application, along with the applicant's written authorization to investigate whether the information provided by the applicant is true.

(9) A description of the intended business activity and, if adult entertainment is to be provided, a detailed description of such entertainment.

(10) Written declaration, dated and signed by the applicant, certifying that the information contained in the application is true and correct.

(c) For a corporation, partnership or other legal entity, the term "applicant" includes each officer, director, partner or principal of the entity and the managers of the business.

(d) The chief of police or his designee shall act on the application within 30 days of the filing of an application containing all the information required by this section, unless information requested from other law enforcement agencies is not received within that 30-day period, in which case the chief of police or his

designee shall have an additional 30 days to act on the application. Upon the expiration of the applicable time period, unless the applicant requests and is granted a reasonable extension of time, the applicant may, at its option, begin operating the business for which the permit is sought, unless and until the chief of police or his designee notifies the applicant of a denial of the application and states the reasons for denial.

(e) The applicant shall be issued a permit unless the county's investigation or the information furnished by the applicant shows any of the following:

(1) The applicant has failed to provide information required by this article or has falsely answered a question.

(2) The applicant has been convicted of a felony within the past five years.

(3) The applicant has been convicted of a crime of moral turpitude or a crime involving the obscenity laws within the past three years.

(4) The applicant has been denied a permit or has had a permit revoked within the past 12 months under any statute or ordinance requiring a permit to operate an adult business.

(5) Failure of the applicant's business to comply with the county's business license, zoning, building, plumbing, utility, health, electric or fire prevention codes, or with any other applicable county or state laws or regulations.

(6) The application fee has not been paid.

(f) If the application is denied, the chief of police or his designee shall notify the applicant of the denial and state the reasons for the denial.

(g) The permit shall be valid for 12 months from the date thereof and may be renewed in the same manner as it was initially obtained. The application fee for a renewal permit shall be $100.00. No permit shall be transferable.

(h) Any changes in the ownership or principals of the business entity to which the permit is issued or in the managers of the business will automatically make the permit void. Such changes shall be reported to the chief of police or his designee, and a new application may be submitted for review.

(Code 1995, § 15-159; Ord. No. 992, § 1, 10-12-1999; Ord. No. 1024, § 2, 3-12-2002)

Sec. 15-183. Same—Grounds for revocation.

The chief of police or his designee may revoke any permit issued pursuant to this article for the following:

(1) Fraud, misrepresentation or any false or misleading statement contained in the application.

(2) Conviction of the permittee for any felony, crime involving moral turpitude, or crime involving the obscenity laws after the permit is issued.

(3) The permittee or an employee of the permittee has knowingly allowed possession, use or sale of illegal controlled substances in or on the premises.

(4) The permittee or an employee of the permittee has knowingly allowed prostitution on the premises.

(5) The permittee has refused to allow an inspection of the adult business premises as authorized by this article.

(6) On two or more occasions within a 12-month period, employees of the adult business at the time of the offenses committed an offense in or on the permitted premises for which a conviction has been obtained constituting:

a. Aiding, abetting or harboring a runaway child;

b. Prostitution or promotion of prostitution;

c. Exposing minors to harmful materials;

d. Dissemination of obscenity;

e. Sexual assault; or

f. Violation of section 13-96.

(7) The permittee is convicted of violations regarding any taxes or fees related to the adult business.

(8) The permittee has failed to operate or manage an adult business in a peaceful and law-abiding manner.

(9) The permittee or an employee of the permittee, except a permittee or employee of a permittee of an adult motel, has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual activity to occur in or on the permitted premises.

(10) The permittee has been operating an adult business not approved under the applicable permit.

(11) The permittee has failed to comply with the provisions of this article.

(12) The permittee's business fails to comply with other applicable county or state laws or regulations.

(Code 1995, § 15-160; Ord. No. 992, § 1, 10-12-1999; Ord. No. 1024, § 3, 3-12-2002)

Sec. 15-184. Procedure upon denial of an application or revocation of a permit.

(a) If the chief of police or his designee denies an application or revokes a permit, he shall notify the applicant or permittee in writing of such action, the reasons therefor, and the right to request a hearing. To receive a hearing, the applicant or permittee must make a written hearing request which must be received by the chief of police or his designee within ten days of the date of the notice of denial or revocation. If a timely hearing request is not received by the chief of police or his designee, the decision of the chief of police or his designee shall be final. If a hearing is properly requested, it shall be held within ten days from receipt of the hearing request. The hearing shall be presided over by the chief of police or his designee. The applicant or permittee shall have the right to present evidence and argument or to have counsel do so. Within five days of the hearing, the chief of police or his designee shall render his decision which shall be final. A permittee must discontinue operation of its business when the decision to revoke the permit becomes final.

(b) When an imminent threat of substantial harm to public health or safety requires such action, the chief of police or his designee may immediately revoke a permit issued under this article by so stating in a written notice to the permittee. When action is taken pursuant to this subsection, the permittee shall immediately discontinue operation of its business, but shall have the right to a hearing as stated in subsection (a) of this section.

(Code 1995, § 15-160.1; Ord. No. 1024, § 4, 3-12-2002)

Sec. 15-185. Availability of prompt judicial review.

After denial of an initial or renewal application or after revocation of a permit by the chief of police or his designee, the applicant or permittee may seek prompt judicial review of such administrative action in the circuit court of the county. Any such request for judicial review shall be filed within 30 days of when the administrative action becomes final. The county will facilitate the applicant's obtaining prompt review.

(Code 1995, § 15-161; Ord. No. 992, § 1, 10-12-1999; Ord. No. 1024, § 5, 3-12-2002)

Sec. 15-186. Inspection.

(a) In addition to any existing legal authority, representatives of county departments shall have the authority to inspect an adult business for the purpose of determining compliance with the provisions of this article.

(b) The provisions of subsection (a) of this section shall not apply to sleeping rooms of an adult motel which are currently being rented by a customer.

(Code 1995, § 15-162; Ord. No. 1024, § 6, 3-12-2002)

Sec. 15-187. Regulations pertaining to adult businesses providing adult entertainment.

(a) For purposes of this section, adult entertainment is defined as dancing, modeling or other live entertainment if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons.

(b) No person shall provide adult entertainment for patrons of an adult business except upon a stage located in an area open to all patrons of the business. The stage shall be at least 18 inches above the level of the floor and separated by a distance of at least three feet from the nearest area occupied by patrons. No patron shall be permitted within three feet of the stage while the stage is occupied by an entertainer.

(c) The adult business shall provide separate dressing room facilities for female and male entertainers which shall not be occupied or used in any way by anyone other than them.

(d) The adult business shall provide entertainers access between the stage and the dressing rooms which is completely separated from the patrons. If separate access is not physically feasible, the establishment shall provide a walk aisle at least four feet wide for entertainers between the dressing room area and the stage with a railing, fence or other barrier separating the patrons and the entertainers which prevents any physical contact between patrons and entertainers.

(e) No entertainer shall have physical contact with any patron and no patron shall have physical contact with any entertainer while in or on the premises of the adult business.

(f) No patron shall directly pay or give any gratuity to any entertainer. A patron who wishes to pay or give a gratuity to an entertainer shall place the gratuity in a container that is at all times located separately from the entertainers for the purpose of preventing any physical contact between a patron and an entertainer. No entertainer shall solicit any gratuity from any patron.

(g) Patrons must be at least 18 years of age.

(h) No operator or manager of an adult business shall cause or allow an entertainer to contract to or engage in any entertainment such as a "couch," a "straddle," or "lap" dance with a patron while in or on the premises of an adult business. No entertainer shall contract to or engage in a "couch," "straddle," or "lap" dance with a patron while in or on the establishment premises. For purposes of this subsection, the term "couch," "straddle," or "lap" dance is defined as an employee of the establishment intentionally touching any patron while engaged in any specified sexual activity or other activity intended for the sexual stimulation or titillation of patrons, or the exposure of any specified anatomical area.

(i) This section shall not apply to an employee of an establishment who, while acting as a waiter, waitress, host, hostess, or bartender, comes within three feet of a patron. No employee shall engage in any specified sexual activity or other activity intended for the sexual stimulation or titillation of patrons, or expose any specified anatomical area while acting as a waiter, waitress, host, hostess, or bartender.

(Code 1995, § 15-163; Ord. No. 1024, § 7, 3-12-2002)

Sec. 15-188. Regulations pertaining to adult motels.

(a) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in section 15-181.

(b) No person who is in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have an adult business permit shall rent or subrent a sleeping room to a person, and within ten hours from the time the room is rented, rent or subrent the same sleeping room again.

(c) For purposes of subsection (b) of this section, the terms rent or subrent mean the act of permitting a room to be occupied for any form of consideration.

(Code 1995, § 15-164; Ord. No. 1024, § 8, 3-12-2002)

Sec. 15-189. Transfer of permit prohibited.

(a) A permittee shall not operate an adult business at any place other than at the address designated in the approved permit.

(b) A permittee shall not transfer its permit to another person.

(Code 1995, § 15-165; Ord. No. 1024, § 9, 3-12-2002)

Sec. 15-190. Public nudity prohibited.

Nothing in this article shall be construed to permit any conduct which violates section 13-96.

(Code 1995, § 15-166; Ord. No. 1024, § 10, 3-12-2002)

Sec. 15-191. Violations of article provisions.

Except as permitted in section 15-182(d), operation of an adult business without a permit is prohibited.

(Code 1995, § 15-167; Ord. No. 1024, § 11, 3-12-2002)

Chapter 16 - PUBLIC PROCUREMENT

*__Cross reference—__Administration. ch 2; checks and warrants, § 2-74 et seq.; county property, § 2-106 et seq.

*__State law reference—__Public procurement procedures, Code of Virginia, § 2.2-4300 et seq.; purchases based on competition, Code of Virginia, § 15.2-1236; purchase and sale of real property, Code of Virginia, § 15.2-1800.

ARTICLE I. IN GENERAL

Sec. 16-1. Purpose.

The purpose of this chapter is to supplement the provisions of the Virginia Public Procurement Act (Code of Virginia, § 2.2-4300 et seq.) by enunciating the county's policies pertaining to governmental procurement from nongovernmental sources, to encourage competition among vendors and contractors, to provide for the fair and equitable treatment of all persons involved in public purchasing by the county, to maximize the purchasing value of public funds in procurement so that high quality goods and services may be obtained at the lowest possible price, and to increase public confidence in procurement practices by providing safeguards for maintaining a procurement system of quality and integrity.

(Code 1980, § 17-1; Code 1995, § 16-1)

Sec. 16-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act and *public procurement act* mean the Virginia Public Procurement Act, Code of Virginia, § 2.2-4300 et seq.

Business means any corporation, limited liability company, general or limited partnership, individual, sole proprietorship, joint stock company, joint venture or other nongovernmental legal entity.

Contract means all types of county agreements, regardless of what they may be called, for the procurement of goods, services, insurance or construction.

Contractor means any business having a contract with the county or a using agency thereof.

County means the County of Henrico, the County School Board of Henrico County or the Henrico Area Mental Health & Developmental Services Board, as appropriate.

Emergency. An emergency shall exist when a breakdown in an essential service occurs or under any other circumstances when supplies are needed for immediate use in work which may vitally affect the safety, health or welfare of the public.

Employee means an individual drawing a salary, wages or other compensation from the county, whether elected or not; or any noncompensated individual performing personal services for the county or any department, division, office, section, agency, commission, council, bureau, board or other entity established by the executive or legislative branch of the county.

Insurance means a contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils.

Invitation to bid means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

Request for proposal means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

Using agency means any department, division, office, section, agency, commission, council, bureau, board or other unit in the county government requiring goods, services, insurance or construction as provided for in this chapter.

(Code 1980, § 17-3; Code 1995, § 16-2)

Cross reference— Definitions and rules of construction, § 1-2.

State law reference— Similar provisions, Code of Virginia, § 2.2-4301.

Sec. 16-3. Applicability of state law.

This chapter should be read in conjunction with the public procurement act to apply to contracts for the procurement of goods, services, insurance and construction entered into by the county involving every expenditure for public purchasing, irrespective of its source. The provisions of the act shall apply except where modified by alternative policies and procedures enumerated in this chapter.

(Code 1980, § 17-2; Code 1995, § 16-3)

Sec. 16-4. Purchasing division established.

There is hereby created a purchasing division within the department of finance, to operate under the direction and supervision of the purchasing director.

(Code 1980, § 17-4; Code 1995, § 16-4)

Sec. 16-5. Reserved.

Sec. 16-6. Powers and duties of purchasing director.

(a) The purchasing director shall serve as the principal public purchasing official for the county and shall be responsible for the procurement of goods, services, insurance and construction in accordance with this chapter, as well as the management and disposal of goods.

(b) In accordance with this chapter, the purchasing director shall:

(1) Purchase or supervise the purchasing of all goods, services, insurance and construction needed by the county;

(2) Sell, trade or otherwise dispose of surplus goods belonging to the county;

(3) Establish and maintain programs for specifications development, contract administration, inspection and acceptance, in cooperation with the public agencies using the goods, services and construction;

(4) Not issue any order for delivery on a purchase, except in an emergency, until the director of finance or his designee shall have certified, after preaudit, that there is to the credit of the using agency concerned a sufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of such order; and

(5) Perform such other functions and duties as the director of finance may assign.

(Code 1980, § 17-7(a), (b); Code 1995, § 16-6)

Sec. 16-7. Delegation of authority by purchasing director.

The purchasing director may delegate authority to purchase certain goods, services, insurance or construction to other county officials if such delegation is deemed necessary for the effective procurement of those items.

(Code 1980, § 17-8; Code 1995, § 16-7)

Sec. 16-8. Establishment of operational procedures.

Consistent with this chapter, the purchasing director shall adopt operational procedures relating to the execution of the director's duties.

(Code 1980, § 17-11; Code 1995, § 16-8)

State law reference— Authority to adopt rules and regulations regarding purchases, Code of Virginia, § 15.2-1235.

Sec. 16-9. Purchases for volunteer rescue squads.

The purchasing director shall have authority to sell supplies, materials and equipment to volunteer rescue squads within the county at the same cost as the cost of such supplies, materials and equipment to the county.

(Code 1980, § 17-9; Code 1995, § 16-9)

Sec. 16-10. Unauthorized purchases.

Except as otherwise provided in this chapter, no official, elected or appointed, or any employee shall purchase or contract for any goods, services, insurance or construction within the purview of this chapter other than by and through the purchasing director, and any purchase order or contract made contrary to the provisions of this section is not approved and the county shall not be bound thereby. Any person responsible for such purchase shall be held personally liable for such purchase, and, if already paid for out of county funds, the amount may be recovered in the name of the county in an appropriate action instituted therefor.

(Code 1980, § 17-10; Code 1995, § 16-10)

Sec. 16-11. Disposal of obsolete or unusable property.

The purchasing director shall sell, transfer, trade or otherwise dispose of all materials, supplies, equipment or other personal property of the county which has become obsolete or unusable. For purposes of this chapter, personal property shall be deemed "obsolete and unusable" when the continued use of such property by the county is no longer cost effective.

(Code 1980, § 17-12; Code 1995, § 16-11; Ord. No. 939, § 1, 1-22-1997)

State law reference— Disposal of personal property, Code of Virginia, § 15.2-1236.

Sec. 16-12. Sale of surplus property.

(a) All sales of property pursuant to this chapter shall be accomplished by means of competitive bids, public auction, firm price offered to all persons wishing to participate in the sale, or negotiated sale to other units of local government. The purchasing director shall use whichever method the director believes will raise the

highest revenue for the county.

(b) In cases where surplus property is offered for sale at a firm price, the property shall be offered first to taxpayers and residents of the county before it is offered to the general public.

(Code 1980, § 17-13; Code 1995, § 16-12; Ord. No. 939, § 2, 1-22-1997; Ord. No. 1076, § 1, 9-13-2005)

Secs. 16-13—16-42. Reserved.

ARTICLE II. BIDDING AND AWARD OF CONTRACTS

Sec. 16-43. Award of contracts generally.

(a) The purchasing director shall award all contracts on behalf of the board of supervisors except for:

(1) Contracts for construction which are expected to exceed $200,000.00;

(2) Contracts for professional services which are expected to exceed $80,000.00; and

(3) Contracts where the purchasing director, in consultation with the county manager, has determined that an award by the board of supervisors is appropriate and the request for proposal or invitation to bid states that the award of the proposed contract will be made by the board of supervisors.

(b) The purchasing director shall award all contracts on behalf of the school board except for:

(1) Contracts for construction which are expected to exceed $200,000.00;

(2) Contracts for professional services which are expected to exceed $80,000.00; and

(3) Contracts where the purchasing director, in consultation with the superintendent of schools, has determined that an award by the school board is appropriate and the request for proposal or invitation to bid states that the award of the proposed contract will be made by the school board.

(c) The purchasing director shall award all contracts on behalf of the Henrico Area Mental Health & Developmental Services Board except for:

(1) Contracts for services for clients; and

(2) Contracts for goods for direct client use.

(d) The board of supervisors, school board or Henrico Area Mental Health & Developmental Services Board, as appropriate, shall award all contracts not awarded by the purchasing director.

(Code 1980, § 17-7(d); Code 1995, § 16-31)

Sec. 16-44. Receiving and processing of bids for construction.

The purchasing director shall advertise, receive, open and tabulate any and all bids for construction in accordance with the requirements and conditions set forth in the invitation to bid. The director shall then transmit all such bids, with the tabulation of the bids, to the board of supervisors or school board, as appropriate, through the county manager or superintendent of schools, as appropriate, in all cases where the board of supervisors or school board will award the contract as provided in section 16-43.

(Code 1980, § 17-7(c); Code 1995, § 16-32)

Sec. 16-45. Exceptions to requirement for competitive procurement.

(a) The county may enter into contracts without competition for the purchase of goods or services which are produced by or are available through state contracts or the state warehouse, or which are produced by nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped, or Virginia Correctional Enterprises.

(b) The county may enter into contracts for legal services, expert witnesses and other services associated

with litigation or regulatory proceedings without competitive sealed bidding or competitive negotiation.

(c) The county may enter into contracts up to the amounts set forth in Code of Virginia § 2.2-4303(G) or its successor for goods, professional services, non-professional services, transportation-related construction, and non-transportation-related construction without competitive sealed bidding or competitive negotiation under procedures established in writing by the purchasing director. However, the county must use competitive sealed bidding or competitive negotiation for construction of a new building or an addition or improvement to an existing building when the county will use more than $50,000.00 in state funds.

(d) If an emergency occurs during office hours, the using agency shall immediately notify the purchasing director, who shall either purchase directly or authorize the purchase of the needed goods and services. If any emergency occurs during a time when the purchasing department is closed, the using agency may purchase any goods or services needed to meet such existing emergency; provided that the head of the using agency shall send as soon as practicable to the purchasing director a requisition and a copy of the delivery receipt together with a written explanation of the circumstances of the emergency.

(Code 1980, § 17-14; Code 1995, § 16-33; Ord. No. 939, § 3, 1-22-1997)

State law reference— Exceptions to competitive sealed bidding authorized, Code of Virginia, § 2.2-4303(G).

Sec. 16-46. Modification of contracts.

A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than 15 percent of the amount of the contract or $10,000.00, whichever is greater, without the advance written approval of the awarding authority.

(Code 1980, § 17-15; Code 1995, § 16-34)

State law reference— Modifications of contract authorized, Code of Virginia, § 2.2-4309(A).

Sec. 16-47. Debarment.

(a) *Generally.* The purchasing director may, in the public interest, debar a prospective contractor for any of the causes listed in subsection (b) of this section, using the procedures described in subsection (d) of this section. The existence of a cause for debarment under subsection (b) of this section, however, does not necessarily require that the contractor be debarred. The seriousness of the contractor's acts or omissions and any mitigating factors should be considered in making any debarment decision.

(b) *Causes.* The purchasing director may debar a prospective contractor for any of the following causes:

(1) Conviction of or civil judgment for:

a. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;

b. Violation of federal or state antitrust statutes relating to the submission of offers;

c. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; or

d. Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a government contractor or subcontractor.

(2) Violation of the terms of a government contract or subcontract so serious as to justify debarment, such as willful failure to perform in accordance with the terms of one or more contracts or a history of failure to perform, or of unsatisfactory performance of, one or more contracts.

(3) Any other cause of so serious or compelling a nature that it affects the present responsibility of a government contractor or subcontractor.

(c) *Reports and investigations.* The purchasing director shall establish procedures for the prompt reporting,

investigation and referral of matters appropriate for that official's consideration.

(d) *Debarment procedures.* The following procedures governing the debarment decision-making process are designed to be as informal as practicable, consistent with principles of fundamental fairness:

(1) *Notice to contractor.* Debarment shall be initiated by advising the prospective contractor and any specifically named affiliate, by certified mail, return receipt requested, that debarment is being considered. Such notice shall include the reasons for the proposed debarment in terms sufficient to put the contractor on notice of the conduct or transaction upon which it is based.

(2) *Period of debarment.* Debarment shall be for a period commensurate with the seriousness of the cause, as determined by the purchasing director in the director's sole discretion.

(3) *Submission of statement by contractor; hearing.* The prospective contractor may submit to the purchasing director, within 30 days after receipt of notice, in person, in writing or through a representative, information and argument to the proposed debarment, including any additional specific information that raises a genuine dispute over the material fact. If the proposed debarment is based upon a cause other than those specified in subsection (b)(1) of this section, an informal hearing allowing the examination and cross examination of witnesses shall be provided if so requested by the prospective contractor. In such cases, the purchasing director shall conduct the hearing and shall render a decision within 15 days thereafter, or within 15 days after receipt of written information and argument if no hearing is requested or required to be held.

(4) *Appeals.* The decision of the purchasing director shall be final unless the prospective contractor appeals by instituting legal action as provided in the public procurement act.

(Code 1980, § 17-16; Code 1995, § 16-35; Ord. No. 939, § 4, 1-22-1997)

State law reference— Authority to adopt debarment procedure, Code of Virginia, § 2.2-4321.

Sec. 16-48. Negotiation with lowest responsible bidder.

Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that, if the bid from the lowest responsible bidder exceeds available funds, the county may negotiate with the apparent low bidder to obtain a contract price within available funds. If the county wishes to negotiate with the apparent low bidder to obtain a contract price within available funds, negotiations shall be conducted in accordance with the following procedures:

(1) The using agency shall provide the purchasing director with a written determination that the apparent low bid exceeds available funds. Such determination shall be confirmed in writing by the director of finance or his designee. The using agency shall also provide the purchasing director with a suggested reduction in scope for the proposed purchase.

(2) The purchasing director shall advise the lowest responsible bidder, in writing, that the proposed purchase exceeds available funds. The director shall further suggest a reduction in scope for the proposed purchase and invite the lowest responsible bidder to amend its bid proposal based upon the proposed reduction in scope.

(3) Repetitive informal discussions with the lowest responsible bidder for purposes of obtaining a contract within available funds shall be permissible.

(4) The lowest responsible bidder shall submit an addendum to its bid, which addendum shall include the change in scope for the proposed purchase, the reduction in price and the new contract value.

(5) If the proposed addendum is acceptable to the county, the county may award a contract within funds available to the lowest responsible bidder based upon the amended bid proposal.

(6) If the county and the lowest responsible bidder cannot negotiate a contract within available funds, all bids shall be rejected.

(Code 1980, § 17-17; Code 1995, § 16-36)

State law reference— Negotiation with lowest responsible bidder, Code of Virginia, § 2.2-4318.

Sec. 16-49. Joint and cooperative procurement.

(a) The County may participate in, sponsor, conduct, or administer a joint procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia, the United States General Services Administration, or the Metropolitan Washington Council of Governments, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods, services, or construction.

(b) In addition, the County may purchase from another public body's contract or from the contract of the Metropolitan Washington Council of Governments or the Virginia Sheriffs' Association even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies, except for:

(1) Contracts for architectural or engineering services; or

(2) Construction. This subdivision will not be construed to prohibit sole source or emergency procurements awarded pursuant to subsections E and F of Code of Virginia, § 2.2-4303.

Subdivision 2 does not apply to (i) the installation of artificial turf and track surfaces, (ii) stream restoration, (iii) stormwater management practices, or (iv) the installation of playground equipment, including all associated and necessary construction and maintenance.

When the County enters into a cooperative procurement agreement with a county, city, or town whose governing body has adopted alternative policies and procedures pursuant to subdivisions A 9 and A 10 of Code of Virginia, § 2.2-4343 the County will comply with the alternative policies and procedures adopted by the governing body of such county, city, or town.

(c) The County may purchase from any authority, department, agency or institution of the Commonwealth's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies. In such instances, deviation from the procurement procedures set forth in the Act and the administrative policies and procedures established to implement the Act is permitted, if approved by the Director of the Division of Purchases and Supply.

Pursuant to Code of Virginia, § 2.2-2012, such approval is not required if the procurement arrangement is for telecommunications and information technology goods and services of every description. In instances where the procurement arrangement is for telecommunications and information technology goods and services, such arrangement is permitted if approved by the Chief Information Officer of the Commonwealth. However, such acquisitions must be procured competitively.

Nothing herein prohibits the payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

(d) As authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases, the County may purchase goods and

nonprofessional services from a United States General Services Administration contract or a contract awarded by any other agency of the United States government.

(e) The County may participate in, sponsor, conduct, or administer a procurement for competitively solicited goods or services on behalf of or in conjunction with any entity when the procurement is being conducted for public entities.

(f) The County may purchase competitively solicited goods and services from any entity's contract when the solicitation specified that the procurement was being conducted on behalf of public entities.

Sec. 16-50. Indefinite Delivery or Quantity Contract Performance and Payment Bonds.

A. "Indefinite delivery or quantity contract" means a contract that only requires performance of contractual obligations upon the request of the county and which establishes an annual cap for the total work that may be authorized for such contract.

B. For indefinite delivery or quantity contracts, the county, through its purchasing director, may allow the contractor awarded such contract to furnish to the county a performance bond and a payment bond equal to the dollar amount of the individual tasks identified in the underlying contract. If the county authorizes such a bond, then the contractor is not required to pay the performance bond and payment bond in the sum of the contract amount.

Chapter 17 - SOLID WASTE

*__Cross reference—__Trash, garbage, refuse and litter, § 10-97 et seq.; water and sewers, ch. 23.

*__State law reference—__Solid waste management, Code of Virginia, § 10.1-1408.1 et seq.; hazardous waste management, Code of Virginia, § 18.1-1426 et seq.; authority to regulate garbage collection and disposal, Code of Virginia, § 15.2-931 et seq.; authority to provide collection service, Code of Virginia, § 15.2-928.

ARTICLE I. IN GENERAL

Sec. 17-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial waste means waste material from a commercial enterprise, including wholesale, retail and service establishments, such as office buildings, stores, markets, theaters, hotels and warehouses, or from enterprises providing services for a fee, such as yard services, refuse collection services, etc.

County household refuse disposal area means the Springfield Road Public Use Area or the Charles City Road Public Use Area.

Director means the director of public utilities.

Garbage means all organic waste material, including offal and animal, poultry and vegetable wastes.

Highway means all streets, avenues, boulevards, roads, alleys, walkways, lanes, viaducts, bridges and approaches thereto, and all other public ways in the county. The term "highway" shall also mean the entire width thereof between abutting property lines.

Institution means any public or private establishment which educates, instructs, treats for health purposes or otherwise provides service to the community.

Litter means all waste material, disposable packages or containers, except the wastes of the primary processes of mining, logging, sawmilling, farming or manufacturing.

State law reference—Similar provisions, Code of Virginia, § 10.1-1414.

Litter receptacle means a container acceptable to the department of waste management for the depositing of litter.

Private property means property owned by a person that is not used or held out for use by the public.

Public property means any area that is used or held out for use by the public, whether owned or operated by public or private interests.

Recyclable material means any material, such as glass bottles and jars, aluminum cans, steel cans, newspapers, mixed paper, plastic bottles and jugs, placed in or around containers for collection or at collection sites for recycling by a recycling program authorized by the county.

Recycling means the process of separating a given waste material from the waste stream and processing

it so that it may be used again as a raw material for a product, which may or may not be similar to the original product.

Refuse means garbage and trash.

Scavenging means the removal of material from county landfills and household refuse disposal areas without permission.

Single-family residential unit means a group of rooms, including cooking accommodations, occupied exclusively by one or more persons living as a single housekeeping unit.

Supercan means a county refuse container of approximately 95 gallon volume.

Trash means all inorganic waste material, including rubbish, cans, bottles, paper, cardboard, mattresses, furniture, appliances and other discarded inorganic matter.

Trees and *tree stumps* mean branches, limbs and parts of trees, bushes or shrubbery larger than four inches in diameter.

Vehicle means every device capable of being moved upon a public highway and in, upon or by which any person or property may be transported upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(Code 1980, § 11-1; Code 1995, § 17-1; Ord. No. 910, § 1, 11-8-1995)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 17-2. Unlawful removal of recyclable material.

It shall be unlawful for any unauthorized person to remove recyclable material placed in or around a container or at a collection site for recycling by a recycling program authorized by the county. Each unlawful removal of recyclable material shall constitute a separate class 1 misdemeanor.

(Code 1995, § 17-2; Ord. No. 910, § 2, 11-8-1995)

State law reference—Local recycling and waste disposal, powers and penalties, Code of Virginia, § 15.2-928.

Secs. 17-3—17-22. Reserved.

ARTICLE II. COUNTY HOUSEHOLD REFUSE DISPOSAL AREAS

***Cross reference—**Streets, sidewalks and other public property, ch. 18.

***State law reference—**Authority operate landfills, Code of Virginia, § 15.2-928; authority to acquire land for public utilities and services, Code of Virginia, § 15.2-2109.

Sec. 17-23. Use generally.

County household refuse disposal areas shall be available for the disposal of refuse and litter subject to the following provisions:

(1) *Hours of operation; general conditions for use.* County household refuse disposal areas shall be available for the disposal of refuse and litter during such hours and under such conditions as the county manager may

direct.

(2) *Use of county household refuse disposal areas.* Use of the county household refuse disposal areas is limited to county residents disposing of refuse or litter generated at their residence. Residents may dispose of refuse or litter at a charge of $3.00 per trip. Residents may purchase a book of 15 discount coupons for $40.00 or a book of ten discount coupons for $27.00. A resident may bring up to four automobile or truck tires no larger than 31 inches in diameter from his residence to the county household refuse disposal area at no additional charge and may bring additional tires, not exceeding 31 inches in diameter, for a charge of $1.00 per tire. The director may refuse to accept tires in quantities which present a hazard to county household refuse disposal area operations. A resident may also dispose of household appliances or items containing chlorofluorocarbon (CFC) or hydrochlorofluorocarbon (HCFC) in the county household refuse disposal area upon payment of an additional fee of $15.00 per appliance or item. The resident must provide a driver's license or other form of identification providing proof of county residency satisfactory to the supervisor or the cashier.

(3) *Scavenging.* It shall be unlawful to engage in scavenging in county household refuse disposal areas.

(4) *Penalty.* Any person violating any of the provisions of this section shall be punished by a fine not exceeding $100.00. Each day that any violation of this section continues shall constitute a separate offense.

(Code 1980, § 11-2; Code 1995, § 17-31; Ord. No. 967, § 1, 2-25-1998)

Sec. 17-24. Disposal of certain substances prohibited.

It shall be unlawful for any person to deposit, or place for deposit by others, any of the following materials in county household refuse disposal areas:

(1) Hazardous waste as defined by the state hazardous waste management regulations;

(2) Materials creating a hazard to county personnel, county operations, the general public or the environment;

(3) Automobiles; or

(4) Liquids, fluids or sludges.

(Code 1980, § 11-3; Code 1995, § 17-32)

Sec. 17-25. Dumping waste on premises other than county household refuse disposal areas or private sanitary landfills.

It shall be unlawful for any person to dispose of refuse or litter within the county other than in a county household refuse disposal area or in a privately operated sanitary landfill permitted under chapter 24 or other provisions of law. This section shall not apply to occupants of single-family residences or family farms disposing of their own garbage, trash or refuse if such occupants have paid the fees, rates and charges of other single-family residences or family farms in the same service area.

(Code 1980, § 11-4; Code 1995, § 17-33)

Cross reference— Trash, garbage, refuse and litter, § 10-97 et seq.; putting glass or other hazardous material on streets, § 22-38.

State law reference— Authority to so provide, Code of Virginia, § 15.2-931; littering, Code of Virginia, §§ 10.1-1424, 33.1-345(7), 33.1-346, 15.2-733, 46.2-1156.

Sec. 17-26. Landfilling with imperishable materials on land other than sanitary landfills.

Any person may use imperishable materials such as stone, bricks, tile, sand, gravel, soil, asphalt, concrete products and like materials for landfilling purposes upon any lot or parcel in the county with the

consent of the owner. For the purposes of this section, the term "landfilling purposes" shall refer to deposits of material to fill land so as to permit practical use or development of the property in the future. Any such fills must be compacted as filled and must be covered with not less than six inches of soil within 30 days after fills or partial fills are completed or abandoned.

(Code 1980, § 11-7; Code 1995, § 17-34)

Secs. 17-27—17-55. - Reserved.

ARTICLE III. COUNTY COLLECTION SERVICE

Sec. 17-56. Operational regulations and service areas.

(a) The county shall have the right to extend refuse service within its boundaries where economically feasible.
(b) The county manager shall prescribe rules and regulations for county refuse collection, including selection of areas for county service.
(Code 1980, § 11-12(c), (d); Code 1995, § 17-61)

Sec. 17-57. Collection service for property adjacent to collection area.

Any property owner whose property is adjacent to an area where refuse service is furnished by the county may obtain refuse collection by the county if the director determines adequate resources are available. The county may terminate refuse collection to adjacent properties upon 30 days notice if the director determines such services are not economically feasible or adequate resources are not available.

(Code 1980, § 11-10; Code 1995, § 17-62)

Sec. 17-58. Charges.

(a) *Single-family residences.* The county shall provide a Supercan to each single-family residential unit receiving county refuse collection service.
(b) *Additional cans.* A single-family residential unit may obtain additional Supercans for an additional one-time fee of $65.00 per Supercan. Customers may also use a privately-purchased container for refuse as long as the container is of 95 gallon capacity, is constructed of heavy duty plastic, has wheels, and has a lifting bar in the front of the container. If at any point the county determines that a privately-purchased container is incompatible with the county's refuse collection equipment, the county shall notify the customer that the container will not be serviced.
(c) *Charge for residential refuse collection.* The bimonthly charge for county refuse collection shall be $36.00 per single-family residential unit, regardless of the number of Supercans or privately-purchased containers used at the residential unit.
(d) *Other premises.* Businesses or other establishments receiving county refuse collection service must use Supercans to dispose of refuse, and they may obtain an unlimited number of Supercans from the county for their use. The bimonthly charge for their refuse collection shall be $36.00 per Supercan.
(e) *Property of county.* Supercans supplied by the county shall remain the property of the county and may not be removed when county refuse collection service is discontinued.

(Code 1980, § 11-12(a), (b); Code 1995, § 17-63; Ord. No. 1043, § 1, 5-27-2003; Ord. No. 1120, § 1, 4-22-2008)

Sec. 17-59. Bulky waste and vacuum leaf collection.

(a) The county shall contract with a third party for the collection of residential bulky waste, such as discarded appliances, television sets, furniture, brush, and bagged leaves, under rules and regulations prescribed by the county manager and the contract at the rate set forth in the third party contract.

(b) The county shall provide vacuum leaf collection under rules and regulations prescribed by the county manager at a charge of $30.00 per stop.

(c) Notwithstanding subsections (a) and (b) of this section, there shall be no charges for elderly or disabled persons who qualify for tax relief under section 20-78.

(Code 1980, § 11-11; Code 1995, § 17-64; Ord. No. 919, § 1, 5-8-1996; Ord. No. 938, § 1, 11-26-1996; Ord. No. 940, § 1, 1-22-1997; Ord. No. 1043, § 2, 5-27-2003; Ord. No. 1103, § 1, 4-24-2007)

Sec. 17-60. Overdue bills; discontinuance of service.

(a) All charges for refuse service shall be due within 30 days of billing, and a $1.00 service charge shall be added to all delinquent bills. The director shall notify the owner or tenant in writing that the bill is delinquent, that the owner or tenant may contest the bill by contacting the director, and that all utility service shall be discontinued if the delinquent bill is not paid within 15 days of the notice. If the delinquent bill is not paid within 15 days of the date of this notice, refuse service shall be discontinued and the supply of water to the premises shall be disconnected unless the health officer certifies that shutting off the water will endanger the health of the occupants of the premises or the health of others.

(b) Once disconnected and discontinued, the supply of water and refuse service shall not be restored until the outstanding balance and a charge of $35.00 for reconnecting water service is paid in full or until the director has approved other payment arrangements. If the owner or tenant vacates property with a delinquent utility bill, the outstanding balance may be transferred to any other property within the county where the owner or tenant has utility service if the owner or tenant has been notified as provided in this section. If the outstanding balance is not paid within the time specified, water and refuse service at the property to which the balance has been transferred may be discontinued.

(c) In cases of delinquent bills where the county supplies sewer but not water service to the property, sewer service to the premises may be disconnected using the same procedures, and sewer and refuse service shall not be restored until the outstanding balance and the cost of disconnecting and reconnecting sewer service shall have been paid in full.

(Code 1980, § 11-14; Code 1995, § 17-65)

Cross reference— Billing procedures, § 23-331.

Chapter 18 - STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY

*__Cross reference—__Ordinances naming, renaming, opening, accepting or vacating streets, alleys, easements or rights-of-way saved from repeal, § 1-10(a)(9); County property, § 2-106 et seq.; use of county property for private purposes, § 2-106; property numbering and street naming system, § 6-77 et seq.; erosion and sediment control, § 10-27 et seq.; parks and recreation, ch. 14; sanitary landfills, § 17-23 et seq.; utility easements, § 19-166; street name signs, § 19-167; traffic and vehicles, ch. 22; obstruction of streets by railroad, § 22-37; placing glass or other hazardous material on street, § 22-38; specific street regulations, § 22-73 et seq.; riding bicycles on sidewalks or crosswalks prohibited, § 22-350.

*__State law reference—__Highways, bridges and ferries, Code of Virginia, § 33.1-1 et seq.; local streets and alleys, Code of Virginia, § 15.2-2000 et seq.; local authority over highways, bridges and ferries, Code of Virginia, § 33.1-224 et seq.

ARTICLE I. IN GENERAL

Sec. 18-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

County standards and specifications means the current design standards and specifications for roads, streets, drainage, water and sewer construction and improvements in the county, on file in the office of the director.

Director means the director of public works/county engineer or designee.

(Code 1980, § 18-11; Code 1995, § 18-1)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 18-2. Adoption of state road and bridge specifications.

The current edition of the Road and Bridge Specifications of the Virginia Department of Transportation, and all amendments thereto, is hereby adopted by reference insofar as it is not inconsistent with this Code.

(Code 1980, § 18-12; Code 1995, § 18-2)

Sec. 18-3. Obstruction of roads, ditches or drains; gated subdivisions.

It shall be a class 1 misdemeanor to erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses, basketball goals or other sporting equipment, or any other type obstruction, in a road, a ditch made to drain the road, or an off drain from ditches except in gated subdivisions permitted in chapter 24.

(Code 1980, § 18-1; Code 1995, § 18-3; Ord. No. 1064, § 1, 3-9-2004)

Cross reference—Water and sewer, ch. 23.

State law reference—Cutting trees, obstructing roads, etc., Code of Virginia, § 33.1-345.

Sec. 18-4. Installation of unapproved culvert pipe.

It shall be unlawful to install culvert pipe in roads or ditches for walkways, driveways or other purposes unless the director has approved it as to size and type or as a substitute for standard pipe.

(Code 1980, § 18-2; Code 1995, § 18-4)

Cross reference— Buildings, ch. 6; stormwater management, § 10-196 et seq.; water and sewer, ch. 23.

Sec. 18-5. Burning leaves, trash or other materials on hard-surfaced roadway.

It shall be unlawful to burn leaves, trash or other materials on the hard-surfaced roadway of any street maintained by the county.

(Code 1980, § 18-3; Code 1995, § 18-5)

Cross reference— Environment, ch. 10; burning of leaves, § 11-17.

Sec. 18-6. Parking vehicles dripping oil or fuel on asphalt roadway.

It shall be unlawful to park a car, truck or other motorized vehicle on any asphalt surface if it leaks or drips oil or fuel.

(Code 1980, § 18-4; Code 1995, § 18-6)

Cross reference— Stopping, standing and parking, § 22-151 et seq.

Sec. 18-7. Obstruction of vision at intersections.

It shall be unlawful to have a wall, fence, planting or structure obstruct vision within 20 feet of the intersection of two street right-of-way lines, as measured at elevations greater than 30 inches above the curb level or the centerline of the street grade. Where a desirable tree obstructs vision at the time of street dedication, the tree shall be trimmed or removed to provide the sight distance required by the director.

(Code 1980, § 18-6; Code 1995, § 18-7)

Cross reference— Street design standards, § 19-121 et seq.; traffic and vehicles, ch. 22.

Sec. 18-8. Hauling houses, oversize loads or heavy loads.

It shall be unlawful to haul houses, oversized loads, or loads in excess of the weight permitted in chapter 22, article III, division 3 on any street, right-of-way, easement or area dedicated for public use unless the hauler has obtained a permit from the director or the Virginia Department of Motor Vehicles and provided a satisfactory certificate of liability insurance to cover any damage.

(Code 1980, § 18-7; Code 1995, § 18-8)

Sec. 18-9. Construction of street entrances.

It shall be unlawful to construct a commercial or private entrance to county streets without the director's approval or in violation of county standards and specifications.

(Code 1980, § 18-8; Code 1995, § 18-9)

Sec. 18-10. Damaging right-of-way, pavement or curb and gutter.

(a) The holder of any building permit shall be liable for all damage to the county right-of-way, pavement and curb and gutter within 50 feet of the property line due to construction on the property. The permit holder

shall be liable from issuance of the building permit until issuance of the certificate of occupancy, even if the county is unable to identify the person causing the damage.

(b) If two or more permit holders are liable for damage under subsection (a) of this section, they shall have equal liability unless they agree which permit holder is responsible.

(c) The responsible permit holder shall timely correct all damage to the director's satisfaction. Any permit holder who fails to do so shall be subject to the penalties prescribed in section 1-13.

(Code 1980, § 18-10; Code 1995, § 18-10)

Secs. 18-11—18-38. Reserved.

ARTICLE II. WORK IN PUBLIC STREETS AND RIGHTS-OF-WAY

DIVISION 1. GENERALLY

Sec. 18-39. Permit required.

It shall be unlawful to do any work in a public street, right-of-way, easement or other area dedicated to public use before submitting a plan and specifications and receiving a permit from the director.

(Code 1980, § 18-21; Code 1995, § 18-61)

State law reference— Authority to require permit, Code of Virginia, § 56-15.

Sec. 18-40. Permit application form; inspection fees.

Applications for all public utility work shall be made in triplicate upon a form provided by the director. The application shall be accompanied by a check or bond guarantee for payment of inspection fees as follows:

Poles, each		$0.25
Guys, each		0.25
Wire crossings, each		2.50
Pipelines:		
	Crossings (excavated), each	2.50
	Crossings (driven), each	2.50
	Parallel to highway, up to 100 feet	2.50
	101 feet to 500 feet	5.00
	501 feet to 1,000 feet	7.50
	Over 1,000 feet	As determined by the director.

(Code 1980, § 18-23; Code 1995, § 18-62)

Sec. 18-41. Application for permit by letter.

When the work to be done under this article is routine and limited in scope, the permit application may consist of a letter describing the work to be done and a sketch showing the location and extent of the work.

(Code 1980, § 18-25; Code 1995, § 18-63)

Sec. 18-42. Bond.

Any person performing work under section 18-39 who has not filed a performance bond in the amount of at least $1,000.00 shall furnish bond in an amount determined by the director.

(Code 1980, § 18-24; Code 1995, § 18-64)

Sec. 18-43. Conformance with plans and director's instructions; notification of director on completion of work.

All construction or repair work in a public street, right-of-way, easement or other area dedicated to public use shall conform to the approved plans and specifications and to the director's written instructions. The director may waive the requirement of formal plans and specifications if the work is so routine and limited that detailed plans and specifications are not necessary for its proper execution. The director shall be notified immediately when the work is ready for inspection.

(Code 1980, § 18-22; Code 1995, § 18-65)

Secs. 18-44—18-74. Reserved.

DIVISION 2. USE FOR WATER AND SEWAGE SYSTEMS

***Cross reference—** Water and sewer, ch. 23.

Sec. 18-75. Application for approval.

Any person who wishes to occupy or use any street, bridge, park or other public place, or any public easement in order to construct or establish a water or sewage system or to extend an existing water or sewage system shall apply to the board of supervisors with the following information:

(1) The location of the proposed system.
(2) A description of the system, including the source of the water supply or the means of sewage disposal.
(3) The ownership of the property to be served and, if owned by other than the applicant, a statement as to the terms, conditions and costs under which the service is to be provided.
(4) A statement of the efforts made to acquire service through a county water or sewer system.
(5) The provisions under which the system can be acquired by the county, either by gift or otherwise.
(6) The need for the system, the public interest to be served, and the explanation as to why the county cannot provide the system.
(7) Any other pertinent information that the board of supervisors may require.
(Code 1980, § 18-26; Code 1995, § 18-81)

Sec. 18-76. Criteria for approval; road permit.

The board of supervisors may grant or deny the request for permission to construct, establish or extend a water or sewage system based on the facts submitted in the application and the county's comprehensive plan for providing water or sewage facilities for the area. Approval of the application by the board of

supervisors shall not eliminate the requirement to obtain a road permit from the director for any work otherwise requiring a permit.

(Code 1980, § 18-27; Code 1995, § 18-82)

Subdivision Ordinance

Henrico County, Virginia

Adopted: June 22, 2021
Effective: September 1, 2021
Amended: December 13, 2022
Amended: November 12, 2024
Amended: February 11, 2025

Table of Contents

ARTICLE 1:
GENERAL PROVISIONS

1

Article 1 General Provisions

Division 1. Enactment and Applicability

Sec. 19-1101 Title

This chapter will be officially known as the "Subdivision Ordinance of the County of Henrico, Virginia" or "Henrico County Subdivision Ordinance," and may be referred to as "the Subdivision Ordinance" or "this Ordinance."

Sec. 19-1102 General Authority to Adopt Subdivision Ordinance

The Subdivision Ordinance establishes the county's subdivision regulatory authority, and is adopted in accordance with the enabling authority contained in Title 15.2, Chapter 22 of the Code of Virginia, and all other relevant laws of the Commonwealth of Virginia.

Sec. 19-1103 References to the Code of Virginia and Federal Law

Whenever any provision of this Ordinance refers to or cites a section of the Code of Virginia or federal laws or statutes, and that section is later amended or superseded, this Ordinance will be deemed to refer to the section, as amended, or the superseding section.

Sec. 19-1104 General Purpose and Intent

The Board of Supervisors adopts this Ordinance to establish procedures and standards relating to the subdivision of land within the county and to establish standards for access, circulation, streets, and other infrastructure provided as part of subdivisions in order to assure the orderly subdivision of land and its development. This Ordinance is intended to promote the health, safety, and general welfare of the present and future residents, businesses, and landowners of the county and accomplish the objectives of the Code of Virginia, consistent with the county's zoning ordinance and comprehensive plan. More specifically, this Ordinance is intended to:

A. Promote public health, safety, and welfare;

B. Ensure the orderly layout and use of land;

C. Establish reasonable standards of design and development for the subdivision of land;

D. Establish reasonable procedures for the review of the subdivision of land and the resubdivision of lots or parcels of land;

E. Ensure proper legal description and monumentation of subdivided land;

F. Avoid undue concentration of population and overcrowding of land;

G. Lessen congestion in streets and highways;

H. Provide for proper ingress and egress, efficient circulation of traffic, and safe and comfortable pedestrian movements;

I. Provide for adequate light and air;

J. Increase safety from fire, flood, and other dangers;

K. Provide for transportation, water, sewage facilities, drainage, schools, parks, playgrounds, and other public needs;

L. Preserve outstanding natural or cultural features and historic sites and structures;

M. Provide for open space through the efficient design and layout of land;

N. Encourage creative subdivision design that accomplishes these purposes in an efficient, attractive, and environmentally sensitive manner;

O. Protect and improve the water quality of the Chesapeake Bay and its tributaries; and

P. Promote development in accordance with the county's zoning ordinance and comprehensive plan.

Sec. 19-1105 Applicability

Except as provided below, any subdivision of land, as defined in Article 7: Definitions, that is situated wholly or partly within the county must comply with this Ordinance. No person may subdivide land without making and recording a plat of the subdivision in accordance with the requirements of this Ordinance and the Code of Virginia. Resubdivisions, combinations, and adjustments of individual lots will follow the minor subdivision procedure.

A. Boundary Line Adjustment

A valid and enforceable boundary line agreement between different owners of adjacent parcels takes precedence over the requirements of this Ordinance so long as:

1. Such agreement is only used to resolve a bona fide property line dispute;
2. The boundary does not move by more than 250 feet from the center of the current platted line or alter either parcel's resultant acreage by more than five percent of the smaller parcel size;
3. Such agreement does not create an additional lot, alter the existing boundaries of the County, result in greater street frontage, or interfere with a recorded easement;
4. Such agreement does not result in any nonconformity with local ordinances or health department regulations; and
5. Notice of such agreement is provided to the Planning Director.

B. Court-ordered Division of Land

A division of land subject to a partition suit by virtue of an order or decree by a court of competent jurisdiction takes precedence over the requirements of this Ordinance so long as the lot or parcel resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements of this Ordinance or Chapter 24 of the County Code by more than 20 percent. A copy of the final order or decree must be provided to the Planning Director.

Sec. 19-1106 Severability

It is the intent of the Board of Supervisors that the provisions of this Ordinance be liberally construed to carry out the purposes of this Ordinance and to avoid conflict with the Code of Virginia and any other limitations imposed by law. However, if any provision of this Ordinance is determined by a court to be invalid, such decision will not affect the validity of the remaining portions of this Ordinance.

Division 2. Relationship with Other Laws; Vested Rights

Sec. 19-1201 Conflicts Between Provisions of this Ordinance

If a provision of this Ordinance is inconsistent with another provision of this Ordinance, the provision that imposes greater restrictions or more stringent controls will govern.

Sec. 19-1202 Conflicts with State or Federal Law

If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the State or Federal government, the more restrictive provision will govern, to the extent permitted by law.

Sec. 19-1203 Vested Rights

Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any vested rights, provided such rights are lawfully established and remain in effect.

Division 3. Transitional Provisions

Sec. 19-1301 Effective Date

This Ordinance will become effective on September 1, 2021, and repeals and replaces Ordinance #61, as originally adopted on March 10, 1948, as subsequently amended and codified as Chapter 19 of the County Code.

Sec. 19-1302 Violations Continue

Any violation of the previous subdivision regulations will continue to be a violation under this Ordinance, unless the subdivision complies with the express terms of this Ordinance.

Sec. 19-1303 Applications Pending Prior to September 1, 2021

A. Any subdivision application submitted and accepted as complete before September 1, 2021, but still pending final action as of that date, will be reviewed and decided in accordance with the subdivision regulations in effect at the time of the submission and acceptance of the application.

B. If the subdivision application is approved, the approval will remain valid for the period of time specified in the subdivision regulations under which the application was reviewed and approved. Extensions of time available under those subdivision regulations remain available.

C. Unless the subdivision approval expires, the project may proceed through the approval process and continue to be reviewed in accordance with the subdivision regulations in effect at the time of the submission and acceptance of the application.

D. Once constructed, the project will be subject to the same rules as other conforming uses, structures, and site features under Chapter 24 of the County Code.

E. An applicant may elect at any stage of the development review process to have the proposed development reviewed under the processes, standards, and requirements of this Ordinance in lieu of the processes, standards, and requirements of the subdivision regulations in effect at the time of the submission and acceptance of the application.

Sec. 19-1304 Projects Which Received Subdivision Approval Under the Prior Subdivision Regulations

A. Subdivision approvals of any type remain valid for the period of time specified in the subdivision regulations under which the subdivision was approved. Extensions of time which were available under those subdivision regulations will remain available.

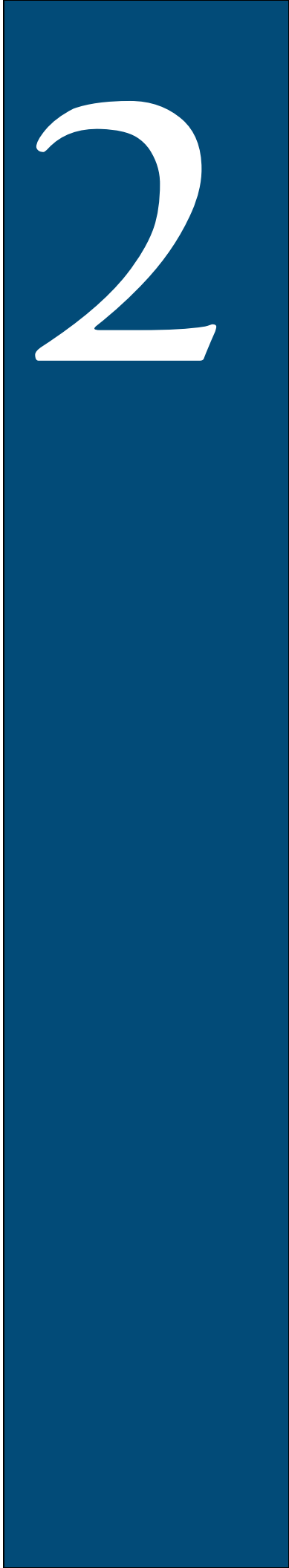
B. Unless the subdivision approval expires, the project may proceed through the approval process and continue to be reviewed in accordance with the subdivision regulations in effect at the time of approval.

C. If the subdivision approval expires or is revoked, any subsequent subdivision of the land will be subject to the procedures and standards of this Ordinance.

D. Once constructed, the project will be subject to Chapter 24 of the County Code.

E. An applicant may elect at any stage of the development review process to have the proposed subdivision reviewed under the processes, standards, and requirements of this Ordinance in lieu of the processes, standards, and requirements of the subdivision regulations in effect at the time of the submission and acceptance of the application.

ARTICLE 2: ADMINISTRATION



Article 2 Administration

Division 1. Planning Director

Sec. 19-2101 General

A. The Planning Director is designated by the County Manager.

B. Any act authorized by this Ordinance to be carried out by the Planning Director may be delegated by the Planning Director to professional-level staff under the Planning Director's direction.

Sec. 19-2102 Powers and Duties

Except where otherwise provided in this Ordinance, the Planning Director is responsible for the administration, interpretation, and enforcement of this Ordinance in accordance with state law. The Planning Director has the following specific powers and duties under this Ordinance:

A. To review and decide applications for the following:

1. Preliminary plats (Sec. 19-2302);

2. Final plats (Sec. 19-2303); and

3. Minor subdivisions (Sec. 19-2304).

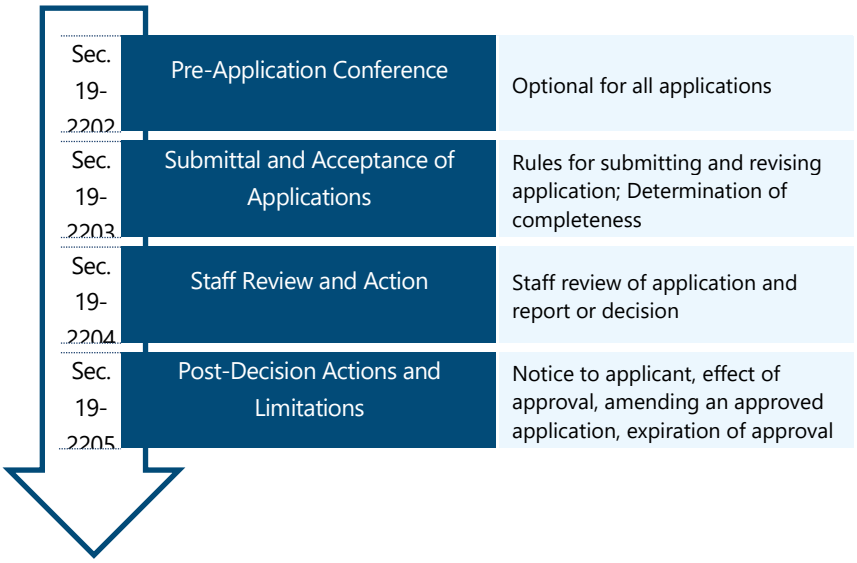
B. To prepare requirements for application contents and forms, submittal schedules, fees, and any additional information relevant to the submittal and review of subdivision applications, to be included in the Administrative Manual.

Division 2. Common Subdivision Review Procedures

Sec. 19-2201 General

This section sets forth common procedures that are generally applicable to the submittal and review of subdivision applications under this Ordinance. Not all procedures in this section are required for every type of application. Article 2, Division 3, Specific Standards and Requirements for Subdivision Applications, identifies the applicability of each common procedure for each type of application, as well as any modifications of the common procedure that apply. Figure 2201 shows the common subdivision procedures in the format of a flowchart. A similar flowchart is provided for each type of application in Article 2, Division 3, Specific Standards and Requirements for Subdivision Applications.

Figure 2201: Common Subdivision Procedures in Flowchart Format



Sec. 19-2202 Pre-Application Conference

A. Purpose

The purpose of a pre-application staff conference is to provide an opportunity for the applicant to understand the submittal requirements and the procedures and standards applicable to an anticipated subdivision application. A pre-application staff conference is also intended to provide an opportunity for Planning Department staff and other county staff to become familiar with, and offer the applicant preliminary comments about, the scope, features, and impacts of the proposed subdivision as it relates to the standards in this Ordinance.

B. Applicability

A pre-application staff conference may be held at the applicant's option for any subdivision application.

C. Scheduling

Upon receipt of the request for a pre-application staff conference, Planning Department staff will schedule the pre-application staff conference and notify the applicant of the time and place. The conference may be held on a regular schedule, or may be scheduled individually, at the discretion of the Planning Director.

D. Conference Proceedings

Planning Department staff will review the materials submitted by the applicant prior to the conference. At the conference, staff will ask the applicant questions about the proposed application and identify any concerns, problems, or other factors the applicant should consider about the application.

E. Effect

The pre-application staff conference is intended to facilitate the review process. Discussions held in accordance with this section are not binding on the county. Processing times for review of subdivision applications do not begin until a formal application is submitted and determined to be complete in accordance with Sec. 19-2203E, Determination of Application Completeness.

Sec. 19-2203 Submittal and Acceptance of Applications

A. Authority to File Applications

1. Unless expressly stated otherwise in this Ordinance, all subdivision applications reviewed under this Ordinance must be submitted by:

(a) The owner of the land proposed to be subdivided; or

(b) A person authorized to submit the application on behalf of the owner (an "authorized representative"), as evidenced by a power of attorney, a letter, or other document signed by the owner.

2. If there are multiple owners, contract purchasers, or other persons authorized to submit an application, all such persons or their authorized representatives must sign the application or a letter or document granting their consent to the application.

B. Required Content and Fees

1. *Application Content*

Requirements for the content and form of each type of subdivision application will be set forth by the Planning Director, consistent with the requirements of this Ordinance and state law, in the submission requirements checklist contained in the Administrative Manual. The applicant bears the burden of ensuring that an application contains sufficient information to demonstrate compliance with all applicable standards.

2. *Application Fees*

The Board of Supervisors is authorized to establish application fees, by resolution after public hearing, and may amend and update those fees as necessary. A schedule of application fees will be included in the Administrative Manual.

C. Schedule for Submittal and Review

The Planning Director will establish and update from time to time specific submittal instructions and a review schedule for the various types of subdivision applications as necessary to ensure the effective and efficient administration of this Ordinance and to carry out the purpose and intent of this Ordinance. The Planning Director may include time frames for review consistent with this Ordinance and state law. The instructions and schedules will be included in the Administrative Manual.

D. Application Submittal

Applications must be submitted to the Planning Director in the form established by the Planning Director, along with the appropriate application fee.

E. Determination of Application Completeness

1. *Completeness Review*

Upon receipt of an application, the Planning Director will, within ten business days, determine whether the application is complete or incomplete. A complete application is one that:

(a) Contains all information and materials required by this Ordinance and by the submission requirements checklist for the particular type of application in the Administrative Manual;

(b) Is in the form required for submittal of the particular type of application;

(c) Includes information in sufficient detail to evaluate the application to determine whether it complies with the applicable review standards of this Ordinance; and

(d) Is accompanied by the fee established for the particular type of application.

2. *Application Incomplete*

(a) On determining that an application is incomplete, the Planning Director will provide the applicant written notice of the submission deficiencies.

(b) If the applicant fails to resubmit an application within 45 calendar days after being first notified of submission deficiencies, the application will be returned to the applicant.

(c) The Planning Director will not process an application for review until it is determined to be complete.

3. *Application Complete*

If the Planning Director determines the application is complete, the Planning Director will accept the application for review in accordance with the procedures and standards of this Ordinance.

Sec. 19-2204 Staff Review and Action

A. Staff Review and Opportunity to Revise Application

1. When an application is determined complete, the Planning Director will distribute it to all appropriate county staff and all relevant state and other review agencies for review and comment. If the application includes a plat that requires state agency review, the Planning Director will forward the plat within ten business days of the date of submittal to each state agency that must review it under state law.

2. The Planning Department staff, or other county staff and all relevant state and other review agencies as deemed appropriate by the Planning Director, will review the application, relevant support material, and any comments or recommendations from staff and review agencies.

3. If deficiencies in complying with applicable standards in this Ordinance are identified during staff review of the application, the Planning Director will notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to revise the application to address the deficiencies. An applicant may revise an application after receiving notice of deficiencies from the Planning Director. Application revisions

must be limited to changes that directly respond to specific deficiencies identified by staff and other changes as authorized by the Planning Director. The revised application must be resubmitted to the Planning Director for review under this article.

B. Decision by Planning Director

1. After review of the application, and within 60 days after the date the complete application was submitted or within 35 days of receipt of any response from a state agency or public authority authorized by state law to review plats forwarded to it, whichever is later, the Planning Director will approve or disapprove the application, based on the review standards in Article 2, Division 3, Specific Standards and Requirements for Subdivision Applications, for the particular type of application. The time periods in this subsection may be extended if requested by the applicant.

2. If the application is disapproved, the specific reasons for disapproval must be set forth in writing, along with a statement of what corrections or modifications will permit approval of the application. The applicant may resubmit a revised application in accordance with Sec. 19-2205B, Revision and Resubmittal of Application after Disapproval.

3. The applicant may request, and the Planning Director or the County Engineer, if designated by this Ordinance, may grant, subject to subsections 4 and 5 below, exceptions to the standards in Article 3: Design Standards, and Article 4: Required Improvements, if the Planning Director or County Engineer, as appropriate, finds that substantial hardship may result from strict compliance with those standards, and if the exception:

(a) Substantially complies with the provisions of this Ordinance, does not defeat the purposes of this Ordinance, and protects the public interest;

(b) Will not be detrimental to public safety, health, or welfare or injurious to surrounding property or improvements;

(c) Is based only on conditions that are unique to the property, are not generally applicable to other property, and do not create mere inconvenience;

(d) Is not based exclusively on financial considerations; and

(e) Is the minimum exception that will relieve the hardship.

4. *The Planning Director may approve an exception allowing double frontage lots, or stem lots that do not meet the minimum lot width and frontage requirements in Chapter 24 of the County Code, if the requirements in subsection 3 above are met and the lots comply with all other requirements of this Ordinance and Chapter 24 of the County Code.*

5. *Exceptions from the requirements in Article 5, Division 8, Chesapeake Bay Preservation of Chapter 24 of the County Code*

will be granted in accordance with Sec. 24-5805 of the County Code.

Sec. 19-2205 Post-Decision Actions and Limitations

A. Notice of Decision

Within ten calendar days after a final decision on an application, the Planning Director must provide the applicant written notice of the decision and make a copy of the decision available to the public in the Planning Department. If the decision is to deny the application, the Planning Director must provide the applicant the specific reasons for denial and a statement of what corrections or modifications will permit approval of the application.

B. Revision and Resubmittal of Application after Disapproval

1. If the application is disapproved, the applicant may revise the application in response to the specific reasons identified for the disapproval and resubmit it to the Planning Director for reconsideration. After receipt of the resubmitted application, the Planning Director must review and either approve or disapprove the application. The Planning Director must approve the resubmitted application only on finding the following:

(a) All deficiencies identified in the previous review of the application have been corrected; and

(b) The application does not contain new deficiencies, based on the review standards in Article 2, Division 3, Specific Standards and Requirements for Subdivision Applications. Only new deficiencies resulting from the following will be considered:

(1) Corrections made to address previously identified deficiencies;

(2) Errors or omissions occurring after the initial submission of the application;

(3) Material revisions of infrastructure or physical improvements from the earlier submission; or

(4) Material revisions that create a new required review by the state Department of Transportation or other state agency.

2. The Planning Director must approve or disapprove a resubmitted application within 45 days of the date it was resubmitted. If the Planning Director identifies deficiencies on the resubmission, the Director must refer to specific ordinances, regulations or policies and must identify modifications or corrections that will permit approval. If the Planning Director fails to approve or disapprove a resubmitted application within 45 days of the date it was resubmitted, the application will be deemed approved; however, any deficiency in the proposed plat that, if left uncorrected, would violate local, state, or federal law or regulations, mandatory state Department of Transportation Engineering and Safety requirements, or other mandatory engineering and safety requirements, will not be considered, treated, or deemed as having been approved.

Division 3. Specific Standards and Requirements for Subdivision Applications

Sec. 19-2301 General

This section sets forth, for each type of subdivision application reviewed under this Ordinance, the purpose of the subdivision approval, when it is required or allowed, the specific procedure required for submitting and reviewing the application, and the criteria for making a decision on the application. The required procedure for each type of application identifies the applicability of each common procedure set forth in Article 2, Division 2, Common Subdivision Review Procedures, and any modifications of the common procedures that apply.

Sec. 19-2302 Preliminary Plat

A. Purpose

The purpose of this section is to provide a uniform mechanism for the submittal and review of preliminary plats in accordance with the Code of Virginia and this Ordinance.

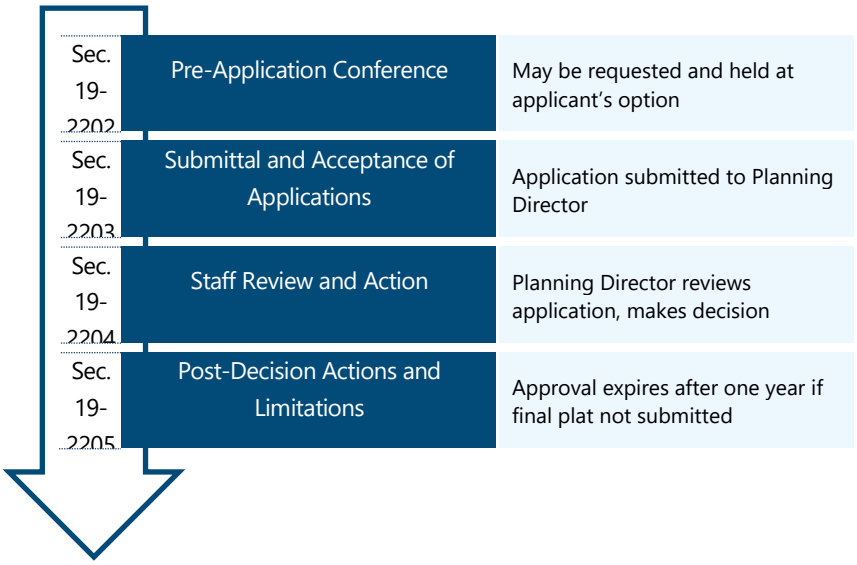
B. Applicability

1. Approval of a preliminary plat in accordance with the procedure and standards in this section is required prior to any subdivision of land into more than 50 lots.
2. Approval of a preliminary plat in accordance with the procedure and standards in this section may be requested by an applicant, at the applicant's option, for any subdivision of land into 50 or fewer lots.
3. Approval of a preliminary plat constitutes conditional approval of the proposed subdivision and allows the applicant to submit final plat applications for the proposed subdivision.

C. Preliminary Plat Procedure

This section sets forth the required procedure for a preliminary plat. Figure 2302 identifies the common procedures in Article 2, Division 2, Common Subdivision Review Procedures, that apply to a preliminary plat. Additions or modifications to the common procedures are identified below.

Figure 2302: Preliminary Plat



1. *Pre-Application Conference*

A pre-application conference may be requested and held at the applicant's option in accordance with Sec. 19-2202.

2. *Submittal and Acceptance of Applications*

The common procedures in Sec. 19-2203 apply. The application must include a vicinity map, a preliminary plat, and a traffic study, in accordance with the submission requirements checklist in the Administrative Manual.

3. *Staff Review and Action*

The common procedures in Sec. 19-2204 apply, subject to the following additions or modifications:

(a) Development in Dam Break Inundation Zone

(1) For any subdivision containing three or more residential units or any Commercial or Industrial use other than agricultural production proposed within the boundaries of a mapped dam break inundation zone (see subsection (3) below), the County Engineer must review the dam break inundation zone map, notify the dam owner, and, within ten days, forward a request to the Virginia Department of Conservation and Recreation to make a determination of the potential impacts of the proposed subdivision on the spillway design flood standards required of the dam. Upon receipt of the determination of Virginia Department of Conservation and Recreation or if the county has not received comments within 45 days of the Department's receipt of the county's request, the Planning Director must complete the county's review of the proposed subdivision.

(2) If the Virginia Department of Conservation and Recreation determines that a proposed subdivision is wholly or partially within a dam break inundation zone and would change the spillway design flood standards of an impounding structure, the subdivider must submit an engineering study meeting state standards to the Virginia Department of Conservation and Recreation prior to final approval of the subdivision. Following the completion of the engineering study, and prior to any development within the dam break inundation zone, the subdivider must change the proposed subdivision so that it does not alter the spillway design flood standards of the dam or must pay 50 percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the subdivision, together with administrative fees required by state law. The payment must be made to the Virginia Dam Safety, Flood Prevention and Protection Assistance Fund as provided by state law.

(3) The owner of each impounding structure in the county must prepare a map of the dam break inundation zone for the impounding structure and submit the map to the County Engineer and the Virginia Department of Conservation and Recreation. Dam break inundation zone maps are only required for dams that meet the definition of an impounding structure. The requirements of this subsection do not apply to any subdivision proposed downstream of a dam for which a dam break inundation zone map is not on file with the county at the time of the official submission of a subdivision plat to the county. However, the County Engineer may map the dam break inundation zone and recover the costs of such mapping from the owner of an impounding structure for which a dam break inundation zone map is not on file with the county and a map has not been prepared by the impounding structure's owner.

(b) Decision on the Application

(1) The Planning Director will make a decision on the application in accordance with Sec. 19-2302D, Preliminary Plat Decision Standards. The Planning Director's decision on a preliminary subdivision application must be one of the following:

A. Approve the application; or

B. Deny the application.

(2) The Planning Director must make a decision on the application within 60 days of submission, unless state agency review is required. If state agency review is required, the Planning Director must make a decision on the application within 35 days of receipt of approvals from all reviewing state agencies or within 90 days, whichever is earlier, provided the Planning Director is not required to make a decision less than 60 days from the date of submittal. The time periods in this subsection may be extended if requested by the applicant.

4. *Post-Decision Actions and Limitations*

The common procedures in Sec. 19-2205, Post-Decision Actions and Limitations, apply, subject to the following additions or modifications:

(a) Notation of Decision on Plat

The decision of the Planning Director on the application must be noted on the plat in the manner specified in the Administrative Manual.

(b) Effect of Approval

Approval of a preliminary plat approves the layout of the preliminary plat for use in preparation of the final plat and allows the applicant to submit a final plat application for the proposed subdivision. Approval of a preliminary plat does not constitute or guarantee approval of the final plat.

(c) Period of Validity

(1) Approval of a preliminary plat will automatically expire one year after the date of its approval if a final subdivision plat has not been submitted for all or a portion of the land proposed to be subdivided on the preliminary plat. The applicant may submit an extension request along with a fee, and the Planning Director may grant one-year extensions of this time period, provided:

A. The applicant pays the fee and requests the extension prior to the expiration of the approval; and

B. The applicant diligently pursues approval of a final subdivision plat.

(2) Approval of a preliminary plat that has not expired in accordance with subsection (1) above will be automatically extended for five years from the date of the latest recorded plat for all or a portion of the land proposed to be subdivided on the latest plat. The preliminary plat will automatically expire after five years from the latest recorded plat, unless:

A. The applicant pays a fee and requests an extension of time; and

B. The extension of time is approved by the Planning Director.

(3) The Planning Director may revoke approval of a preliminary plat at any time after three years have passed from the date of approval of the plat, and upon 90 days' written notice by certified mail to the applicant, if the Planning Director finds that the applicant has not diligently pursued approval of the final subdivision plat. For purposes of this subsection, "diligently pursued approval" means that the applicant has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications to it.

(d) Dam Break Inundation Zone Map Update

Following completion of any subdivision in a dam break inundation zone in accordance with Sec. 19-2302C.3(a), Development in Dam Break Inundation Zone, the subdivider must provide the dam owner and the

County Engineer with information necessary to update the dam break inundation zone map to reflect the new development.

D. Preliminary Plat Decision Standards

The Planning Director must approve a preliminary plat application on finding the proposed subdivision is consistent with all applicable standards in this Ordinance, including Article 3: Design Standards, Article 4: Required Improvements, and Article 5: Cluster Subdivision, and the County Code.

Sec. 19-2303 Final Plat

A. Purpose

The purpose of this section is to establish a uniform mechanism for the submittal and review of final plats in accordance with the Code of Virginia.

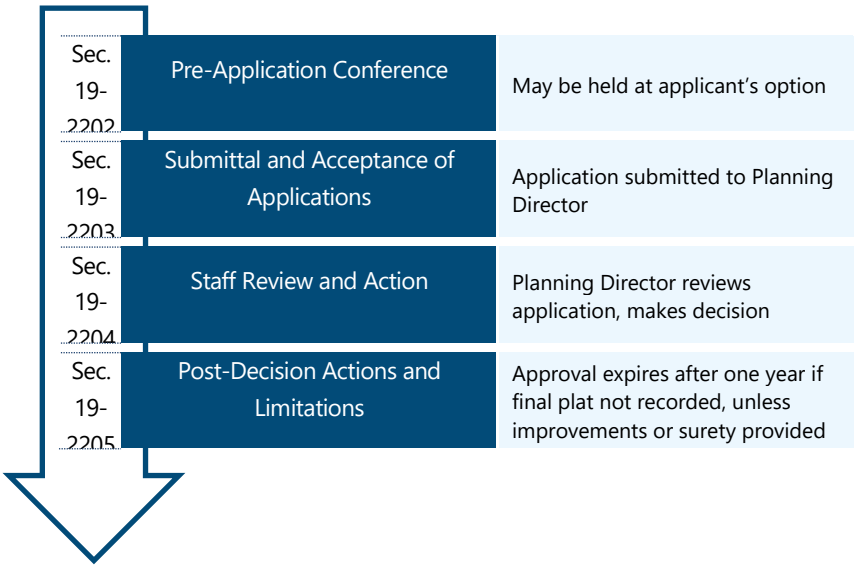
B. Applicability

1. Approval of a final subdivision plat by the Planning Director in accordance with the procedure and standards in this section is required prior to the recording of a subdivision plat in the Circuit Court, unless minor subdivision approval is obtained for the subdivision in accordance with Sec. 19-2304, Minor Subdivision.
2. An applicant may submit an application for a final plat for a portion of the land proposed to be subdivided on an approved preliminary plat.

C. Final Plat Procedure

This section sets forth the required procedure for a final plat. Figure 2303 identifies the common procedures in Article 2, Division 2, Common Subdivision Review Procedures, that apply to a final plat. Additions or modifications to the common procedures are identified below.

Figure 2303: Final Plat



1. *Pre-Application Conference*

A pre-application conference may be held at the applicant's option in accordance with Sec. 19-2202.

2. *Submittal and Acceptance of Applications*

The common procedures in Sec. 19-2203 apply. In addition, the application must include construction plans and a final plat in accordance with the submission requirements checklist in the Administrative Manual.

3. *Staff Review and Action*

(a) The common procedures in Sec. 19-2204 apply.

(b) The Planning Director will review and make a decision on the application in accordance with Sec. 19-2303D, Final Plat Decision Standards. The Planning Director's decision on a final plat application must be to approve or deny the application.

4. *Post-Decision Actions and Limitations*

The common procedures in Sec. 19-2205 apply, subject to the following additions or modifications:

(a) Notice if Application Disapproved

If the Planning Director disapproves the application, the reasons for disapproval must be given to the applicant in a separate document or written on the plat itself. The reasons for disapproval must identify deficiencies in the plat by reference to specific duly adopted ordinances, regulations, or policies and must identify the modifications or corrections necessary for approval.

(b) Clearing and Grubbing Plans

If the application is approved by the Planning Director, the applicant may request and receive approval of a clearing and grubbing plan prior to the approval of construction plans (see subsection (c) below) provided the following conditions are met.

(1) The Planning Director, County Engineer, and Director of Public Utilities have approved the project;

(2) All appropriate bonds, agreements, and authorizations from state and federal regulatory agencies for impacts to Waters of the United States have been submitted;

(3) Off-site drainage easements have been recorded;

(4) A Virginia Pollutant Discharge Elimination System (VPDES) permit has been issued by the Virginia Department of Environmental Quality, or if no VPDES permit is required, a stormwater management (SWM) plan has been submitted to and approved by the County Engineer and Planning Director; and

(5) Prior to any land disturbance, a preconstruction meeting must be conducted with the Environmental Inspector, the Developer, and the Contractor in attendance. The Planning Inspector will attend if tree protection measures are required.

(c) Construction Plans

(1) The applicant must prepare the construction plans for the project and submit them to the Planning Director for final approval and signature.

(2) Any necessary off-site easements for drainage, water, and sewer must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans.

(3) Any deviations from County standards for pavement or curb and gutter design must be approved by the County Engineer prior to final approval of the construction plans.

(4) If the Planning Director determines that the construction plans are not substantially in accordance with the approved final plat, the Planning Director must notify the applicant of the deficiencies and allow the applicant a reasonable time to revise and resubmit the construction plans to address the deficiencies. Additional fees may be required to offset costs associated with review of resubmitted construction plans.

(5) If the Planning Director determines that the construction plans are substantially in accordance with the approved final plat, the Planning Director will provide the applicant a signed letter of approval, which will authorize the applicant to proceed with site grading and utility work following a mandatory on-site pre-construction meeting.

(6) The easements for drainage and utilities as shown on approved plans must be granted to the County, in a form acceptable to the County Attorney, with approval of a plat for recordation.

(7) Any required private easements or agreements must be recorded prior to approval of a plat for recordation and must be referenced on the plat.

(d) Installation of Required Improvements

All on-site and off-site improvements pursuant to the approved plans must comply with the following requirements.

(1) The improvements must conform to the county design and construction standards.

(2) During installation, all improvements must be inspected by the department responsible for verifying their compliance with the approved construction plans and applicable county standards. The engineer, surveyor, or landscape architect of record must also inspect improvements during construction.

(3) The owner must notify the County Engineer at least 24 hours prior to beginning any work on streets or storm sewers. The owner must notify the Department of Public Utilities at least 48 hours prior to beginning any work on County water or sewer construction.

(4) The owner must have one set of approved plans, profiles, and specifications available at the site at all times when work is being performed. A designated responsible employee must be available for contact by county inspectors.

(5) All improvements must be installed within 24 months of construction plan approval unless the Planning Director approves a longer period due to the size or complexity of the project. The time for completion of improvements may be extended upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement.

(6) When all required improvements have been completed, the engineer, surveyor, or landscape architect who supervised construction must certify that all improvements have been installed in substantial conformance with the approved plans, specifications, and county requirements.

(7) When all required improvements have been completed and certified, the owner may request approval from the Planning Director, the County Engineer, and the Director of Public Utilities, authorizing the release of any financial guaranty which may have been furnished for the guarantee of satisfactory installation of the improvements. Within a reasonable time of the request, the Planning Director, the County Engineer, and the Director of Public Utilities will inspect the improvements. If the Planning Director, the County Engineer, and the Director of Public Utilities determine all improvements have been satisfactorily completed, they must authorize prompt release of the financial guaranty for the improvements.

(8) The installation of improvements as required in this section will not bind the county to accept the improvements for the maintenance, repair, or operation thereof. The county's acceptance of installed

improvements will be subject to all applicable regulations concerning the acceptance of each type of improvement.

(9) The county will install culvert pipe for private walkways or driveways without charge for labor when the applicant supplies pipe of approved material and size, not less than 16 feet in length.

(e) Completion of Required Public Improvements

Completion of required improvements or the provision of financial guarantees in accordance with Article 4, Division 2, Installation of Improvements or Surety, must be required prior to final approval of a plat for recordation.

(f) Recordation

If the final plat application is approved and upon the completion of all required improvements or the provision of financial guarantees for such in accordance with subsection (e) above, the Planning Director will sign the final plat for recordation provided by the applicant in accordance with the recording medium, inscription standards, and other technical requirements specified in the Administrative Manual. The applicant may file the signed plat for recordation in the clerk's office of the Circuit Court only while the approval is valid (see Sec. 19-2303C.4(g), Period of Validity.

(g) Period of Validity

If the approved final plat is not recorded within one year of the date of approval, the approval will automatically expire and will be null and void, and the plat will be marked void and returned to the Planning Director, unless one of the following occurs:

(1) The applicant may request and the Planning Director may grant an extension of this time period upon finding there have been no significant changes that would affect the outcome of the review process; or

(2) If construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the county, or if the applicant has furnished surety to the county by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation will be extended to the time limit specified in the surety agreement approved by the county if greater than one year after the date of approval of the final plat.

D. Final Plat Decision Standards

1. The Planning Director must approve a final plat application only on finding the final plat is in substantial conformity with the approved preliminary plat (if applicable) and is consistent with all applicable standards in this Ordinance, including Article 3: Design Standards, Article 4: Required Improvements, and Article 5: Cluster Subdivision, and the County Code.

2. The Planning Director must approve a final plat for recordation on determining all required public improvements have been completed and accepted, or a guarantee

has been accepted by the Planning Director, in accordance with Sec. 19-2303C.4(e), Completion of Required Public Improvements.

Sec. 19-2304 Minor Subdivision

A. Purpose

The purpose of this section is to establish a uniform mechanism for the submittal and review of minor subdivisions in accordance with the Code of Virginia.

B. Applicability

1. Approval of a minor subdivision in accordance with the procedure and standards in this section is allowed in-lieu of approval of a preliminary plat (see Sec. 19-2302), if applicable, and a final plat (see Sec. 19-2303), prior to the recording of a plat of subdivision in the Circuit Court for any of the following:

(a) Family subdivision that does not require construction plans;

(b) Division of a lot or parcel of land pursuant to a plan of development or site plan approved in accordance with the requirements of Chapter 24 of the County Code, if the division does not involve a new public street or an extension of an existing public street; and

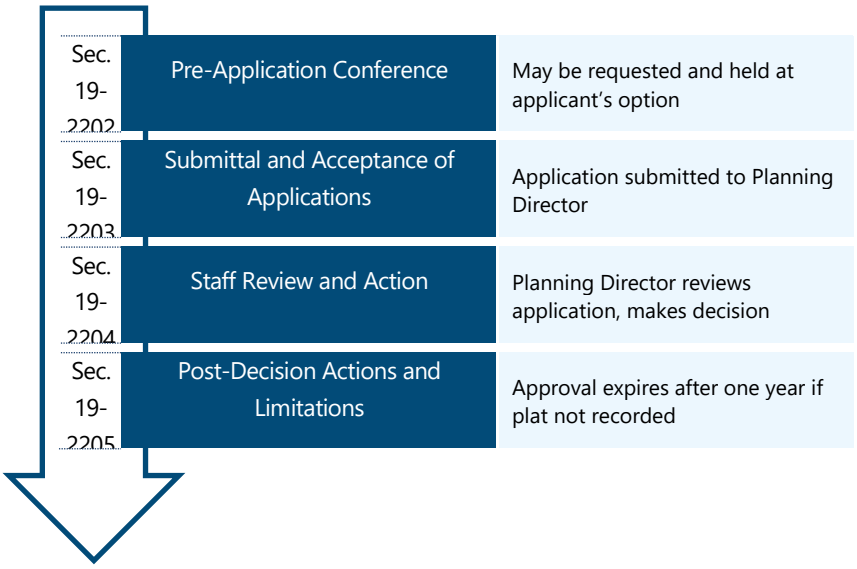
(c) Vacation, relocation, resubdivision, or other alteration of individual lots if no relocation or alteration of streets, alleys, easements for public passage, or public utilities, or other public areas is involved.

2. An application for a minor subdivision may be submitted and reviewed concurrently with an application for a plan of development in accordance with Chapter 24 of the County Code.

C. Minor Subdivision Procedure

This section sets forth the required procedure for a minor subdivision. Figure 2304 identifies the common procedures in Article 2, Division 2, Common Subdivision Review Procedures, that apply to a minor subdivision. Additions or modifications to the common procedures are identified below.

Figure 2304: Minor Subdivision



1. *Pre-Application Conference*

A pre-application conference may be requested and held at the applicant's option in accordance with Sec. 19-2202.

2. *Submittal and Acceptance of Applications*

The common procedures in Sec. 19-2203 apply.

3. *Staff Review and Action*

The common procedures in Sec. 19-2204 apply. The Planning Director will review and make a decision on the application in accordance with Sec. 19-2304D, Minor Subdivision Decision Standards. The Planning Director's decision on a minor subdivision application must be to approve or deny the application.

4. *Post-Decision Actions and Limitations*

The common procedures in Sec. 19-2205 do not apply to minor subdivisions. Instead, the follow requirements apply:

(a) Notice if Application Disapproved

If the Planning Director disapproves the application, the reasons for disapproval must be given to the applicant in a separate document or written on the minor subdivision plat itself. The reasons for disapproval must identify deficiencies in the plat by reference to specific duly adopted ordinances, regulations, or policies, and must identify the modifications or corrections necessary for approval.

(b) Recordation

If the Planning Director approves the application, the Planning Director will sign the minor subdivision plat provided by the applicant in accordance with the recording medium, inscription standards, and other technical

requirements specified in the Administrative Manual. The applicant may file the signed plat for recordation in the clerk's office of the Circuit Court only while the approval is valid (see Sec. 19-2304C.4(c), Period of Validity).

(c) Period of Validity

(1) If the approved minor subdivision plat is not recorded within one year of the date of approval, the approval will automatically expire, unless the applicant requests, prior to the expiration, and the Planning Director grants an extension of this time period.

(2) If the approved minor subdivision plat expires in accordance with subsection (1) above, the plat will be marked void and returned to the Planning Director.

5. *Common Procedures that do not Apply*

The common procedures in Sec. 19-2205, Post-Decision Actions and Limitations, do not apply to minor subdivision plat applications.

D. Minor Subdivision Decision Standards

The Planning Director must approve a minor subdivision application only on finding the following:

1. The minor subdivision plat is consistent with all applicable standards in this Ordinance, including Article 3: Design Standards, Article 4: Required Improvements, and Article 5: Cluster Subdivision, and all other applicable provisions of the County Code;

2. The minor subdivision plat is consistent with any valid plan of development approved for the land in accordance with Chapter 24 of the County Code;

3. If the minor subdivision involves the relocation or alteration of any private easements or utility rights-of-way, express consent to the relocation has been provided by all persons holding any interest therein; and

4. If the minor subdivision is a family subdivision:

(a) The minor subdivision is not for the purpose of circumventing this Ordinance;

(b) Only one such division will be allowed for each family member; and

(c) The owner of the land has placed a restrictive covenant on that portion of the original lot which is to be transferred by sale or gift pursuant to the family subdivision that prohibits subsequent transfer of ownership except to a member of the immediate family for a period of five years.

E. Vacation of Lot Lines by Deed Exhibit

As an alternative to the process set forth in this section, the boundary lines of any lot shown on a recorded plat of subdivision or resubdivision may be vacated by recording a deed of vacation. The deed of vacation must be signed by all the owners of the affected lots, include an exhibit plat signed by the Planning Director, and be approved on its face by the

Planning Director. No easements or utility rights-of-way located along any lot lines to be vacated may be extinguished or altered by this process. The word "owners" does not include lien creditors except those whose debts are secured by a recorded deed or trust or mortgage. The deed of vacation must be acknowledged in the manner of a deed and filed for record in the clerk's office.

ARTICLE 3:
DESIGN STANDARDS

Article 3 Design Standards

Division 1. Zoning Ordinance Standards

Sec. 19-3101 Compliance with Zoning Ordinance Standards

Except as otherwise provided in Sec. 19-3102 below, and subject to Article 5, Division 3, Cluster Subdivision Standards, subdivisions must comply with all applicable standards in Chapter 24 of the County Code.

Sec. 19-3102 Street Frontage Requirements Not Applicable to Family Subdivision

A family subdivision is exempt from public street frontage requirements in Chapter 24 of the County Code.

Division 2. Lot Standards

Sec. 19-3201 Lot Arrangement

The design, arrangement, and layout of lots and lot dimensions must meet all requirements of this Chapter and Chapter 24 of the County Code. In order to ensure orderly lot arrangement and dwelling orientation, the applicant must provide the following information for all lots:

A. Buildable area plans and proposed or existing dwelling placement and orientation on adjacent lots or properties. Buildable areas must be exclusive of private water or sewer facilities and must not overlap any other buildable area or parcel;

B. For lots not served by public utilities, the proposed location of wells and individual onsite sewage disposal systems, including reserve areas; and

C. A preliminary landscaping plan for buffer, screening, or planting strip easement.

Sec. 19-3202 Street Access

A. Except as otherwise provided in subsections C or D below, all buildable lots in a residential subdivision must front on a public street that complies with the standards in Article 3, Division 4, Street Standards, and that connects to an existing public street.

B. Lots designated for use as single-family detached dwellings must not abut more than one public street except as follows:

1. Corner lots, which abut two streets at their intersection. Where the front yard of a corner lot abuts a minor street and the street side yard abuts a street with a right-of-way greater than 60 feet in width, an easement up to 25 feet wide must be provided along the side street prohibiting access to the lot.

2. Double frontage lots may be approved pursuant to Sec. 19-2204B.4. In approving any application that would create or modify a double frontage lot, the Planning Director may require recordation of an easement prohibiting access to the lot along any lot frontage other than the primary access frontage identified on the plan or plat.

C. In a family subdivision, each lot must be served by a public street or a private drive that complies with Sec. 19-3405, Private Drive Standards. The public street or private drive must connect to an existing public street. All new dwellings must be located within 1,000 feet of a public street, as measured by the path of a vehicle traveling from the dwelling to the public street, unless the County Engineer determines a longer drive is necessary for reasonable division of the property and will not impair emergency access to existing or future dwellings.

D. In a townhouse development, each townhouse must have access through the development to a public street. In the R-5A General Residence District, each buildable lot must front on a public street, a private drive, or a private walkway.

E. Each common area must have access to a street without crossing a residential lot.

Division 3. Block Standards

Sec. 19-3301 Maximum Block Length

Except as otherwise provided in Sec. 19-3302 below, the average block length for a subdivision must not exceed 800 feet, and the length of a single block must not exceed 1,000 feet.

Sec. 19-3302 Approval of Greater Block Length

The County Engineer may approve a block length that does not comply with the standards in Sec. 19-3301 above if topography, the presence of steep slopes or wetlands, existing limited-access streets, or other physical obstacles make it impractical to meet these standards. In addition, the Planning Director may approve a deviation from the block length requirement to accommodate parks or dedicated open space or other similar large gathering spaces.

Division 4. Street Standards

Sec. 19-3401 General

Except as otherwise provided for family subdivisions in Sec. 19-3405, Private Drive Standards, all subdivisions must comply with the standards in Sec. 19-3402 through Sec. 19-3404 below.

Sec. 19-3402 Subdivision Access Points

A. Number of Access Points

1. Residential subdivisions must provide a minimum number of vehicular access points from the development to the street system outside the development in accordance with Table 3402: Required Access Points.

Table 3402: Required Access Points

Minimum Number of Vehicular Access Points	Development Type and Size [1]	
	Single-Family or Duplex	Townhouse or Multifamily
1	Fewer than 50 units	Fewer than 82 units
2	50 units or more	82 units or more

Notes:
[1] Including all phases of a multi-phase development.

2. The Planning Director, in consultation with the County Engineer, will approve a residential subdivision with fewer vehicular access points than required by Table 3402 if the applicant demonstrates any of the following:

(a) The provision of additional vehicular access points is not possible due to existing lot configurations, the absence of connecting streets, or environmental or topographical constraints;

(b) VDOT will not authorize additional vehicular access points and there is no reasonable alternative that avoids the use of the VDOT roads on which access is limited; or

(c) Alternative access can be provided in a manner that the County Engineer and Planning Director determine will support adequate vehicular circulation.

3. If a development is phased, the minimum number of vehicular access points must be provided before the development exceeds the corresponding upper boundary of units in Table 3402.

B. Access Point Location

1. Access points must be at least 150 feet from other access points along minor collector and major access streets, and at least 250 feet from other access points along major collector and arterial streets. The access points must be measured from the near edge of pavement of the existing access point or road to the centerline of the new access point.

2. On undivided streets, access points must be aligned with access points located across the street when the access points are within 150 feet from each other on minor collector and major access streets, and within 250 from each other on major collector and arterial streets.

C. Access Point Design

1. On two-way streets providing access to a subdivision, medians may be used to separate opposing traffic flows. Medians must be at least 50 feet long and have a width of between four and 16 feet.

2. One-way streets providing access to a subdivision must be between 18 and 20 feet wide.

Sec. 19-3403 Street Layout Standards

Streets and alleys must be laid out in accordance with the following standards:

A. All streets within a subdivision must substantially correspond to existing and planned streets shown on the current major thoroughfare plan.

B. To the maximum extent practicable, the arrangement of streets in a subdivision must provide for the continuation or appropriate extension of existing principal streets in surrounding areas, including streets in existing or approved adjacent subdivisions. Reserved strips of land that block access from future streets or lots to public streets are prohibited except when the reserved strips are owned, held, or controlled exclusively by the county, or unless they are part of landscaping installed in accordance with the requirements of this chapter or Chapter 24 of the County Code.

C. To the maximum extent practicable, streets must be laid out in a predominantly gridded pattern, taking into consideration existing site topography, existing streets that adjoin the site, potential for through traffic, and the uses proposed in the subdivision.

D. Unless it is not practical to do so, residential development must employ measures to interrupt direct vehicle flow on minor street segments over 800 feet long, including mini-roundabouts at intersections; curvilinear street segments to slow traffic and interrupt monotonous streetscapes; and traffic-diverting physical devices such as neckdowns, chicanes, and diverter islands. On roads wider than 24 feet, installations that narrow the street and extend curbs toward the road centerline, such as bulb-outs and chicanes, must be employed where practicable for traffic calming and to reduce crossing distance for pedestrians.

E. Where alleys are required by Chapter 24 of the County Code, the subdivision must include alleys meeting those requirements.

Sec. 19-3404 Street Design Standards

A. General

All public and private streets must comply with the following standards:

1. Street design must comply with the Cross-Section Pavement Design Standards maintained by the Department of Public Works.
2. The right-of-way width must be at least 50 feet unless an exception is granted by the County Engineer.
3. Street jogs on public or private streets with centerline offsets of less than 150 feet are prohibited, unless the County Engineer determines that a lesser offset will not increase conflicts or reduce safety for pedestrians, bicyclists, or vehicles.
4. Minor streets within residential subdivisions must be designed to have a maximum speed of 25 miles per hour.

B. Cul-de-Sac Streets

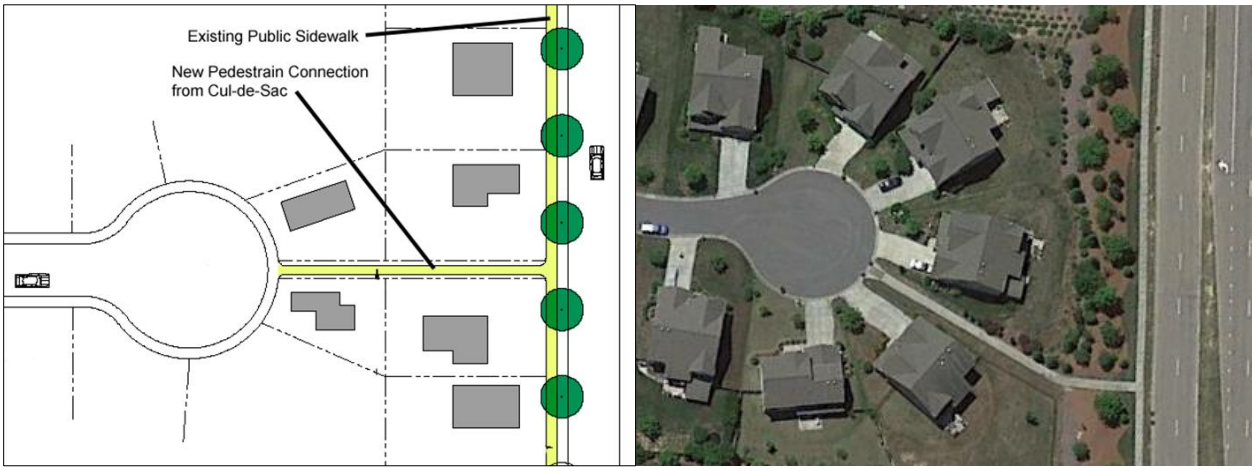
1. Dead-end streets must be terminated in a temporary cul-de-sac or other approved turnaround. When the street is extended, the turnaround easement will revert to the adjacent property owners.
2. The length of a road that terminates in a cul-de-sac must not exceed 800 feet, measured from the intersection of street centerlines to the end of the cul-de-sac street centerline.

3. A right-of-way at least eight feet wide must be provided in a single-family or two-family residential subdivision for pedestrian access between a cul-de-sac head or street turnaround and the sidewalk system of the closest street or pedestrian path (as shown in Figure 3404: Pedestrian Connections) if:

(a) The cul-de-sac head is within one-quarter mile of significant pedestrian generators or destinations such as schools, parks, trails, greenways, employment centers, mixed use development, retail centers, or similar features; and

(b) The pedestrian connection can be reasonably achieved and connected to an existing or proposed sidewalk, trail, greenway, or other type of pedestrian connection.

Figure 3404: Pedestrian Connections



C. Sidewalks

Sidewalks must comply with the Cross-Section Pavement Design Standards maintained by the Department of Public Works. Sidewalks need not be provided when an alternative such as a greenway or multi-purpose trail offering similar quality of pedestrian connection makes a sidewalk unnecessary or environmental or topographical features make a sidewalk impractical.

D. Curb and Gutter

Curb and gutter must be installed in accordance with the Cross-Section Pavement Design Standards maintained by the Department of Public Works and with Code of Virginia § 15.2-2021. Curb and gutter must be installed on both sides of each street in a subdivision if:

1. Any block of any street is constructed with a grade of five-tenths percent or less within the block;

2. Twenty-five percent of the streets within a subdivision have a grade of one percent or less;

3. Twenty-five percent of the lots in the subdivision have a street frontage of less than 80 feet; or

4. The County Engineer determines curb and gutter are necessary to control the flow of storm water.

Sec. 19-3405 Private Drive Standards

A private drive serving one or more lots in a family subdivision must comply with the following standards unless the County Engineer determines that a drive that meets alternative standards would provide safe access and be no less durable:

A. The private drive must not serve more than three lots.

B. The private drive must be located within a recorded easement or private right-of-way a minimum of 30 feet wide, unobstructed from the ground up. In addition, the plat must designate utility easements as required by the Department of Public Utilities.

C. All trees, roots, vegetation, loam, humus, and other organic material must be stripped to below the base course for the full width of the roadway and replaced with suitable fill material which must be compacted in lifts not exceeding 12 inches in depth to a minimum CBR value of 10. Adequate drainage must be provided to convey all surface runoff and groundwater away from the roadway.

D. The driving surface must be at least 18 feet wide, constructed of six inches of compacted #21-A stone, or equivalent as approved by the County Engineer.

E. The assigned address of dwellings served by the private drive must be clearly posted at the intersection of the private drive and the public street and at the end of every driveway where it intersects the private drive.

F. The property owner must record a joint access and maintenance agreement approved as to form by the County Attorney and signed by the owners of all lots to be served by the private drive. At a minimum, the agreement must provide for access by all lots to be served by the private drive and for the allocation of the cost of necessary maintenance among the owners of such lots. The agreement must be binding on the successors in interest of all signatories. The Planning Director may accept an agreement that lacks the signature of one or more lot owners on finding the applicant has made a good-faith effort to obtain such signature(s).

Division 5. Utility and Drainage Easements

Sec. 19-3501 Easements to be Provided

A subdivision plat must provide easements of sufficient size, at least 20 feet wide for the installation of surface and underground utilities and at least 16 feet wide for surface drainage, whenever necessary to provide for utilities and drainage in the subdivision or areas beyond its boundaries.

Sec. 19-3502 Easements for Drainage and Infrastructure

If a subdivision is traversed by infrastructure installed to aid natural drainage and does not substantially change the course of water flow, the plat must provide an easement which includes the boundaries of such infrastructure sufficiently wide to maintain and support needed drainage and utilities.

Sec. 19-3503 Easements for Reasonable Access to Sanitary Sewer

Easements must be provided for county sanitary sewer access to all lots within a subdivision that the Department of Public Utilities determines do not currently but are likely to have reasonable access to a county or sanitary sewer main.

Division 6. Special Flood Hazard Areas and Wetlands

Sec. 19-3601 Special Flood Hazard Areas

Any subdivision of lands in the Special Flood Hazard Area must comply with the standards in Chapter 10 of the County Code. The limits and elevation of the Special Flood Hazard Area must be conspicuously noted and labeled on the plat and the construction plans.

Sec. 19-3602 Wetlands

Any wetlands in a subdivision that are under the jurisdiction of the US Army Corps of Engineers must be conspicuously noted and labeled on the construction plans. Disturbance outside of designated wetland impact areas will require approval from the U.S. Army Corps of Engineers and the Virginia Department of Environmental Quality.

ARTICLE 4:
REQUIRED IMPROVEMENTS

Article 4 Required Improvements

Division 1. Required Improvements

Sec. 19-4101 Monuments

Monuments must be installed in all subdivisions at all block corners, angle points, and radial points of curves in public streets, and at intermediate points along public streets where monuments cannot readily be seen one from the other. The materials, design, and exact location of such monuments must be approved by the County Engineer. The monuments must be installed to approved grades where practicable. The replacement of any monuments removed or destroyed during the development of the subdivision will be the responsibility of the subdivider. Monuments are not required to be installed on block corners adjacent to townhouses that do not abut a public street.

Sec. 19-4102 Streets

Streets must be constructed in accordance with Article 3, Division 4, Street Standards and the Cross-Section Pavement Design Standards maintained by the Department of Public Works. Stop signs at street intersections, road striping to limit vehicular lane widths, and similar measures must be used to interrupt direct vehicle flow on minor street segments over 800 feet long. Raised crosswalks must be used at mid-block crossings as required by the County Engineer to protect the safety of pedestrians.

Sec. 19-4103 Stormwater Drainage System

The subdivider must provide a stormwater drainage system approved by the County Engineer to serve the area of the subdivision and the contributing drainage area in accordance with county design standards and specifications.

Sec. 19-4104 Water Supply

The subdivider must provide every subdivision with a complete water distribution system, including fire hydrants, approved by the Director of Public Utilities or the Director of Health, as appropriate, in accordance with county design standards and specifications as follows:

A. If the Planning Director determines that a county water main is reasonably accessible, the subdivider must provide a complete water distribution system, including fire hydrants, including a lateral connection for each lot; or

B. If the Planning Director determines that a county water main is not reasonably accessible, the subdivider must provide a private water well that complies with all applicable regulations for each lot in the subdivision.

Sec. 19-4105 Sewage Disposal

The subdivider must provide every subdivision with a means of sewage disposal approved by the Director of Public Utilities or Director of Health, as appropriate, in accordance with county design standards and specifications as follows:

A. If the Planning Director determines that a county sanitary sewer main is reasonably accessible, the subdivider must provide a complete sanitary sewer system connected with such sewer main, including a lateral connection for each lot; or

B. If the Planning Director determines that a county sanitary sewer main is not reasonably accessible, the subdivider must provide for the disposal of sanitary waste by individual onsite sewage disposal systems that comply with the requirements in Chapter 23, Article II, Division 2 of the County Code, and with all other applicable state regulations, for each lot in the subdivision.

Sec. 19-4106 Electricity, Telephone, and Similar Utilities

All utilities, poles or underground conduits for electric power lines, telephone lines and similar services must be placed in alleys or easements provided along the rear or side lines, whenever this is possible, in accordance with county design standards and specifications. Where possible, the subdivider must provide common or shared easements. All development activity within easements must be coordinated with applicable public service corporations and the Department of Public Works and the Department of Public Utilities to minimize land disturbing activities. Subdivision construction plans must include the protection and restoration of disturbed areas in accordance with applicable provisions of Article II of Chapter 10 and Article 5, Division 8, Chesapeake Bay Preservation of Chapter 24 of the County Code. Except for electrical transmission mains, junction boxes, and meters, all new utilities must be installed underground, unless the Planning Director approves above-ground utilities for technical or environmental reasons.

Sec. 19-4107 Street Name Signs

The subdivider must erect street name signs at each highway, thoroughfare, or street intersection in a subdivision at locations approved by the County Engineer in accordance with county design standards and specifications.

Sec. 19-4108 Terminus of Stub Roads and Other Streets

The Planning Director may require the subdivider to provide appropriate signage at the terminus of stub roads and other streets within the subdivision that indicates that the road is subject to future extension.

Sec. 19-4109 Erosion and Sediment Control

Development disturbing a land area of 2,500 square feet or more must comply with requirements for erosion and sediment control in accordance with Article II of chapter 10 of the County Code.

Sec. 19-4110 Access to Private Cemetery or Graveyard

When new development is adjacent to or encompasses a private cemetery or graveyard, access must be provided by either a public right-of-way or a private accessway at least 20 feet in width extending from the cemetery or graveyard to a public street. The access must be improved with an all-weather surface compatible with the new development. The proposed development must be separated from the cemetery or graveyard by a fence between 36 and 42 inches in height meeting the requirements of Chapter 24, Article 5, Division 4, Fences and Walls. In the R-5A District, the nearest residential lot must be at least 20 feet from the cemetery or graveyard.

Division 2. Installation of Improvements or Surety

Sec. 19-4201 General

Prior to final approval of a plat for recordation, the subdivider must complete all required public improvements or provide for their completion by providing a guarantee approved as to form by the County Attorney and substance by the Planning Director in the form of a certified check, surety bond, or bank or savings and loan association's letter of credit, in accordance with Sec. 19-4201 through Sec. 19-4203 below, and subject to Code of Virginia § 15.2-2241.1.

Sec. 19-4202 Amount of Guarantee

The amount of the guarantee will include the estimated cost of construction of all required improvements based on unit prices for new public or private sector construction in the county, plus a reasonable allowance of up to ten percent of the estimated construction cost for estimated administrative costs, inflation, and potential damage to existing roads or utilities. The amount of financial guarantee required by the county may be increased based on cost increases if the project is not completed within two years from the date the financial guarantee is accepted.

Sec. 19-4203 Completion of Improvements by Subdivider

A. Upon the subdivider's written request and in accordance with subsection B below, the Planning Director will make periodic partial releases of guarantees based upon the percentage of facilities completed and approved by the county department or state agency having jurisdiction. Such periodic partial releases will not:

1. Occur before the completion of at least 30 percent of the facilities covered by the guarantees;
2. Exceed cumulatively 90 percent of the original amount for which the guarantees were taken; or
3. Exceed three releases in any 12-month period.

B. The subdivider's written request for release of guarantees must be in the form of a letter to the Planning Director requesting reduction or a partial or full release of the guarantee along with a certificate of completion by a licensed engineer and a set of as-built plans if requested. Within 30 days of receipt of such a request, the Planning Director will notify the subdivider in writing of any specified defects or deficiencies in construction and suggested corrective measures. If no action is taken by the Planning Director within the 30-day period with respect to a request for a final release, the subdivider may send an additional request in writing sent by certified mail, return receipt requested, to the County Manager. The Planning Director will have ten working days after receipt of the second request for final release to act, and, if no action is taken, the request will be deemed approved and final release granted to the subdivider.

C. Upon final completion and acceptance of the required improvements, the Planning Director will release any remaining bond, letter of credit, or other guarantee to the subdivider. For the purpose of release, the term "acceptance" means when the improvements are accepted for maintenance by the state agency, local government department, or other public authority responsible for maintaining and operating the improvements upon acceptance.

Sec. 19-4204 Completion of Improvements by County

All required improvements must be completed within two years of recordation of the plat, unless the Planning Director approves a longer time based on the subdivider's estimate. The Planning Director may subsequently extend such period of time on receiving a written request from the subdivider. If required improvements are not completed within the established time period and any extension of that period by the Planning Director, the Planning Director will arrange for completion of the improvements using the financial guarantee. If the owner or developer defaults on construction of required improvements and the improvements are constructed with the financial guarantee, the county will retain or collect the allowance for administrative costs to the extent the costs of such construction do not exceed the total of the originally estimated costs of construction and the allowance for administrative costs.

Division 3. Acceptance of Streets into County Road System

Sec. 19-4301 Street Dedication

Streets may be dedicated for public use by recordation of a subdivision plat in accordance with this Ordinance. Dedication gives the county fee simple title to the dedicated streets but does not require the county to construct or maintain them. Dedicated streets may be constructed and maintained by private parties, and the county will have no responsibility for them until it has accepted the streets into the county road system in accordance with Sec. 19-4302 below.

Sec. 19-4302 Method of Acceptance

Streets are accepted into the county road system by resolution of the Board of Supervisors after inspection by the County Engineer in accordance with Sec. 19-4303 below.

Sec. 19-4303 Construction Requirements for Acceptance

Only streets constructed in accordance with the following requirements will be accepted into the county road system:

A. Width of Right-of-Way

Right-of-way must have a minimum width of 50 feet unless otherwise approved by the County Engineer.

B. Streets

Streets must be constructed in accordance with Article 3, Division 4, Street Standards and the Cross-Section Pavement Design Standards maintained by the Department of Public Works.

C. Installation of Public Utilities

All planned public utilities, including pipelines for utilities, must be installed in accordance with county standards and specifications. During the pipeline installation process, no more than 600 feet of ditch may be open at any one time, no more than one intersection may be blocked, and no concrete (Portland cement or bituminous) pavements may be cut without the County Engineer's written approval, except in cases of emergency. Where it is necessary

to expose pipe for emergency repairs, no more than 20 feet of ditch may remain open overnight.

D. Installation of Sidewalks and Curb and Gutter

Sidewalks and curb and gutter must be installed in accordance with Sec. 19-3404C, Sidewalks.

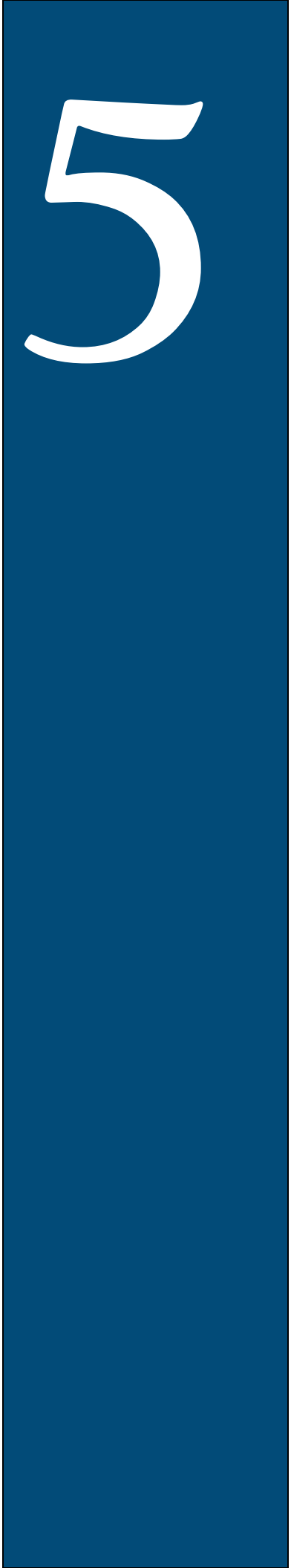
E. Storm Drainage System

A stormwater drainage system approved by the County Engineer and adequate to serve the area of the subdivision and the contributing drainage area must be constructed in accordance with county design standards and specifications.

F. Surfacing

All streets must be hard-surfaced with an asphalt or concrete material in accordance with county standards and specifications. Prior to any surfacing, the applicant must obtain inspection and approval of roadway grading, and authorization to commence surfacing, by the County Engineer.

ARTICLE 5:
CLUSTER SUBDIVISION



Article 5 Cluster Subdivision

Division 1. General Provisions

Sec. 19-5101 Purpose

The purpose of this article is to establish procedures and standards for cluster subdivision in order to preserve the character of rural areas within the county through clustering of development while preserving large tracts of open space for conservation or agricultural uses. In particular, this article is intended to:

A. Support the conservation of important site features in rural areas in the county, such as agricultural uses, open spaces, and preserved wooded areas;

B. Protect the character of rural areas in the county in accordance with the county's comprehensive plan;

C. Prioritize site characteristics for conservation; and

D. Provide additional development flexibility to allow single-family residential development on smaller lots in exchange for the preservation of agricultural activities, natural features, or both.

Sec. 19-5102 Applicability

Lands classified in the A-1, R-0, R-0A, or R-1 zoning districts may be developed in accordance with this article.

Division 2. Cluster Subdivision Procedure

Sec. 19-5201 General

Cluster subdivisions will be reviewed and decided in accordance with the procedures and standards in Sec. 19-2302 , Preliminary Plat, and Sec. 19-2303, Final Plat, except as modified by this article.

Sec. 19-5202 Development of Cluster Subdivision Plan

A. General

Prior to review of an application for a preliminary plat, the applicant must prepare and the Planning Director will approve a Conservation and Development Plan in accordance with subsections B and C.

B. Conservation and Development Plan

The Conservation and Development Plan must be prepared by completing the four steps below in the order listed:

1. *Step 1: Site Analysis Map*

The applicant must first prepare a site analysis map, which must include information about existing site conditions and provides an initial designation of the portions of the site that are primary conservation areas (such as floodplains and wetlands), the portions that are secondary conservation areas (such as agricultural land and natural resources), and areas that would be developed. The map must incorporate natural resource data provided by the county's Geographic Information Systems (GIS) Office and the Department of Public Works, and must identify the following:

(a) Existing grades at two-foot contours; and

(b) Areas and features identified in Sec. 19-5303A, Areas and Features to be Preserved, that are present on the site.

2. *Step 2: Site Inspection*

After submission of the site analysis map, the Planning Director will schedule a site inspection of the land. The applicant or a representative must attend the site inspection with a member of the Planning Department staff. The purpose of the site inspection is to:

(a) Familiarize Planning Department staff with the existing site conditions and natural and historic features of the site;

(b) Identify features omitted from the site analysis map and other potential site development issues;

(c) Identify and evaluate potential scenic view sheds; and

(d) Provide an opportunity for the applicant and Planning Department staff to discuss site development concepts, including the general layout of conservation areas and potential locations for proposed structures, utilities, streets, and other development features. Any comments made by Planning Department staff during the site inspection will be construed as suggestions; no commitments or decisions will be made during the site inspection.

3. *Step 3: Conservation and Development Areas Map*

Based on the site analysis map and the information gathered during the site inspection, the applicant must prepare a map that identifies the areas proposed to be conserved and areas proposed to be developed on the site, in accordance with Sec. 19-5303B, Conservation Area Delineation. The minimum percentage of the site identified in Sec. 19-5301, Minimum Conservation Area, must be included within the conservation area.

4. *Step 4: Conservation and Development Plan*

After the Planning Director has approved the delineation of conservation areas, the applicant must prepare a Conservation and Development Plan, which must include the site analysis map, information gathered during the site inspection, and the map of conservation and development areas. The Plan must be submitted to the Planning Director and must include the following:

(a) A site analysis map;

(b) A conservation and development areas map; and

(c) A preliminary site improvements plan showing proposed site development, including:

(1) Areas proposed for conservation;

(2) Conceptual locations for proposed roads and trails;

(3) Conceptual locations for lot lines, setbacks, and proposed dwellings within designated areas; and

(4) Areas for stormwater management facilities, if any, and the type of facility proposed.

C. Plan Review and Decision

1. Upon receipt of a Conservation and Development Plan, the Planning Director will review and make a decision in accordance with Sec. 19-2204, Staff Review and Action. The Planning Director will approve the Conservation and Development Plan, or approve it subject to conditions, on finding that it complies with the requirements in Sec. 19-5202B, Conservation and Development Plan, with the requirements in Article 5, Division 3, Cluster Subdivision Standards, and with all other requirements for approval in this chapter. Any conditions of approval imposed by the Planning Director must be in furtherance of the purposes of the Chapter and must be related in both type and amount to the anticipated impacts of the proposed development on the public and surrounding lands.

2. Approval of the Conservation and Development Plan will remain valid for two years from the date of approval. The Planning Director may extend the period of approval for a Conservation and Development Plan two times for up to two years each time upon receipt of a written request received prior to the expiration of the approval if the Planning Director determines the applicant has not unduly delayed the filing of a preliminary plat.

Sec. 19-5203 Preliminary Plat

Following review and approval (or approval subject to conditions) of a Conservation and Development Plan, the applicant may submit an application for a preliminary plat in accordance with Sec. 19-2302, Preliminary Plat. The Planning Director will approve a preliminary plat for a cluster subdivision only on finding the plat substantially conforms with the approved Conservation and Development Plan and complies with the standards in Article 5, Division 3, Cluster Subdivision Standards, and the standards in Sec. 19-2302D, Preliminary Plat Decision Standards.

Division 3. Cluster Subdivision Standards

Sec. 19-5301 Minimum Conservation Area

A minimum of 50 percent of the gross land area in a cluster subdivision must be set aside as conservation area, in accordance with Sec. 19-5303 below.

Sec. 19-5302 Dimensional Standards

Within a cluster subdivision, the dimensional standards established for each zoning district in Article 3, Zoning Districts, of Chapter 24 of the County Code will apply, except as modified by Table 5402: Cluster Subdivision Dimensional Standards.

Table 5302: Cluster Subdivision Dimensional Standards

Dimensional Standard	Zoning District			
	A-1	R-0	R-0A	R-1
Lot size, minimum (square feet)	20,000	20,000	17,500	12,500
Lot width, minimum (feet)	80	80	80	80
Front yard, minimum (feet)	25	25	25	25
Interior side yard, minimum (feet)	15	15	10	10
Street side yard, minimum (feet)	50	50	50	50
Rear yard, minimum (feet)	25	25	20	20

Sec. 19-5303 Conservation Area Standards

A. Areas and Features to be Preserved

The areas and features identified below will be credited toward compliance with the minimum conservation area required by Sec. 19-5301 above. To the maximum extent practicable, conservation areas must be located and organized to include, protect, and enhance as many of the following areas and features as possible, in the following general order of priority:

1. Lands with active agricultural uses and activities;
2. Primary conservation areas, which include Chesapeake Bay Preservation Areas, the 100-year floodplain, all wetlands, and all areas having slopes of 15 percent or greater that are adjacent to Chesapeake Bay Preservation Areas, the 100-year floodplain, or wetlands;
3. Mature woodland areas;
4. Rivers and stream corridors;
5. Groundwater recharge areas;
6. Hedgerows, freestanding trees, or tree groups;
7. Scenic resources including view sheds;
8. Historic resources;
9. Other unique characteristics on the site; and
10. Any areas or features not listed in subsections 1 through 9 above that are identified in Article 5, Division 2, Required Open Space, of Chapter 24 of the County Code as counting towards open-space set-aside requirements.

B. Conservation Area Delineation

The following principles apply to the delineation of conservation areas in a cluster subdivision:

1. The area of the site required for a conservation area will be determined based on the priorities established in the review of the Conservation and Development Plan and may include areas of the site not otherwise specifically identified in subsection A above.
2. The conservation area should be contiguous and not divided among parcels, to the maximum extent possible. Fragmentation of the conservation area into small, irregularly shaped pieces is prohibited.
3. Conservation areas must connect with existing and potential conservation areas on abutting sites, to the maximum extent possible, to encourage corridors of compatible site characteristics, unless it is found to be impractical due to topography, spacing, existing natural barriers, or the prioritization of the lands indicated in the conservation area.
4. Naturally contiguous conservation areas must not be divided for the sole purposes of obtaining allowable density.
5. Farm structures and rural vistas must be retained, whenever possible.
6. The layout and location of lots must be designed to minimize potential adverse impacts on existing farm operations.
7. A single dwelling unit may be located on the same parcel as a conservation area.
8. Septic recovery areas and stormwater management facilities may be located on the same parcel as a conservation area maintained by a homeowners' association if there is no adverse impact to the character of that area of land and in accordance with the following:
    - ***(a)*** Acceptable stormwater facilities include farm ponds, bioretention ponds, naturally contoured ponds, and wet ponds with wetland edges and no visible structures. Stormwater facilities should not include typical dry ponds with associated steep slopes, dams, mowed areas, fencing, or prominent overflow structures.
    - ***(b)*** A septic recovery area may be located in a conservation area if it is demonstrated that the development area cannot support these facilities and it is designed to appear to be part of the existing landscape.
    - ***(c)*** Community drainfields are prohibited.

C. Allowable Uses

Uses allowed in conservation areas (see Chapter 24 of the County Code for definitions) will be limited to the following:

1. Agricultural Uses, except farm machinery sales, rental and service, and stockyard or slaughterhouses;
2. Unpaved trails, walkways, and boardwalks;
3. Docks or boat launches;
4. Above-ground and below-ground public utilities and associated easements, provided no feasible alternative exists;
5. Streets that provide access to the cluster subdivision; and
6. Street or driveway crossings.

D. Ownership and Maintenance of Conservation Areas

Conservation areas must be owned and controlled by an individual, homeowners' association, public or private organization, land trust, or corporation. Prior to approval of

the final plat, a conservation easement that meets the requirements of this section must be recorded in the County's land records for each conservation area. The conservation easement must be referenced on the final plat by deed book and page number. Conservation areas in cluster subdivisions do not necessarily comply with conservation area requirements for stormwater management.

E. Conservation Easement Requirements

1. The conservation easement must be approved by the County Attorney as to form, must run with the land, and must be in full force and effect in perpetuity.

2. The conservation easement must include the following:

(a) Details of the location, size, and purpose of the conservation area;

(b) Information about existing improvements on the conservation area;

(c) An agreement by which the owner assumes all responsibility for maintenance and continued protection of the conservation area; and

(d) Provisions that:

(1) Prohibit future development of the conservation area;

(2) Prohibit future subdivision of the conservation area;

(3) Provide for maintenance and ownership of the conservation area;

(4) Assign responsibility for enforcement of the easement; and

(5) Provide for succession in the event that one of the parties to the easement should be dissolved.

3. Regardless of who owns a conservation area, at least one of the following must be a party to the easement in addition to the landowner:

(a) A property owners' association that comprises owners of property in the subdivision; or

(b) A land conservation organization that is qualified to manage conservation easements in accordance with the Virginia Conservation Easement Act, Code of Virginia §§ 10.1-1009 et seq.

Sec. 19-5304 Development Area Standards

A. General

1. The development standards in this chapter and Chapter 24 of the County Code apply to cluster subdivisions, as supplemented by the provisions below.

2. Except as otherwise provided by this article, all individual residential lots, dwellings, recreational facilities, utilities, easements (other than the conservation easement in Sec. 19-5303 above), and streets serving individual lots and recreational facilities must be located in the development areas.

B. Subdivision Layout Standards

1. Lots designated as buildable lots for single-family dwellings must be located a minimum of 40 feet from any environmentally regulated area, including woodland conservation areas.

2. Individual streets must be designed to maintain the existing grade, to the maximum extent practicable.
3. Existing farm roads and driveways must be incorporated into the internal street or trail design, where possible.
4. Lots designated as buildable lots for single-family dwellings and dwellings located on the lots must be arranged and sufficiently set back to preserve views of the site characteristics from streets and abutting lands.
5. Access to all lots used for single-family dwellings must be from streets interior to the subdivision.
6. Lots designated as buildable lots for single-family dwellings must not be located in the center of open fields or on a ridgeline, unless topographic, environmental, or other conditions necessitate that they be located there.
7. Dwellings and streets must be located at the edges of woodlands and situated in a manner that will maximize the amount of contiguous wooded area left intact.
8. Except to provide access to the cluster subdivision, proposed street and driveway crossings through wetlands, floodplains, and steep slopes are prohibited unless the crossing will provide a more efficient lot and street layout that provides less net disturbance of these features than an alternative layout.
9. Trees on ridgelines must be preserved, to the maximum extent practicable.

C. Lot Design Standards

1. Buildings and driveways must be sited to maintain the existing grade as much as possible.
2. Dwellings should be sited to avoid the rear of the dwelling being oriented toward the front of other dwellings and external streets. A landscape plan may be required to provide for the buffer of views of the rear and sides of dwellings from all streets and easements, and the fronts of other dwellings.
3. Direct driveway access for individual lots onto external streets must be avoided unless necessary for safety reasons, environmental preservation, or similar benefit.
4. Large expanses of driveways and parking areas must not be visible from the external streets and abutting lands.

D. Stormwater Management Standards

To the maximum extent practicable, low-impact stormwater management designs must be used to satisfy the stormwater management requirements of Chapter 10 of the County Code. Low-impact stormwater management includes the use of existing hydrological site features; the reduction of impervious surfaces such as streets, curbs, and gutters; decreasing the use of storm drain piping, inlet structures; and eliminating or decreasing the size of stormwater ponds. Such integrated management practices may include bioretention, dry wells, filter buffer, infiltration trenches, and similar techniques.

ARTICLE 6: ENFORCEMENT

6

Article 6 Enforcement

Division 1. General Provisions

Sec. 19-6101 Role of Planning Director

The Planning Director is responsible for the enforcement of this Ordinance

Sec. 19-6102 Compliance Required

A. No person may subdivide land without making and recording a plat of the subdivision and without fully complying with the provisions of this Ordinance and the Code of Virginia.

B. No plat of any subdivision will be recorded unless and until it has been submitted and approved in accordance with this Ordinance.

C. No person may sell or transfer any land of a subdivision before a plat has been duly approved and recorded as provided in this Ordinance, unless the subdivision was lawfully created prior to September 1, 2021. However, this Ordinance will not be construed to prevent the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

D. No subdivision may be approved until the proposed subdivision complies with all procedures and standards of this Ordinance, all applicable requirements of Chapter 24 of the County Code, all other applicable requirements of the County Code, and all applicable requirements of state and federal law.

E. No development approvals or permits in accordance with Chapter 24 of the County Code may be approved unless the proposed development complies with this Ordinance.

Division 2. Penalties

Sec. 19-6201 Fine

The violation of any provision of this Ordinance will be punished by a fine of not more than $500.00 for each lot or parcel of land subdivided, transferred, or sold.

Sec. 19-6202 Civil Enforcement

A. In addition to fines in accordance with subsection Sec. 19-6201 above, the county may seek to:

1. Enjoin the transfer, sale, or agreement to sell land in violation in any court of equity; or
2. Recover the fine by civil action in a court of competent jurisdiction.

B. In addition, appropriate actions may be taken by the county, and proceedings may be taken in equity to prevent any violation of this Ordinance and to prevent any unlawful construction; to recover damages; to restrain, correct, or abate a violation; or to prevent illegal occupancy

of a building, structure, or premises. These remedies will be in addition to the penalties and remedies described elsewhere in the County Code.

ARTICLE 7: DEFINITIONS

Article 7 Definitions and Rules for Interpretation

Division 1. General Rules for Interpretation

Sec. 19-7101 Applicability

The rules in this article will apply for construing or interpreting the terms and provisions of this Ordinance.

Sec. 19-7102 Meanings and Intent

All provisions, terms, phrases, and expressions contained in this Ordinance will be interpreted in accordance with the general purposes set forth in Sec. 19-1104, General Purpose and Intent, and the specific purpose statements set forth throughout this Ordinance. When a specific section of these regulations gives a different meaning than the general definition provided in this article, the specific section's meaning and application of the term will control.

Sec. 19-7103 Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text will control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

Sec. 19-7104 Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms like "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

Sec. 19-7105 Computation of Time

When a notice is required to be given, the day of such notice will not be counted against the time allowed, but the day on which such act is performed may be counted as part of the time. When the last day for any act to be done falls on a Saturday, Sunday or legal holiday, or any day on which county offices are closed, the act may be done on the next day that county offices are not closed.

Sec. 19-7106 References to Other Regulations or Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it will mean a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

Sec. 19-7107 Delegation of Authority

A. Any act authorized by this Ordinance to be carried out by the Planning Director may be delegated by the Planning Director to a professional-level county employee.

B. Any act authorized by this Ordinance to be carried out by the County Engineer may be delegated by the County Engineer to a professional-level county employee.

Sec. 19-7108 Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the County of Henrico, Virginia, unless otherwise indicated.

Sec. 19-7109 Mandatory and Discretionary Terms

The word "must," is mandatory, establishing an obligation or duty to comply with the particular provision. The words "should" and "may" are permissive.

Sec. 19-7110 Conjunctions

Unless the context clearly suggests the contrary, conjunctions will be interpreted as follows:

"And" indicates that all connected items, conditions, provisions or events apply; and

"Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

Sec. 19-7111 Tenses and Plurals

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

Sec. 19-7112 Term Not Defined

If a term used in this Ordinance is not defined in this Ordinance, the Planning Director is authorized to interpret its meaning based on the definitions used in accepted sources, including A Planner's Dictionary and Merriam-Webster, American Heritage, Webster's New World, and New Oxford American dictionaries.

Division 2. Rules for Measurement, Calculation, and Exceptions

Sec. 19-7201 Incorporation by Reference

The rules for measurement, calculation, and exceptions in Article 8, Division 3 of Chapter 24 of the County Code are incorporated by reference into this article and apply to this Ordinance.

Division 3. Definitions

Sec. 19-7301 Terms Defined

The following words, terms, and phrases, when used in this Ordinance, will have the meaning ascribed to them in this section.

Administrative Manual

A document prepared by the Planning Director in accordance with the requirements in Chapter 24 of the County Code and this Ordinance, that contains requirements for application contents and forms, submittal schedules, and fees, and which may contain additional information relevant to the submittal and review of subdivision and other development applications.

Alley

An accessway less than 30 feet in width, usually designed to provide secondary ingress and egress to the rear or side of property.

Board of Supervisors

The Board of Supervisors of Henrico County, Virginia.

Circuit Court

The Henrico Circuit Court for the 14th Judicial Circuit of Virginia.

County

Henrico County, Virginia, unless the term is used in conjunction with another county.

County Attorney

The County Attorney of Henrico County, Virginia.

County Code

The Code of Ordinances of the County of Henrico, Virginia.

County Engineer

The Director of the Department of Public Works of Henrico County, Virginia.

Department of Public Works

The Department of Public Works of Henrico County, Virginia.

Design Manual

The Public Works Design Manual prepared by the Department of Public Works of Henrico County, Virginia.

Family subdivision

A single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the owner that does not require a new public street. For the purpose of this chapter, the term "member of the immediate family" is defined as any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner.

Final Plat

The final detailed drawing (to scale) of a tract of land, depicting the proposed division of the tract into lots, blocks, streets, or other areas within a proposed subdivision (see Sec. 19-2303, Final Plat).

Intersection

The area where two or more streets join.

Lot

An area of land designated as a separate parcel of land on a plat recorded in the clerk's office of the Circuit Court in accordance with this Ordinance, or on a legally recorded deed.

Major Street

A street carrying arterial traffic with direct access to abutting property and having intersections at grade.

Minor Street

A street without large volumes of through traffic that provides access to abutting property.

Minor Subdivision

Any of the following (see Sec. 19-2304, Minor Subdivision):

- Family subdivision that does not require construction plans;
- Division of a lot or parcel of land pursuant to a plan of development approved in accordance with the requirements of Chapter 24 of the County Code, if the division does not involve a new public street or an extension of an existing public street; or
- Vacation, relocation, resubdivision, or other alteration of individual lots, if no relocation or alteration of streets, alleys, easements for public passage or public utilities, or other public areas is involved.

Parking lot

An outdoor area designed and used for the temporary storage of motor vehicles, including any appurtenant spaces, aisles, and driveways.

Planning Commission

The Planning Commission of Henrico County, Virginia.

Planning Director

The Planning Director of Henrico County, Virginia (see Article 2, Division 1, Planning Director).

Preliminary Plat

The preliminary detailed drawing (to scale) of a tract of land, depicting its proposed division into lots, blocks, streets, or other designated areas within a proposed subdivision (see Sec. 19-2302, Preliminary Plat). The approval of a preliminary plat constitutes conditional approval of the subdivision; however, the subdivision is not completed until an approved and valid final plat is recorded.

State

The Commonwealth of Virginia.

Street

A highway, street, avenue, boulevard, road, lane, or any public way with a right-of-way 30 feet or more in width.

Subdivision

A division of a lot or parcel of land situated wholly or partly within the county that (1) divides the lot or parcel of land into two or more lots or parcels for the purpose of transferring ownership or building development, or (2) involves a new street or an extension of an existing street, except for a Minor Subdivision or a division of land ordered by a court.

Chapter 20 - TAXATION

*__Cross reference—__Dog license tax, § 5-49; vehicle licenses, § 22-216 et seq.

*__State law reference—__Local taxes, Code of Virginia, § 58.1-3000 et seq.

ARTICLE I. IN GENERAL

Sec. 20-1. Applicability of state law.

The provisions of Code of Virginia, title 15.2 (Code of Virginia, § 15.2-100 et seq.), and Code of Virginia, title 58.1 (Code of Virginia, § 58.1-1 et seq.), applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation under this chapter mutatis mutandis, including, without limitation, provisions relating to tax liens, the board of real estate review and equalization and the correction of erroneous assessments.

(Code 1980, § 20-15; Code 1995, § 20-1; Ord. No. 990, § 1, 9-14-1999)

Sec. 20-2. Filing of returns and payment of taxes by mail or on Saturday, Sunday or legal holiday.

When the filing of a tax return or the payment of a tax is required by law to be made to the director of finance on or before a given date to avoid penalty or interest, the receipt by the director of finance of the tax return or payment in a sealed envelope bearing a postmark on or before midnight of the day such return is required to be filed or such payment is required to be made without penalty or interest shall constitute filing or payment to the same extent that would have been accomplished had such filing or payment been delivered in person to the director of finance before the close of business of the last day on which such filing or payment otherwise could have been made without penalty or interest, even though such return or payment is not delivered to the director of finance until some time after the last day on which such return or payment otherwise could have been made without penalty or interest. When remittance of a tax payment is made by electronic funds transfer, receipt of funds available for withdrawal, in a bank account designated to receive such payments by the person to whom such payment is required to be made, on or before midnight of the day such payment is required to be made without penalty or interest, shall constitute payment as if such payment had been made before the close of business on the last day on which such tax may be paid without penalty or interest. When the last day on which a tax return may be filed or a tax may be paid without penalty or interest falls on a Saturday, Sunday, legal holiday or day on which the county offices are closed, then such return may be filed or such payment may be made without penalty or interest on the next succeeding business day.

(Code 1980, § 20-1; Code 1995, § 20-2)

State law reference—Similar provisions Code of Virginia, §§ 58.1-8, 58.1-9.

Sec. 20-3. Crediting of payments to delinquent accounts.

The director of finance shall not be required to credit payments received for any local levies to the most delinquent local account of the taxpayer making such payment.

(Code 1980, § 20-1.1; Code 1995, § 20-3)

State law reference— Authority to so provide, Code of Virginia, § 58.1-3913.

Sec. 20-4. Administrative fees for collecting delinquent taxes.

(a) If a person fails to timely pay taxes due the county, such person shall be subject to and liable for administrative costs of $20.00 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to Code of Virginia, § 58.1-3919 but prior to the taking of any judgment with respect to such delinquent taxes or charges, and such person shall be subject to and liable for administrative costs of $25.00 for taxes or other charges collected by the county subsequent to judgment. The administrative costs imposed by this section shall be in addition to all applicable penalties and interest. Such person shall also be liable for reasonable attorney's or collection agency's fees equal to 20 percent of the taxes or other charges so collected.

(b) If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be $150.00 or 25 percent of the costs, whichever is less; however, in no event shall the fee be less than $25.00.

(c) No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under Code of Virginia, § 58.1-3980, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this subsection shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill which has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

(Code 1980, § 2-17; Code 1995, § 20-4; Ord. No. 985, § 1, 7-13-1999)

State law reference— Administrative fee for collecting delinquent taxes and charges, Code of Virginia, § 58.1-3958.

Sec. 20-5. Triennial application for exemption.

(a) Any entity which owns real or personal property exempt pursuant to Code of Virginia, title 58.1, ch. 36 (Code of Virginia, § 58.1-3601 et seq.) shall, after receiving 60 days' written notice, file triennially an application with the director of finance as a requirement for retention of the exempt status of the property. The application shall show the ownership and usage of the property and shall be filed within the next 60 days preceding the tax year for which retention is sought on a form furnished by the director of finance.

(b) This requirement shall not apply to the United States or to the state or any of its political subdivisions.

(Code 1995, § 20-5; Ord. No. 899, § 1, 6-28-1995)

State law reference— Authority to so provide, Code of Virginia, § 58.1-3605.

Sec. 20-6. Correction of erroneous assessments.

(a) Any person assessed by the director of finance with any local levies, penalty or interest on tangible personal property, machinery and tools, local license, consumer utilities, transient occupancy or short-term rental property aggrieved by any such assessment, may, within three years from the last day of the tax year for which such assessment is made, or within one year from the date of the assessment, whichever is later, apply to the director of finance for a correction thereof.

(b) The director of finance, after diligent investigation and upon being satisfied that he has erroneously

assessed a taxpayer with any local levies, penalty or interest on tangible personal property, machinery and tools, local license, consumer utilities, transient occupancy or short term rental property, shall correct such assessment.

(1) If the assessment exceeds the proper amount and if the levies, penalty or interest have not been paid, the director of finance shall exonerate the taxpayer from payment of so much thereof as is erroneous.

(2) If the assessment exceeds the proper amount and the levies, penalty or interest have been paid, the director of finance shall refund to the taxpayer the amount erroneously paid with interest as provided in section 20-7.

(3) If the assessment is less than the proper amount, the director of finance shall assess such applicant with the proper amount.

(c) If any assessment is erroneous because of a mere clerical error or calculation, the assessment may be corrected as provided in this section and with or without petition from the taxpayer.

(d) This section also shall apply to erroneous assessment of real estate, provided that the error sought to be corrected was not a judgmental error involving valuation, and further provided that the error sought to be corrected made by the director of finance. When an unpaid erroneous assessment of real estate is corrected under this section and such real estate has been sold at a delinquent land sale, the director of finance shall certify a copy of such correction to the clerk of the circuit court; and the clerk shall note the correction in the delinquent land book opposite the entry of the tract or lot for the year for which the correction is made.

(e) Notwithstanding the provisions of subsection (a) of this section:

(1) An unpaid tangible personal property tax assessment may be appealed to the director of finance at any time during which the assessment is collectible under Code of Virginia, § 58.1-3940, provided the taxpayer can demonstrate by clear factual evidence that he was not subject to the tax for the year in question. If the director of finance is satisfied that the assessment is erroneous, he shall abate the assessment and shall take such other steps as may be necessary to correct the taxpayer's liability accordingly upon the books of the county.

(2) In the case of an erroneous assessment that has been satisfied in whole or in part through an involuntary payment, an appeal to the director of finance must be made within one year from the date of the involuntary payment. If the director of finance is satisfied that the assessment is erroneous, he shall issue a refund for the amount of the involuntary payment. For purposes of this provision, the term "involuntary payment" means a payment received pursuant to Code of Virginia, § 58.1-3952, or the Setoff Debt Collection Act, Code of Virginia, § 58.1-520 et seq.

(f) In any action on application for correction of an erroneous assessment, if so requested by the applicant, the director of finance shall state in writing the facts and law supporting the action on such application and mail a copy of the writing to the applicant at his last known address.

(Code 1995, § 20-6; Ord. No. 934, § 1, 8-14-1996; Ord. No. 990, § 2, 9-14-1999)

State law reference—Similar provisions, Code of Virginia, §§ 58.1-3980, 58.1-3981, 58.1-3990.

Sec. 20-7. Interest paid on refunds of erroneously assessed taxes.

(a) On and after July 1, 1999, all refunds of erroneously assessed taxes, together with any penalty and interest paid thereon, shall be paid with interest at the applicable rate specified in section 20-33 for real estate taxes, section 20-108 for personal property taxes, section 20-277 for transient occupancy taxes, and section 20-315 for short-term rental property taxes. Interest on refunds of license taxes shall be paid at the rate and in the manner as specified in article XI of this chapter.

(b) Except as provided in article XI of this chapter for license taxes, interest payable on any refund of an erroneously assessed tax shall begin to accrue on the later of July 1, 1999, or the date on which the tax being refunded was paid. Except as provided in article XI of this chapter, interest shall not accrue for any period of

time prior to July 1, 1999.

(c) Except as otherwise provided in article XI of this chapter, interest shall not be paid on any refund caused by an overpayment that was not the result of an erroneously assessed tax. Refunds caused by overpayments that are not the result of an erroneously assessed tax shall include, but not be limited to:

(1) Any statutory relief provided in accordance with section 20-109; and

(2) Any refund of duplicate payments that are not the result of duplicate assessments for the same tax.

(d) No interest shall be required to be paid on a refund if the amount of the refund is $10.00 or less or the refund is the result of proration pursuant to section 20-109.

(Code 1995, § 20-7; Ord. No. 990, § 5, 9-14-1999)

State law reference— Interest on refunds, Code of Virginia, § 58.1-3916.

Sec. 20-8. Criminal penalty for failure to file return or filing false return.

Any person willfully failing or refusing to timely file any return required in this chapter or making false statements in such returns with intent to defraud shall be guilty of an offense punishable as a class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is $1,000.00 or less or a class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than $1,000.00.

(Code 1980, § 20-8.2; Code 1995, § 20-32)

State law reference— Authority to so provide, Code of Virginia, § 58.1-3916.1; penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Secs. 20-9—20-32. Reserved.

ARTICLE II. REAL ESTATE TAX

*__Cross reference—__ Annual tax levy saved from repeal, § 1-10(a)(5).

*__State law reference—__ Property subject to local taxation, Code of Virginia, § 58.1-3000.

DIVISION 1. GENERALLY

Sec. 20-33. Payment of real estate tax; penalty for failure to pay tax; interest on unpaid tax.

(a) For each calendar year, the tax levied on real estate situated in the county shall be due and payable in two equal installments, the first installment being due and payable on June 5 of each calendar year and the second installment being due and payable on December 5 of each calendar year. If any person fails to pay any such installment of taxes on or before the date it is due, he shall incur a penalty of ten percent of the tax past due. The penalty shall be assessed on the day after the installment of taxes is due and shall become a part of the taxes. There shall also be assessed interest at the rate of four percent per annum on the amount of tax past due, which interest shall commence on the first day of the month following the date such installment of taxes is due. In addition to taxes assessed and past due on or after October 1, 1999, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest. The interest to be charged on any such delinquent tax payment shall be at the rate specified by this Code at the time the tax was assessed and shall accrue at that specified rate beginning on the first day of the month following the date such tax payment was due and extending until September 30, 1999, unless sooner paid. In addition, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest at four percent per annum beginning on and after October 1, 1999.

(b) The director of finance shall give notice at least ten days prior to June 5 of each calendar year, by publication in a newspaper of general circulation in the county, that he is prepared to receive at his office the installment of the real estate taxes from any taxpayer charged therewith prior to June 6 of such year, without penalty.

(c) The director of finance shall give notice at least ten days prior to December 5 of each calendar year by publication in a newspaper of general circulation in the county that he is prepared to receive at his office the installment of the real estate taxes from any taxpayer charged therewith prior to December 6 of such year, without penalty.

(d) Nothing in this section shall be construed to prohibit the payment of the whole of the taxes levied on real estate by any taxpayer in one sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof at the time of payment as provided in this section be paid therewith.

(Code 1980, § 20-2; Code 1995, § 20-31; Ord. No. 966, § 1, 11-12-1997; Ord. No. 990, § 3, 9-14-1999)

State law reference— Authority to provide dates for payment of real estate taxes and late payment penalties, Code of Virginia, § 58.1-3916; notice of taxes due, Code of Virginia, § 58.1-3911.

Secs. 20-34—20-56. Reserved.

DIVISION 2. LAND USE ASSESSMENT

***State law reference—** Application for assessment, Code of Virginia, § 58.1-3234.

Sec. 20-57. Entry of use and fair market values on land books; basis for tax.

The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the treasurer, and the tax for the next succeeding tax year shall be extended from the use value.

(Code 1980, § 20-12; Code 1995, § 20-51)

State law reference— Similar provisions, Code of Virginia, § 58.1-3236(D).

Sec. 20-58. Roll-back tax.

(a) *Levy; interest.* There is hereby imposed a roll-back tax including simple interest thereon at an annual rate of eight percent. The amount of the roll-back tax upon any property as to which the use or zoning changes, or which has a separation or split-off of lots or parcels which do not individually meet the minimum acreage requirements, shall be determined under Code of Virginia, §§ 58.1-3237 and 58.1-3241.

(b) *Report of change in status; failure to make report or pay tax; false statements on applications.*

(1) The owner of any real estate liable for roll-back taxes shall, within 60 days following a change in use or zoning, report such change to the director of finance on such forms as may be prescribed. The director of finance shall forthwith determine and assess the roll-back tax, which shall be paid to the cashier within 30 days of the assessment. On failure to report within 60 days following such change in use or zoning or failure to pay within 30 days of the assessment, such owner shall be liable for an additional penalty equal to ten percent of the amount of the roll-back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half percent of the amount of the roll-back tax, interest and penalty for each month or fraction thereof during which the failure continues.

(2) Any person making a material misstatement of fact in any application filed pursuant to this article shall be liable for all taxes in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the county, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud, he shall be further assessed with an

additional penalty of 100 percent of such unpaid taxes.

(3) For purposes of this section and Code of Virginia, § 58.1-3234, incorrect information on the following subjects will be considered material misstatements of fact:

a. The number and identities of the known owners of the property at the time of application.

b. The actual use of the property.

c. The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use.

(Code 1980, §§ 20-13, 20-14; Code 1995, § 20-52)

State law reference— Imposition of roll-back tax, Code of Virginia, § 58.1-3237; change in use or zoning, Code of Virginia, §§ 58.1-3237, 58.1-3238, 58.1-3241.

Sec. 20-59. Agricultural, horticultural, forest and open space uses.

(a) *Findings.* The county finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest and, having heretofore adopted a land use plan, hereby ordains that such real estate shall be taxed in accordance with the provisions of Code of Virginia, title 58.1, ch. 32, art. 4 (Code of Virginia, § 58.1-3230 et seq.) and this article.

(b) *Application for taxation on basis of use; fees.*

(1) The owner of any real estate meeting the criteria set forth in Code of Virginia, §§ 58.1-3230 and 58.1-3233, including for agricultural or horticultural use a minimum of five acres, for forest use a minimum of 20 acres and for open space use a minimum of five acres, at least 60 days preceding the tax year for which such taxation is sought, may apply to the director of finance for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in Code of Virginia, § 58.1-3236. Such application must be on forms provided by the state department of taxation and supplied by the director of finance and include such additional schedules, photographs, and drawings as may be required by the director of finance. The written agreement required by Code of Virginia, § 58.1- 3233 for real estate devoted to open space use may be signed on behalf of the county by the county manager. Any individual who is the owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors, cannot be located, or represent a minority interest in such parcel. An application must be submitted whenever the use, zoning, or acreage of such land previously approved changes; provided that such property owner must revalidate annually with the director of finance any applications previously approved.

(2) A separate application shall be filed for each parcel on the land book.

(3) A nonrefundable fee of $20.00 plus $0.10 per acre or portion thereof in such parcel shall accompany such initial application.

(4) Each parcel must be revalidated annually on forms provided by the state department of taxation and supplied by the director of finance.

(5) A late filing deadline extension is provided for initial applications and revalidation applications until December 15 upon payment of a late filing fee. The total application fee for late filing of initial applications shall be $40.00 plus $0.20 per acre or portion thereof in such parcel. The total application fee for late filing of revalidation applications shall be $20.00 plus $0.10 per acre or portion thereof in such parcel.

(c) *Determination of eligibility and value of property.*

(1) Promptly upon receipt of any application, the director of finance shall determine whether the subject property meets the criteria for taxation under this section. If the director of finance determines that the subject property does meet such criteria, he shall determine the value of such property for its qualifying use as well as its fair market value.

(2) In determining whether the subject property meets the criteria for agricultural use, horticultural use, forest use or open space use, the director of finance may request an opinion from the director of the state

department of conservation and recreation, the state forester or the state commissioner of agriculture and consumer services. Upon the refusal of the commissioner of agriculture and consumer services, the state forester or the director of the department of conservation and recreation to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the respective official, the party aggrieved may seek relief from the circuit court of the county. If the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this article.

(Code 1980, §§ 20-9—20-11; Code 1995, § 20-53)

State law reference—Special assessments for agricultural, horticultural, forest and open space uses, Code of Virginia, § 58.1-3229 et seq.; application, Code of Virginia, §§ 58.1-3234, 58.1-3235; determination of eligibility, Code of Virginia, §§ 58.1-3233, 58.1-3240.

Secs. 20-60—20-76. Reserved.

DIVISION 3. EXEMPTIONS

*__State law reference—__Exemptions, Code of Virginia, §§ 58.1-3210 et seq., 58.1-3220 et seq., 58.1-3660 et seq.

Sec. 20-77. Reserved.

Sec. 20-78. Reserved.

Sec. 20-79. Partial exemption for rehabilitated, renovated or replacement residential structures other than multifamily residential rental units.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to residential units other than multifamily whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3220 and this section.

(b) *Qualifications.* For the purposes of this section, the total assessed value of a residential property other than multifamily residential rental units shall not exceed $300,000.00 and the structure must be at least 26 years old. The real estate shall be deemed to be substantially rehabilitated when it has been so improved as to increase the assessed value of the structure by no less than 20 percent, but without increasing the total footage of such structure by more than 100 percent. Detached improvements, including, but not limited to, a garage, shed or swimming pool, are not eligible. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new residential structures.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure must, prior to commencing rehabilitation (including any demolition) of, such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated residential structure. Upon receipt of an application for tax exemption, the director of finance will determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. The tax assessment of the improvements located upon the qualifying real estate will be considered in determining the base value. The base value will serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 20 percent.

(2) Rehabilitation must be completed within three years from the date on which the director of finance determines the base value.

(3) The application to qualify for the rehabilitated structure tax exemption must be accompanied by a payment of a fee of $50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 20 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 20 percent increase in assessed value (base value is exceeded by 20 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a 10-year period of exemption from real estate taxes. Such 10-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the 10-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the 10 years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 20 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Ord. No. 1139, § 20-73, 11-24-2009)

Sec. 20-80. Partial exemption for rehabilitated, renovated or replacement multifamily residential rental units.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to multifamily residential rental units whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3220 and this section.

(b) *Qualifications.* For the purposes of this section, multifamily residential rental real estate shall be deemed to be substantially rehabilitated when a structure on such real estate which is no less than 26 years old and no more than 39 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent, but without increasing the total footage of such structure by more than 100 percent, or when a structure on such real estate which is no less than 40 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been

demolished and replaced with new structures for multifamily residential rental use.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure must, prior to commencing rehabilitation (including any demolition) of, such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated multifamily residential rental structure. Upon receipt of an application for tax exemption, the director of finance will determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. The tax assessment of the improvements located upon the qualifying real estate will be considered in determining the base value. The base value will serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 50 percent.

(2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to such a point that the assessed value of the structure is at least 50 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure, except that where a rehabilitation project encompasses at least 50 contiguous acres on which demolition of all structures takes place within one year of the initial application, a total of six additional applications following the initial application may be filed. The new base value shall be based upon the value of the improvements as of the date of the most recent application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of $50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 50 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 50 percent increase in assessed value (base value is exceeded by 50 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 50 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Code 1995, § 20-74; Ord. No. 1019, § 2, 10-23-2001; Ord. No. 1031, § 1, 8-13-2002)

State law reference—Partial exemption for certain rehabilitated, renovated or replacement residential structures authorized, Code of Virginia, § 58.1-3220.

Sec. 20-81. Partial exemption for rehabilitated, renovated or replacement commercial and industrial structures.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to commercial and industrial uses whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3221 and this section.

(b) *Qualifications.* For the purposes of this section, commercial and industrial real estate will be deemed to be substantially rehabilitated when a structure on such real estate is at least 26 years old and has been so improved as to increase the assessed value of the structure by at least 40 percent. However, if the total square footage of the final structure is greater than 20,000 square feet, the square footage of the structure may not have been increased by more than 125 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" also include situations in which the structures have been demolished and replaced with new structures. Subject to the limitations of this section, the rehabilitated, renovated, or replacement structure may be used for any commercial or industrial use, other than dwellings.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure must, prior to commencing rehabilitation (including any demolition) of, such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated commercial or industrial structure. Upon receipt of an application for tax exemption, the director of finance will determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. The tax assessment of the improvements located upon the qualifying real estate will be considered in determining the base value. The base value will serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 40 percent.

(2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to such a point that the assessed value of the structure is at least 40 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure. The new base value shall be based upon the value of the improvements as of the date of the second or third application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of $50.00, which fee shall be applied to offset the cost

of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 40 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 40 percent increase in assessed value (base value is exceeded by 40 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 40 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic landmark.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(j) *Exterior-corridor hotels and motels.* Hotels and motels providing access to the majority of the structure's rental rooms via exterior corridors may qualify under this section for an exemption for 15 years instead of seven years. To qualify for the extended exemption, the exterior-corridor hotel or motel must be demolished and replaced with a structure used for any purpose, other than an exterior-corridor hotel or motel or enclosed shopping mall, that is allowed by the building code and the applicable zoning regulations for the property, including mixed use or dwellings. Except as altered by this subsection, all other subsections of this section apply to exemptions for the demolition and replacement of exterior-corridor hotels and motels, including all other qualification requirements and restrictions of this section.

(k) *Enclosed shopping malls.* For purposes of this section, an "enclosed shopping mall" is a shopping mall structure, other than a strip mall, with large and small retail units, including anchor department store spaces, where the majority of the retail units are accessed from interior corridors within the structure. The demolition and replacement of an enclosed shopping mall, or portion thereof, may qualify under this section for an

exemption of 15 years instead of seven years. To qualify for the extended exemption, the enclosed shopping mall, or portion thereof, must be demolished and replaced with a structure used for any purpose, other than an exterior-corridor hotel or motel or enclosed shopping mall, that is allowed by the building code and the applicable zoning regulations for the property, including mixed use or dwellings. Notwithstanding the requirements of subsection (b), the square footage of the new structure may not be more than 250 percent greater than the square footage of the demolished enclosed shopping mall or portion thereof. Except as altered by this subsection, all other subsections of this section apply to exemptions for the demolition and replacement of enclosed shopping malls, including all other qualification requirements and restrictions of this section.

(Code 1995, § 20-75; Ord. No. 1019, § 3, 10-23-2001)

State law reference—Partial exemption for certain rehabilitated, renovated or replacement commercial or industrial structures authorized, Code of Virginia, § 58.1-3221.

Sec. 20-82. Partial exemption for rehabilitated, renovated or replacement hotel and motel structures.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to hotel and motel uses whose structures are rehabilitated for residential use in accordance with the criteria set out in Code of Virginia, § 58.1-3220.1 and this section.

(b) *Qualifications.* For the purposes of this section, hotel and motel real estate shall be deemed to be substantially rehabilitated when a structure on such real estate which is no less than 35 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent, but without increasing the total footage of such structure by more than 100 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new structures for residential use.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure must, prior to commencing rehabilitation (including any demolition) of, such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as rehabilitated. Upon receipt of an application for tax exemption, the director of finance will determine a basefair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. The tax assessment of the improvements located upon the qualifying real estate will be considered in determining the base value. The base value will serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 50 percent.

(2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to such a point that the assessed value of the structure is at least 50 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure. The new base value shall be based upon the value of the improvements as of the date of the second or third application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of $50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 50 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request

to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 50 percent increase in assessed value (base value is exceeded by 50 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 50 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Code 1995, § 20-76; Ord. No. 1019, § 4, 10-23-2001)

State law reference—Partial exemption for rehabilitated, renovated or replacement hotel and motel structures authorized, Code of Virginia, § 58.1-3220.1.

Sec. 20-83. Exemption for property of surviving spouses of certain persons killed in the line of duty.

(A) *Definitions.* As used in this section:

(1) "Average assessed value" means the average assessed value for all dwellings located within the county that are situated on property zoned as single-family residential.

(2) "Covered person" means any person set forth in the definition of "deceased person" in Code of Virginia, § 9.1-400 whose beneficiary, as defined in Code of Virginia, § 9.1-400, is entitled to receive benefits under Code of Virginia, § 9.1-402, as determined by the Comptroller of Virginia prior to July 1, 2017, or as determined by the Virginia Retirement System on and after July 1, 2017.

(B) *Exemption authorized; timing; refunds.* For tax years beginning on or after January 1, 2017, the real property described in this section of the surviving spouse of any covered person who occupies the real property as his principal place of residence is exempt from taxation. If the covered person's death occurred on or

prior to January 1, 2017, and the surviving spouse has a principal residence on January 1, 2017, eligible for the exemption under this section, then the exemption for the surviving spouse shall begin on January 1, 2017. If the covered person's death occurs after January 1, 2017, and the surviving spouse has a principal residence eligible for the exemption under this section on the date that such covered person dies, then the exemption for the surviving spouse shall begin on the date that such covered person dies. If the surviving spouse acquires the property after January 1, 2017, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to Code of Virginia, § 58.1-3360. No interest shall be paid on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by this section.

(C) *Scope of exemption.* Those dwellings with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year shall qualify for a total exemption from real property taxes under this section. If the value of a dwelling is in excess of the average assessed value for such year, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single-family homes, condominiums, town homes, manufactured homes as defined in Code of Virginia, § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single-family home condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that (i) meet the requirements of this subsection and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption. If the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

(D) *Occupation as principal place of residence required; effect of remarriage or moving.* The surviving spouse shall qualify for the exemption so long as the surviving spouse does not remarry and continues to occupy the real property as his principal place of residence. The exemption applies without restriction on the spouse's moving to a different principal place of residence.

(E) *Exemption for land upon which dwelling is situated; application of exemption to improvements other than a dwelling.* The exemption applies to (i) the qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection (C), and (ii) with the exception of land not owned by the surviving spouse, the land, not exceeding ten acres, upon which it is situated. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such land as is exempt from taxation under this section, shall also be exempt from taxation so long as the principal use of the improvement is (a) to house or cover motor vehicles or household goods and personal effects as classified in subdivision (A)(14) of the Code of Virginia, § 58.1-3503 and as listed in Code of Virginia, § 58.1-3504 and (b) for other than a business purpose.

(F) *Application to life estate, revocable inter vivos trust, irrevocable trust, leasehold, or term of years.* For purposes of this section, real property of any surviving spouse of a covered person includes real property held (i) by a surviving spouse as a tenant for life, (ii) in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys continuing right of use or support. Such real property does not include any interest held under a leasehold or term of years.

(G) *Effect of joint ownership.*

(1) In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways identified in clauses (i) through (iii) of subsection (F)

and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is one and the denominator of which equals the total number of people having an ownership interest that permits them to occupy the property.

(2) In the event that the principal residence is jointly owned by two or more individuals, including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways identified in clauses (i) through (iii) of subsection (F), then the exemption shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is the percentage of ownership interest in the dwelling held by the surviving spouse and the denominator of which is 100.

(H) *Application for exemption; notification upon remarriage or change in principal place of residence.* The surviving spouse claiming the exemption under this section shall file with the director of finance on forms supplied by the county an affidavit or written statement (i) setting forth the surviving spouse's name, (ii) indicating any other joint owners of the real property, (iii) certifying that the real property is occupied as the surviving spouse's principal place of residence, and (iv) including evidence of the determination of the Comptroller of Virginia or the Virginia Retirement System that the deceased is a covered person. The surviving spouse shall also provide documentation that he is the surviving spouse of a covered person and of the date that the covered person died. The surviving spouse shall be required to refile the information required by this subsection only if the surviving spouse's principal place of residence changes. The surviving spouse shall promptly notify the director of finance of any remarriage.

(I) *Effect of absence from residence.* The fact that surviving spouses who are otherwise qualified for tax exemption pursuant to this section are residing in hospitals, nursing homes, convalescent homes, or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence, so long as such real estate is not used by or leased to others for consideration.

Sec. 20-84. Partial exemption for demolition or renovation of derelict buildings.

Prior to demolishing or renovating a derelict building pursuant to a plan approved under article VI of chapter 6, at the request of the property owner, the real estate assessor shall make an assessment of the property in its current derelict condition. On the building permit application, the owner shall declare the costs of the demolition, or the costs of materials and labor to complete the renovation. At the request of the property owner, after demolition or renovation of the derelict building, the real estate assessor shall reflect the fair market value of the demolition costs or the fair market value of the renovation improvements in the real estate tax assessment records. The real estate tax on an amount equal to the costs of demolition or an amount equal to the increase in the fair market value of the renovations shall be abated for a period of seven years and is transferable with the property. The abatement of taxes for demolition shall not apply if the structure demolished is a registered Virginia landmark or is determined by the Virginia Department of Historic Resources to contribute to the significance of a registered historic district.

Sec. 20-85 – 20-89. Reserved.

DIVISION 4. – EXEMPTIONS FOR ELDERLY OR PERMANENTLY AND TOTALLY DISABLED PERSONS

***State law reference –** Exemptions, Code of Virginia, §§ 58.1-3210 et seq.

Sec. 20-90. Definitions.

As used in this Division, any reference to:

(a) “Base amount” means the amount of real estate tax assessed on the qualified real estate in the later of (i) 2023 or (ii) the year before the taxpayer initially applies for RECAP. In addition, a taxpayer may reapply at any time to establish a new base amount equal to the real estate tax assessed on the qualified real estate in the immediately preceding tax year, but only if the new base amount will be lower than the previous base amount.

(b) “Dwelling” includes an improvement to real estate exempt or partially exempt pursuant to this division and the land upon which such improvement is situated so long as the improvement is used principally for other than a business purpose and is used to house or cover any motor vehicle classified pursuant to Code of Virginia, § 58.1-3503.A.3. through 10.; household goods classified pursuant to Code of Virginia, § 58.1-3503.A.14.; or household goods exempted from personal property tax pursuant to Code of Virginia, § 58.1-3504.

(c) “Gross combined income” includes only those sources of gross income that are subject to tax under federal income tax laws, regulations, rules, or policies, without regard to whether a tax return is actually filed, of the owner(s), the spouse and the owners’ relatives living in the dwelling for which exemption is claimed. Gross combined income does not include (i) life insurance benefits or receipts from borrowing or other debt, (ii) the first $10,000 of annual income of each of the owners’ relatives, other than a spouse, living in the dwelling and who do not qualify for RECAP or REAP; (iii) the income of the owners’ relatives living in the dwelling and providing bona fide caregiving services to an owner, whether such relatives are compensated or not; and (iv) the disability income received by the owners’ relatives who are permanently and totally disabled and live in the dwelling.

(d) “Net combined financial worth” includes the value of all assets, including the present value of all equitable interests, of the owner(s) and spouse of any owner, excluding the fair market value of the qualified real estate and for which the tax exemption or tax cap is claimed. The value of household furnishings is excluded from the computation of net worth.

(e) "Permanently and totally disabled" means a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

(f) “Qualified real estate” means the dwelling occupied by the applicant or participant in REAP or RECAP, and the land, not exceeding 10 acres, upon which it is situated.

(g) “Real estate” includes manufactured homes as defined in Code of Virginia, § 36-85.3.

(h) “Real Estate Advantage Program” or “REAP” means the program established to provide the tax exemption in section 20-94 of this division.

(i) “RECAP” means the program established to provide the tax cap in section 20-93 of this division.

(j) “Tax cap” means the partial tax exemption provided in section 20-93 of this division.

(k) “Tax exemption” means the exemption provided in REAP for that portion of the real estate tax owned by a qualified taxpayer as determined by section 20-94 of this division.

Sec. 20-91. General provisions applicable to RECAP and REAP.

(a) *Administration.* RECAP and REAP will be administered by the director of finance or his authorized designee. The director is authorized and empowered to prescribe, adopt, and enforce rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for RECAP or REAP. The director may require production of certified tax returns and appraisal reports to establish income or financial worth.

(b) *Participation.* A qualifying taxpayer may participate in either RECAP or REAP but not both simultaneously.

(c) *False claims.* Any person who knowingly falsely claims a tax exemption or tax cap under this division will be guilty of a misdemeanor.

(d) *Applicability to life estates and certain trusts; inapplicability to leaseholds and terms of years.* For purposes of this division, a dwelling owned and occupied as the sole dwelling of a person claiming a tax exemption or tax cap in REAP or RECAP includes, among other forms of ownership, a dwelling (i) held by the claimant alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the claimant or the claimant and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a claimant alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. However, a dwelling owned and occupied as the sole dwelling of a claimant does not include a dwelling held under a leasehold or term of years.

Sec. 20-92. Application for tax exemption or tax cap; change in circumstances.

(a) *Application; affidavit or written statement*. No later than April 1 of the taxable year, the person claiming a tax exemption or tax cap must file in writing an affidavit or written statement with the director. In lieu of the filing of an annual affidavit or written statement, once a taxpayer is determined to be eligible for a tax exemption or tax cap, an affidavit or written statement may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit or written statement filed has changed to violate the limitations and conditions provided in this division. Such annual certification must be filed not later than April 1 of the taxable year. Affidavits or written statements from first-time applicants or in hardship cases, as determined by the director of finance, will be accepted through December 31 of the taxable year.

(1) Such affidavit or written statement must set forth, in a manner prescribed by the director, the names of all owners, the location and assessed value of the property, the names of any related persons occupying the dwelling for which tax exemption or tax cap is claimed, the gross combined income of all owners and owners' relatives who live in the residence, and the net combined financial worth of all owners and their spouses.

(2) If the person claiming a tax exemption or tax cap is under 65 years of age, such form must have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board, or, if such person is not eligible for certification by any of these agencies, a sworn affidavit or written statement by two medical doctors who are either licensed to practice medicine in the state or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled as defined in section 20-90 and stating the nature of the disability. A certification

pursuant to 42 U.S.C. 423(d) by the Social Security Administration, so long as the person remains eligible for such Social Security benefits, will be deemed to satisfy the definition in section 20-90. The affidavit or written statement of at least one of the doctors must be based upon a physical examination of the person by such doctor. The affidavit or written statement of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in section 20-90.

(3) If, after an audit and investigation, the director determines that the person is qualified for a tax exemption or tax cap, he will certify that such person is so qualified and will determine the amount of exemption applicable to the claimant's real estate tax liability. Such exemption will apply only to the tax year for which issued. In order to avoid the payment of any penalty, the person to whom a tax exemption or tax cap has been issued must, on or before the past-due date established for the payment of such real estate tax, present payment for the difference between such tax exemption or tax cap and the full amount of the tax payment then due on the qualified real estate.

(b) *Change in circumstances.* A qualified taxpayer who loses eligibility for a tax exemption or tax cap due to changes in respect to income, financial worth, ownership of property, or other factors occurring during the taxable year for which the affidavit, written statement or certification mentioned in this section is filed and having the effect of exceeding or violating the limitations or conditions provided in this division will receive the tax exemption or tax cap for the portion of the year during which he qualifies and lose the tax exemption or tax cap only for the remainder of the year and the taxable year immediately following. When a change in ownership to a spouse who is less than 65 years of age or is not permanently and totally disabled results solely from the death of his qualified spouse, it will result in a prorated tax exemption or tax cap for the then-current taxable year. Such prorated portion will be determined by multiplying the amount of the tax exemption or tax cap by a fraction wherein the number of complete months of the year such qualified real estate was properly eligible for such tax exemption or tax cap is the numerator and the number 12 is the denominator.

Sec. 20-93. RECAP established; qualifications; amount of tax cap.

(a) *Tax cap authorized.* RECAP is a program established to provide a tax cap for qualified property owners who are not less than 65 years of age or who are permanently and totally disabled and who are eligible according to the terms of this section. A dwelling jointly held by husband and wife may qualify if either spouse is 65 years of age or older or is permanently and totally disabled. Persons qualifying for a tax cap are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(b) *Qualifications*. A tax cap will be granted to persons subject to the following provisions:

(1) *Title.* The title to the qualified real estate for which the tax cap is claimed must be held, or partially held, on December 31 immediately preceding the taxable year, by the person or persons claiming the tax cap.

(2) *Age or disability.* The person occupying the dwelling and owning title or partial title thereto is 65 years or older on December 31 of the year immediately preceding the taxable year or the person claiming the tax cap was permanently and totally disabled on December 31 of the year immediately preceding the taxable year and is so disabled when he files the affidavit or written statement required in section 20-92 of this division. A dwelling jointly held by husband and wife may qualify if either spouse is 65 years of age or over or is permanently and totally disabled. Such dwelling must be owned by and occupied as the sole dwelling of the person claiming the tax cap. Persons who are otherwise qualified for the tax cap but are confined to hospitals, nursing homes, convalescent homes or other institutions for physical or mental care are not disqualified for the tax

cap so long as the real estate for which the tax cap is sought is not used by or leased to others for consideration.

(3) *Gross combined income.* The gross combined income of the owner(s) during the year immediately preceding the taxable year must be determined by the director to be an amount not to exceed $105,000.

(4) *Net combined financial worth.* The net combined financial worth of the owner(s) as of December 31 of the year immediately preceding the taxable year must be determined by the director to be an amount not to exceed $700,000.

(c) *Amount of tax cap.* Each qualified applicant will receive a partial tax exemption in an amount equal to any increase in real estate tax on the qualified real estate above the base amount, such that the taxpayer's annual real estate tax for the qualified real estate will not increase above the base amount so long as the taxpayer remains in RECAP.

Sec. 20-94. REAP established; qualifications; amount of tax exemption.

(a) *Tax exemption authorized.* REAP is a program established to provide a tax exemption for qualified property owners who are not less than 65 years of age or who are permanently and totally disabled and who are eligible according to the terms of this section. A dwelling jointly held by husband and wife may qualify if either spouse is 65 years of age or older or is permanently and totally disabled. Persons qualifying for a tax exemption are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(b) *Qualifications*. A tax exemption will be granted to persons subject to the following provisions:

(1) *Title.* The title to the qualified real estate for which the tax exemption is claimed must be held, or partially held, on December 31 immediately preceding the taxable year, by the person or persons claiming the tax exemption.

(2) *Age or disability.* The person occupying the dwelling and owning title or partial title thereto is 65 years or older on December 31 of the year immediately preceding the taxable year or the person claiming the tax exemption was permanently and totally disabled on December 31 of the year immediately preceding the taxable year and is so disabled when he files the affidavit or written statement required in section 20-92 of this division. A dwelling jointly held by husband and wife may qualify if either spouse is 65 years of age or over or is permanently and totally disabled. Such dwelling must be owned by and occupied as the sole dwelling of the person claiming the tax exemption. Persons who are otherwise qualified for the tax exemption but are confined to hospitals, nursing homes, convalescent homes or other institutions for physical or mental care are not disqualified for the tax exemption so long as the real estate for which the tax exemption is sought is not used by or leased to others for consideration.

(3) *Gross combined income.* The gross combined income of the owner(s) during the year immediately preceding the taxable year must be determined by the director to be an amount not to exceed $75,000.

(4) *Net combined financial worth.* The net combined financial worth of the owner(s) as of December 31 of the year immediately preceding the taxable year must be determined by the director to be an amount not to exceed $500,000.

(c) *Amount of tax exemption.* Each qualified applicant will receive a 100 percent real estate tax exemption up to an annual exemption of $3,200. The tax exemption granted under this section applies only to the qualified real estate.

Secs. 20-95 – 20-107. Reserved.

ARTICLE III. TANGIBLE PERSONAL PROPERTY TAX

***State law reference—** Tangible personal property tax, Code of Virginia, § 58.1-3500 et seq.

Sec. 20-108. Assessment and returns generally.

(a) *Assessment; filing of return; payment; penalty and interest.*

(1) Personal property and machinery and tools shall be assessed in accordance with the provisions of Code of Virginia, title 58.1 (Code of Virginia, § 58.1-1 et seq.). Taxes so assessed shall be based upon all such property, machinery and tools owned as of January 1 of each year. Every taxpayer owning any property subject to taxation under this chapter, or as defined in Code of Virginia, title 58.1 and every fiduciary shall file a personal property tax return with the director of finance:

a. On or before March 1 for all machinery and tools and tangible personal property employed in a trade or business except automobiles, trucks, taxicabs, antique motor vehicles, motorcycles, campers, recreational vehicles or other vehicles as defined in Code of Virginia, § 46.2-100 manufactured homes, boats, boat trailers or other watercraft and aircraft; and

b. On or before March 15 for all other tangible personal property.

All such personal property tax returns not filed by such date shall incur a penalty of ten percent of the tax due thereon. Such tax shall be due and payable in two equal installments, the first installment being due and payable on June 5 of each calendar year and the second installment being due and payable on December 5 of each calendar year. If any person fails to pay any such installment of taxes on or before the date it is due, he shall incur a penalty of ten percent of the tax past due, which penalty shall be assessed on the day after the installment of taxes is due and shall become a part of the taxes. There shall also be assessed interest at the rate of four percent per annum on the amount of tax past due, which interest shall commence on the first day of the month following the date such installment of taxes is due. In addition to taxes assessed and past due on or after October 1, 1999, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest. The interest to be charged on any such delinquent tax payment shall be at the rate specified by this Code at the time the tax was assessed and shall accrue at that specified rate beginning on the first day of the month following the date such tax payment was due and extending until September 30, 1999, unless sooner paid. In addition, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest at four percent per annum beginning on and after October 1, 1999.

(2) The director of finance shall give notice at least ten days prior to June 5 of each calendar year, by publication in a newspaper of general circulation in the county, that he is prepared to receive at his office the installment of the personal property taxes from any taxpayer charged therewith prior to June 6 of such year, without penalty.

(3) The director of finance shall give notice at least ten days prior to December 5 of each calendar year, by publication in a newspaper of general circulation in the county, that he is prepared to receive at his office the installment of the personal property taxes from any taxpayer charged therewith prior to December 6 of such year, without penalty.

(4) Nothing in this subsection shall be construed to prohibit the payment of the whole of the taxes levied on personal property by any taxpayer in one sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof at the time of payment as provided in this section be paid therewith.

(5) The director of finance shall prescribe the various forms to be used for filing such tax returns, the information to be provided and the manner in which such assessments are to be made.

(b) *Mailing of forms; failure to receive forms.* The director of finance shall, insofar as is possible, mail personal property forms no later than February of each tax year to all known taxpayers. Failure to receive a form, however, in no way relieves the taxpayer of his obligation to obtain the necessary forms and information which would enable him to file before the deadline.

(c) *Extension of time for filing return.* The director of finance may, upon request, grant reasonable extensions of time not to exceed 90 days for filing personal property returns, whenever in his judgment good cause exists, and provided such request is made before the due date. The director of finance shall keep a record of every extension.

(d) *Methods of determining assessed value of tangible personal property.*

(1) Automobiles, except those described in subsection (d)(2) of this section, shall be valued by means of a recognized pricing guide, or, if the model and year of the individual automobile are not listed in the recognized pricing guide, on the basis of a percentage of original cost. If such percentage or percentages of

original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the director may select another method which establishes fair market value.

(2) Motor vehicles with specially designed equipment for use by the handicapped shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.

(3) Trucks of less than two tons shall be valued by means of a recognized pricing guide, or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage of original cost.

(4) Manufactured homes shall be valued on the basis of square footage of living space.

(5) Trucks and other vehicles, as defined in Code of Virginia, § 46.2-100, shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage of original cost, except:

a. Those described in subsections (d)(2), (d)(3) and (d)(4) of this section.

b. Antique motor vehicles, as defined in Code of Virginia, § 46.2-100, which may be used for general transportation purposes as provided in Code of Virginia, § 46.2-730(C) shall be valued as set out in subsection (d)(1) of this section for automobiles.

c. Taxicabs shall be valued as set out in subsection (d)(1) of this section for automobiles.

(6) Programmable computer equipment and peripherals used in business shall be valued by means of a percentage of original cost to the taxpayer, or by such other method as may reasonably be expected to determine the actual fair market value.

(7) All other tangible personal property shall be valued on the basis of a percentage of original cost. Except for leased manufactured equipment, the term "cost" is defined as original cost or the original capitalized cost if so established on the taxpayer's records. In the case of leased manufactured equipment, the cost shall be the commercial retail sales price for which the item would have been sold if it had been available for sale.

The applicable percentages referred to in this subsection shall be determined by the director of finance. The director of finance shall, upon request, take into account the condition of the property. The term "condition of the property" includes, but is not limited to, technological obsolescence of property where technological obsolescence is an appropriate factor for valuing such property. The director of finance shall make available to taxpayers on request a reasonable description of his valuation methods. The director of finance, when using a recognized pricing guide as provided for in this section, may automatically extend the assessment if the pricing information is stored in a computer.

(e) *Tax bills under $15.00.* If any taxpayer owns tangible personal property of such small value that the levies thereon for the year result in a tax of less than $15.00, such property shall be omitted from the personal property book and no assessment made thereon.

(f) *Submission of supporting information.* The director of finance shall have the right to require that a depreciation schedule, plus any other necessary schedules, inventories, statements, etc., be provided in support of each personal property return filed for any business, profession, farmer or manufacturer.

(g) *Payment of taxes for property of public service corporations.* All taxes on personal property of public service corporations, which are levied at the same rate applicable to real estate pursuant to Code of Virginia, § 58.1-2606, shall be due and payable at the same times and by the same procedures as taxes on real estate as set forth in section 20-33.

(Code 1980, § 20-4; Code 1995, § 20-101; Ord. No. 909, § 1, 10-25-1995; Ord. No. 966, § 2, 11-12-1997; Ord. No. 990, § 4, 9-14-1999)

State law reference— Authority to fix tax levy, Code of Virginia, § 58.1-3001; method of determining assessed value, classification of tangible personal property, Code of Virginia, § 58.1-3503; dates for filing returns, penalties and interest, Code of Virginia, § 58.1-3916; taxes not required to be billed, Code of Virginia, §§ 58.1-

3001, 58.1-3012(A).

Sec. 20-109. Proration of tax for motor vehicles, trailers and semitrailers.

(a) *Generally.* Tangible personal property tax shall be levied upon motor vehicles, trailers or semitrailers which acquire a situs within the county after January 1 of any tax year for the remaining portion of the tax year. Such tax shall be prorated on a monthly basis.

(b) *Refund when vehicle loses situs in county.* When any motor vehicle, trailer or semitrailer loses its situs in the county after January 1 of the tax year or after the day on which it acquired a situs within the county, any tax assessed on such vehicle, trailer or semitrailer shall be relieved and refunded, if paid. Such relief and refund shall be prorated on a monthly basis. No tax shall be refunded if the motor vehicle, trailer or semitrailer acquires a situs within the state in a nonprorating locality.

(c) *Refund or credit upon sale of vehicle.* When any person sells or otherwise transfers title to a motor vehicle, trailer or semitrailer with a situs in the county after January 1 of the tax year or after the day on which it acquired a situs within the county, the tax shall be relieved, prorated on a monthly basis, and the appropriate amount of tax already paid shall be refunded or credited against the tax due on any motor vehicle, trailer or semitrailer owned by the taxpayer during the same tax year.

(d) *Time limitation for refund; minimum refund.* Any refund required by this section shall be made within 30 days of the date the tax is relieved. No refund of less than $5.00 shall be issued to a taxpayer, unless specifically requested by the taxpayer.

(e) *Computation of tax on new owner.* When any person, after January 1 of the tax year or after the day on which a motor vehicle, trailer or semitrailer acquired a situs within the county, acquires a motor vehicle, trailer or semitrailer with a situs in the county, tangible personal property tax shall be assessed on the motor vehicle, trailer or semitrailer for the portion of the tax year during which the motor vehicle, trailer or semitrailer is owned and situs in maintained within the county.

(f) *Determination of full month.* For purposes of this section, a period of one-half of a month or more shall be counted as a full month and a period of less than one-half of a month shall not be counted.

(g) *Tax credit for persons moving from nonprorating locality to county and acquiring replacement vehicle.* Any person who moves from a nonprorating locality to the county in a single tax year shall be entitled to a property tax credit in the county if:

(1) The person was liable for personal property taxes on a motor vehicle and has paid those taxes to a nonprorating locality; and

(2) The owner replaces for any reason the original vehicle upon which taxes are due to the nonprorating locality for the same year.

The county shall provide a credit against the total tax due on the replacement vehicle in an amount equal to the tax paid to the nonprorating locality for the period of time commencing with the disposition of the original vehicle and continuing through the close of the tax year in which the owner incurred tax liability to the nonprorating locality for the original vehicle.

(h) *Filing of returns; determination of taxable date.* Each taxpayer owning a motor vehicle, trailer or semitrailer with a date of purchase or establishment of situs within the county after January 1 and on or before February 15 of the tax year shall file a return on forms prescribed by the director of finance on or before March 15 of each year, and taxes shall be due as set forth in section 20-108. Each taxpayer owning a motor vehicle, trailer or semitrailer purchased on or after February 16 of the tax year or which acquires situs in the county on or after February 16 of the tax year shall file a return by the 15th day of the month following the taxable date and taxes on such property shall be due on dates established by the director of finance. The term "taxable date," as used in this subsection, shall mean the first day of the month of purchase or establishment of situs if the vehicle, trailer or semitrailer is purchased or acquires situs on or before the 15th day of the month or the first day of the following month if the vehicle, trailer or semitrailer is purchased or acquires situs within the

county on or after the 16th day of the month, except for any purchase or acquisition of situs from December 16 through the end of December, in which case the taxable date shall be January 1 of the succeeding tax year and the taxpayer must file a return on or before March 15 of that year, and taxes shall be due as set forth in section 20-108.

(i) *Billing for less than full year.* Notwithstanding any other date for billing and payment of personal property taxes, the county may bill all personal property taxes assessed for a portion of the tax year less than the full year on or after June 15 and/or December 15 of each year.

(j) *Exemption of property for which tax has been paid to another jurisdiction.* Tangible personal property which was legally assessed by another jurisdiction in the state and on which the tax has been paid is exempt from taxation under this section for the tax year or portion thereof during which such property was legally assessed by the other jurisdiction and taxes were paid to that jurisdiction.

(k) *Penalty and interest.* If any tax levied under this section is not paid when due, the payment penalty and interest provided for in section 20-108 shall be imposed. No filing penalty shall be imposed on any item prorated under this section. No interest shall be paid on any refund made under subsection (b) or (c) of this section.

(Code 1980, § 20-4.1; Code 1995, § 20-102; Ord. No. 932, § 1, 8-14-1996; Ord. No. 990, § 5, 9-14-1999; Ord. No. 1032, § 1, 8-13-2002)

State law reference—Proration of personal property tax, Code of Virginia, § 58.1-3516.

Sec. 20-110. Motor vehicle, trailer and boat returns.

(a) Notwithstanding the filing requirement set out in section 20-108(a):

(1) The most recent tax return filed prior to January 1, 1996, or any return filed thereafter shall be the basis for the assessment of a motor vehicle in all later years in which the director of finance has not been informed of a change in the address or name of the motor vehicle owner or of a change in the situs or ownership of the vehicle; and

(2) The most recent tax return filed prior to January 1, 1997, or any return filed thereafter shall be the basis for the assessment of a trailer or boat in all later years in which the director of finance has not been informed of a change in the address or name of the trailer or boat owner or a change in the situs or ownership of the trailer or boat.

(b) Motor vehicle, trailer or boat owners are required to file a new personal property tax return on or before March 15 of any tax year for which there is:

(1) A change in the name or address of the person owning the vehicle, trailer or boat;

(2) A change in the situs of the vehicle, trailer or boat; or

(3) Any other change affecting the assessment of the personal property tax on the vehicle, trailer or boat for which a tax return was previously filed.

(c) Motor vehicle or trailer owners are required to file a return as set out in section 20-109(h) when acquiring one or more vehicles or trailers for which no personal property tax return has been filed with the county.

(d) Boat owners are required to file a return as set out in section 20-108(a) when acquiring one or more boats for which no personal property tax return has been filed with the county.

(Code 1995, § 20-102; Ord. No. 904, § 1, 7-26-1995; Ord. No. 933, § 1, 8-14-1996)

Sec. 20-111. Property of retail merchants.

All property of a retail merchant not offered for sale as merchandise shall be separately listed and taxed as other property.

(Code 1980, § 20-5; Code 1995, § 20-103)

Sec. 20-112. Property of wholesale merchants.

All property of a wholesale merchant not offered for sale as merchandise shall be separately listed and taxed as other property.

(Code 1980, § 20-6; Code 1995, § 20-104)

Sec. 20-113. Exemption for household goods and personal effects of residents.

(a) The following household goods and personal effects of the residents of the county are hereby exempt from taxation as tangible personal property:

(1) Bicycles.

(2) Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds.

(3) Pianos, organs and all other musical instruments of whatever kind, phonographs and record players and records to be used therewith, and radio and television instruments and equipment.

(4) Oil paintings, pictures, statuary, curios, articles of virtu and works of art.

(5) Diamonds, cameos or other precious stones and all precious metals used as ornaments or jewelry.

(6) Sporting and photographic equipment.

(7) Clothing and objects of apparel.

(8) Antique motor vehicles as defined in Code of Virginia, § 46.2-100 which may not be used for general transportation purposes.

(9) All-terrain vehicles and off-road motorcycles as defined in Code of Virginia, § 46.2-100.

(10) Electronic communications and processing devices and equipment, including but not limited to cell phones and tablet and personal computers, including peripheral equipment such as printers.

(11) All other tangible personal property used by an individual or a family or household primarily incident to maintaining an abode.

(b) The classifications set forth in this section shall apply only to such property owned and used by an individual or by a family or household incident to maintaining an abode.

(c) Notwithstanding any provision set forth above, household appliances in residential rental property used by an individual or by a family or household incident to maintaining an abode shall be deemed to be fixtures and shall be assessed as part of the real property in which they are located. For purposes of this subsection, the term "household appliances" shall mean all major appliances customarily used in a residential home and which are the property of the owner of the real estate, including, without limitation, refrigerators, stoves, ranges, microwave ovens, dishwashers, trash compactors, clothes dryers, garbage disposals and air conditioning units.

(Code 1980, § 20-7(a)—(i); Code 1995, § 20-105)

State law reference— Authority to exempt certain personal property, Code of Virginia, § 58.1-3504.

Sec. 20-114. Exemption for agricultural animals and products.

The following agricultural animals and products of the residents of the county are hereby exempt from taxation as tangible personal property:

(1) Horses, mules and other kindred animals.

(2) Cattle.

(3) Sheep and goats.

(4) Hogs.

(5) Poultry.

(6) Grains and other feeds used for the nurture of farm animals.

(7) Grain; tobacco; wine produced by farm wineries as defined in Code of Virginia, § 4.1-100 and other agricultural products in the hands of a producer.

(8) (a) Farm machinery other than farm machinery described in subdivision (10) of this section and farm implements, which includes (i) equipment and machinery used by farm wineries as defined in Code of Virginia, § 4.1-100 in the production of wine; (ii) equipment and machinery used by a nursery as defined in Code of Virginia, § 3.2-3800 for the production of horticultural products; and (iii) any farm tractor as defined in Code of Virginia, § 46.2-100, regardless of whether such farm tractor is used exclusively for agricultural purposes.

(b) Farm machinery, farm equipment, and farm implements, other than farm machinery and farm implements described in subdivision (10) of this section, used by an indoor, closed, controlled-environment commercial agricultural facility, including property described in subdivisions 8 a and b of Code of Virginia, § 58.1-609.2, for the production of agricultural products. For purposes of this subdivision, "indoor, closed, controlled-environment commercial agricultural facility" includes indoor vertical farming or a greenhouse.

(9) Equipment used by farmers or farm cooperatives qualifying under section 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.

(10) Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.

(11) Privately owned trailers as defined in Code of Virginia, § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in Code of Virginia, § 58.1-3505(A)(1)—(A)(7).

(Code 1980, § 20-7(j); Code 1995, § 20-106)

State law reference— Authority to exempt, Code of Virginia, § 58.1-3505.

Sec. 20-115. Situs for taxation.

(a) The situs for the assessment and taxation of tangible personal property, machinery and tools shall in all cases be the taxing jurisdiction where such property may be physically located on the first day of the tax year.

(b) The situs of motor vehicles, travel trailers, boats and airplanes subject to local taxation shall be the taxing jurisdiction where such vehicle is normally garaged, docked or parked except:

(1) The situs for vehicles with a weight of 10,000 pounds or less registered in the state but normally garaged, docked or parked in another state shall be the locality in Virginia where registered; and

(2) If the owner of a business files a return for any vehicle with a weight of 10,000 pounds or less registered in the state and used in the business with the locality from which the use of such vehicle is directed or controlled and in which the owner's business has a definite place of business, as defined in section 20-350, the situs for such vehicles shall be such locality provided the owner has presented evidence that he has paid the personal property tax on the business vehicles to such locality.

(c) Any person domiciled in another state whose motor vehicle is principally garaged or parked in the county shall not be subject to a personal property tax on such vehicle, upon a showing of sufficient evidence that such person has paid a personal property tax on such vehicle in the state in which he is domiciled.

(d) In the event it cannot be determined where a motor vehicle, travel trailer, boat or airplane is normally garaged, stored or parked, the situs shall be the domicile of the owner of such property. However, if a motor vehicle is used by a fulltime student attending an institution of higher education, and such use establishes that the motor vehicle is normally garaged at the location of the institution of higher education, the taxing

situs shall be the domicile of the owner of the motor vehicle, provided the owner presents sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile, upon request of the locality of the institution of higher education.

(Code 1980, § 20-8; Code 1995, § 20-107; Ord. No. 1052, § 1, 9-9-2003)

State law reference—Similar provisions, Code of Virginia, § 58.1-3511.

Sec. 20-116. Waiver of penalty and interest.

The director of finance may waive the penalty and interest for failure of the taxpayer to file a return or to pay a tax under this article, provided such taxpayer demonstrates that such failure was not in any way the fault of the taxpayer or was the fault of the director of finance. The failure to file a return or to pay a tax due to the death of the taxpayer or a medically determinable physical or mental impairment on the date the return or tax is due shall be presumptive proof of lack of fault on the taxpayer's part, provided the return is filed or the taxes are paid within 30 days of the due date; however, if there is a committee, legal guardian, conservator or other fiduciary handling the individual's affairs, such return shall be filed or such taxes paid within 120 days after the fiduciary qualifies or begins to act on behalf of the taxpayer. Interest on such taxes shall accrue until paid in full. Any such fiduciary shall, on behalf of the taxpayer, by the due date, file any required returns and pay any taxes that come due after the 120-day period.

(Code 1980, § 20-8.1; Code 1995, § 20-108)

State law reference—Similar provisions, Code of Virginia, § 58.1-3916.

Secs. 20-117—20-147. Reserved.

ARTICLE IV. RECORDATION TAX

***State law reference—**Recordation tax generally, Code of Virginia, § 58.1-800 et seq.; authority to impose recordation tax, Code of Virginia, §§ 58.1-814, 58.1-3800 et seq.

Sec. 20-148. Levy; amount; exemptions.

There is hereby imposed a county recordation tax in an amount equal to one-third of the amount of the state recordation tax collectible for the state on the first recordation of each taxable instrument. No tax shall be imposed under this article upon any instrument in which the state recordation tax is $0.50 specifically. Where a deed or other instrument conveys, covers or relates to property located partly in the county and partly in another county or city, or in other counties or cities, the tax imposed under the authority of this article shall be computed only with respect to the property located in the county.

(Code 1980, § 20-25; Code 1995, § 20-131)

State law reference—Authority for above tax, Code of Virginia, §§ 58.1-814, 58.1-3800.

Sec. 20-149. Collection and disposition; compensation for collection.

The clerk of the circuit court of the county collecting the tax imposed under this article shall pay the tax into the treasury of the county. The clerk of the circuit court who collects the tax imposed under this article shall be entitled to an amount equal to five percent of the amount collected and paid to the county as compensation for such collection services.

(Code 1980, § 20-26; Code 1995, § 20-132)

State law reference—Similar provisions, Code of Virginia, § 58.1-3803.

Secs. 20-150—20-166. Reserved.

ARTICLE V. BANK FRANCHISE TAX

***State law reference—** Bank franchise tax authorized, Code of Virginia, § 58.1-1210.

Sec. 20-167. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bank shall have the meaning ascribed thereto by Code of Virginia, § 58.1-1201.

Net capital shall have the meaning ascribed thereto by Code of Virginia, § 58.1-1205.

(Code 1980, § 20-34; Code 1995, § 20-161)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 20-168. Levy; amount.

Pursuant to the provisions of Code of Virginia, title 58.1, ch. 12 (Code of Virginia, § 58.1-1200 et seq.), there is hereby imposed for each tax year a tax of 80 percent of the state rate of taxation for each $100.00 of the net capital of any bank located outside any incorporated town but otherwise within the boundaries of this county. If such bank also has offices that are located outside the county or within the corporate limits of any town therein, the tax shall be apportioned as provided by Code of Virginia, § 58.1-1211. If such bank is not the principal office but is a branch of the principal office, the tax upon such branch shall be apportioned as provided by Code of Virginia, § 58.1-1211.

(Code 1980, § 20-35; Code 1995, § 20-162)

State law reference— Bank franchise tax authorized, Code of Virginia, § 58.1-1210.

Sec. 20-169. Filing of return; records of deposits; payment.

(a) On or after January 1 of each year, but not later than March 1 of any such year, all banks whose principal offices are located within this county but outside any incorporated town in the county shall prepare and file with the director of finance a return as provided by Code of Virginia, § 58.1-1207, in duplicate, which shall set forth the tax on net capital as computed under Code of Virginia, title 58.1, ch. 12 (Code of Virginia, § 58.1-1200 et seq.). The director of finance shall certify a copy of the bank's return and schedules and shall forthwith transmit such certified copy to the state department of taxation.

(b) If the principal office of a bank is located outside the boundaries of this county or within any incorporated town located in the county, and such bank has one or more branch offices located within this county, then, in addition to the filing requirements set forth in subsection (a) of this section, any bank conducting such branch business shall file with the director of finance a copy of the real estate deduction schedule, apportionment and other items which are required by Code of Virginia, §§ 58.1-1207, 58.1-1211 and 58.1-1212. This latter filing shall be submitted with the return required by Code of Virginia, § 58.1-1207.

(c) All banks whose principal offices are located within this county, but outside any incorporated town in the county, that have as of the beginning of any tax year a branch bank located in another county, city or incorporated town, shall maintain a record of the deposits through each such branch as of the beginning of the tax year; and each bank shall submit to the director of finance of the county a report of such deposits with the return required by Code of Virginia, § 58.1-1207, as amended.

(d) Every bank, on or before June 1 of each year, will pay into the department of finance of the county all taxes imposed pursuant to this article.

(Code 1980, § 20-36; Code 1995, § 20-163)

State law reference—Similar provisions, Code of Virginia, §§ 58.1-1207, 58.1-1211, 58.1-1212.

Sec. 20-170. Penalty.

Any bank which fails to file a return or pay the tax required by this article or fails to comply with any other provision of this article shall be subject to a penalty of five percent of the tax due.

(Code 1980, § 20-37; Code 1995, § 20-164)

State law reference—Similar provisions, Code of Virginia, § 58.1-1216.

Secs. 20-171—20-193. Reserved.

ARTICLE VI. SALES TAX

***State law reference—**Authority to levy sales tax, Code of Virginia, § 58.1-605.

Sec. 20-194. Levy; amount; applicability of state law.

Pursuant to Code of Virginia, § 58.1-605, a local general retail sales tax at the rate of one percent to provide revenue for the general fund for the county is hereby levied. Such tax shall be added to the rate of the state sales tax imposed by Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.). It shall be subject to all provisions of Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.) and the rules and regulations published with respect thereto.

(Code 1980, § 20-38; Code 1995, § 20-191)

State law reference—Authority to levy sales tax, Code of Virginia, § 58.1-605.

Sec. 20-195. Administration and collection.

Pursuant to Code of Virginia, § 58.1-605, the local general retail sales tax levied pursuant to this article shall be administered and collected by the state tax commissioner in the same manner and subject to the same penalties as provided for the state sales tax, with the adjustments required by Code of Virginia, § 58.1-628. No discount under Code of Virginia, § 58.1-622, shall be allowed.

(Code 1980, § 20-39; Code 1995, § 20-19)

State law reference—Similar provisions, Code of Virginia, § 58.1-605.

Secs. 20-196—20-213. Reserved.

ARTICLE VII. USE TAX

***State law reference—**Use tax authorized, Code of Virginia, § 58.1-606.

Sec. 20-214. Levy; amount; applicability of state law.

Pursuant to Code of Virginia, § 58.1-606, a local general retail use tax at the rate of one percent to provide revenue for the general fund for the county is hereby levied. Such tax shall be added to the rate of the state use tax imposed by Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.). It shall be subject to all provisions of Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.) and the rules and regulations published with respect thereto.

(Code 1980, § 20-40; Code 1995, § 20-221)

State law reference— Authority to levy sales tax, Code of Virginia, § 58.1-606.

Sec. 20-215. Administration and collection.

Pursuant to Code of Virginia, § 58.1-606, the local general retail use tax levied pursuant to this article shall be administered and collected by the state tax commissioner in the same manner and subject to the same penalties as provided for the state use tax, with the adjustments required by Code of Virginia, § 58.1-628. No discount under Code of Virginia, § 58.1-622, shall be allowed.

(Code 1980, § 20-41; Code 1995, § 20-222)

State law reference— Similar provisions, Code of Virginia, § 58.1-606.

Secs. 20-216—20-238. Reserved.

ARTICLE VIII. UTILITY TAXES

***State law reference—** Authority to adopt tax, Code of Virginia, § 58.1-3814.

Sec. 20-239. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affiliated group shall have the same meaning ascribed to it in Code of Virginia, § 58.1-3700.1.

Bad debts means any portion of a debt related to a sale of local telecommunications services, the gross charges for which are not otherwise deductible or excludable, that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the service provider shall report and pay the tax on that portion during the reporting period in which the payment is made.

Commercial or industrial consumer, as relates to local telecommunications service, means any person furnished local telecommunication service classified as "business" under tariffs filed with the state corporation commission.

Consumer means a person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of local telecommunications services or electricity services.

Dwelling unit means one or more rooms designed or intended for occupancy by a single family.

E-911 system means a telephone service which utilizes a computerized system to automatically route emergency telephone calls placed by dialing the digits "911" to the proper public safety answering point serving the jurisdiction from which the emergency telephone call was placed. An E-911 system includes selective routing of telephone calls, automatic telephone number identification and automatic location identification performed by computers and other ancillary control center communications equipment.

Electric suppliers means any corporation, cooperative, partnership or other business entity providing electric service.

Enhanced services means services that employ computer processing applications to act on the format,

code or protocol or similar aspects of the information transmitted; provide additional, different or restructured information; or involve interaction with stored information.

Gross charges.

(1) The term "gross charges," subject to the exclusions of this article, means the amount charged or paid for the taxable purchase of local telecommunication services.

(2) The term "gross charges" shall not include the following:

a. Charges or amounts paid that vary based on the distance and/or elapsed transmission time of the communication that are separately stated on the consumer's bill or invoice.

b. Charges or amounts paid for customer equipment, including such equipment that is leased or rented by the customer from any source, if such charges or amounts paid are separately identifiable from other amounts charged or paid for the provision of local telecommunication services on the service provider's books and records.

c. Charges or amounts paid for administrative services, including, without limitation, service connection and reconnection, late payments and roamer daily surcharges.

d. Charges or amounts paid for special features that are not subject to taxation under section 4251 of the Internal Revenue Code of 1986, as amended.

e. Charges or amounts paid that are the tax imposed by section 4251 of the Internal Revenue Code of 1986, as amended, or any other tax or surcharge imposed by statute, ordinance or regulatory authority.

f. Bad debts.

Kilowatt hours delivered means 1,000 watts of electricity delivered in a one-hour period by an electric provider to a consumer except in the case of eligible customer-generators, as defined in Code of Virginia, § 56-594, where it means those kilowatt hours supplied from the electric grid to such customer-generators, minus the kilowatt hours generated and fed back to the electric grid by such customer-generators.

Local telecommunications service, subject to the exclusions stated in this article, includes, without limitation, the two-way local transmission of messages through use of switched local telephone services; telegraph services; teletypewriter; local cellular mobile radio telecommunication services; specialized mobile radio; stationary two-way radio; or any other form of two-way mobile and portable communications.

Local telephone service, subject to the exclusions stated in this article, includes any services subject to federal taxation as local telephone service as that term is defined in section 4252 of the Internal Revenue Code of 1986, as amended, or any successor statute. As it applies to an E-911 system, "local telephone service" shall mean switched local exchange access service.

Mobile local telecommunications service means any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunications service and specialized mobile radio.

Mobile service consumer means a person having a telephone number for mobile local telecommunications service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service.

Mobile service provider means every person engaged in the business of selling mobile local telecommunications services to consumers.

Public safety agency means a functional division of a public agency which provides firefighting, police, medical or other emergency services or a private entity which provides such services on a voluntary basis.

Public safety answering point means a communications facility operated on a 24-hour basis which first

receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch public safety services or extend, transfer or relay E-911 calls to appropriate public safety agencies.

Residential consumer, as relates to local telecommunications service, means any person furnished service classified as residential under tariffs filed with the state corporation commission. A residential consumer shall not include any consumer of mobile local telecommunications service.

Service address means the location of the telecommunications equipment from which the telecommunication is originated or at which the telecommunication is received by a consumer. However, if the service address is not a defined location, as in the case of mobile telephones, maritime systems, air-to-ground systems and the like, the term "service address" shall mean the location of the subscriber's primary use of the telecommunication equipment within the licensed service area. A mobile service provider may obtain a signed statement from a consumer indicating which county, city or town within the licensed service area is the location of the consumer's primary use of the telecommunications equipment. A mobile service provider shall be entitled to rely absolutely on a consumer's signed statement and shall remit the taxes collected to the county, city or town identified by the consumer. In the absence of a signed statement by a consumer, a mobile service provider shall identify the county, city or town of the consumer's primary use and shall remit the tax to such county, city or town based on any other reasonable method, including, without limitation, the consumer's billing address, service address or telephone number within the licensed service area.

Service provider means every person engaged in the business of selling local telecommunications services to consumers or delivering electricity services to consumers.

Taxable purchase.

(1) The term "taxable purchase" means the acquisition of telecommunications services for consumption or use.

(2) The term "taxable purchase" does not include:

a. The provision of telecommunications among members of an affiliated group of entities by a member of the group for their own exclusive use and consumption; and

b. The purchase of telecommunications for resale in the subsequent provision of telecommunications, including, without limitation, carrier access charges, right of access charges and charges for use of intercompany facilities.

However, the acquisition of telecommunications by a provider of enhanced services is not the purchase of telecommunications for resale, even when the cost of the telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary object of the purchase of the telecommunications by the provider is for the provision of enhanced services and not telecommunications. A person may make tax-free purchases of telecommunications for resale if the person provides to the service provider a sworn affidavit indicating that the person's purchases are nontaxable sales for resale.

(Code 1980, § 20-42; Code 1995, § 20-251; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 1, 10-10-2000)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 20-240. Levy; amount of tax on electricity service.

(a) There is hereby imposed and levied by the county upon each and every consumer, classified as determined by the service provider, of electricity provided by an electric supplier a tax based on kilowatt hours delivered monthly in the following amounts:

(1) On residential consumers, such tax shall be $0.70 plus the rate of $0.007537 per kilowatt hour delivered

not to exceed a maximum monthly tax of $1.00. In the case of master metered units with residential use, such tax per dwelling unit shall be $0.70 plus the rate of $0.007537 per kilowatt hour delivered not to exceed a maximum monthly tax of $1.00 per dwelling unit.

(2) On commercial consumers, such tax shall be $1.15 plus the rate of $0.007130 per kilowatt hour delivered not to exceed a maximum monthly tax of $10.00.

(3) On industrial consumers, such tax shall be $1.15 plus the rate of $0.007603 per kilowatt hour delivered not to exceed a maximum monthly tax of $10.00.

(b) The tax in every case shall be collected by the service provider from the consumer and shall be paid by the consumer to the service provider for the use of the county at the time the purchase price or charge for electricity shall become due and payable under the agreement between the consumer and the service provider.

(c) Until the consumer pays the tax to the service provider, the tax shall constitute a debt to the county. If any consumer receives and pays for electricity but refuses to pay the tax on the bill, the service provider shall notify the county of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax, the service provider shall follow its normal collection procedures with respect to the charge for electric service and the tax, and upon collection of the bill or any part thereof shall apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to the county. After the consumer pays the tax to the service provider, the taxes shall be deemed to be held in trust by such service provider until remitted to the county.

(d) All such taxes shall be computed to the nearest whole cent. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

(Code 1980, § 20-43; Code 1995, § 20-252; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 2, 10-10-2000)

Sec. 20-241. Levy; amount of tax on local telecommunication service.

(a) There is hereby imposed and levied by the county upon each and every taxable purchase by a consumer of local telecommunications service provided that the consumer's service address is located within the county a tax in the amount of ten percent of the gross charge made by the service provider against the consumer with respect to each and every taxable purchase; provided, however, that:

(1) In any case any monthly bill submitted by any service provider for residential service shall exceed $10.00 for a residential consumer, there shall be no tax computed on so much of such bill as shall exceed $10.00;

(2) In any case any monthly bill submitted by any service provider for commercial or industrial service shall exceed $100.00 for a commercial or industrial consumer, there shall be no tax computed on so much of such bill as shall exceed $100.00; and

(3) In any case any monthly bill submitted by any service provider to a consumer for mobile local telecommunications service shall exceed $30.00, there shall be no tax computed on so much of such bill as shall exceed $30.00.

All such taxes shall be computed to the nearest whole cent. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

(b) A service provider of local telecommunications services shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services and the tax shall be paid by the consumer to the service provider at the time the gross charge shall become due and payable under the agreement between the consumer and the service provider. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the county. If any consumer refuses to pay the tax, the service provider shall notify the county. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the county.

(c) A service provider shall remit to the county on or before the last day of the month the amount of tax

billed during the preceding month to consumers with a service address in the county.

(d) Any consumer shall be entitled to a refund from the county equal to the amount of any tax the consumer paid to a jurisdiction outside of the state if such tax was legally imposed in such other jurisdiction; however, the amount of credit or refund shall not exceed the tax paid to the county on such purchase.

(Code 1995, § 20-252.1; Ord. No. 898, § 2(20-43.1), 6-28-1995)

Sec. 20-242. Computation on bimonthly bill.

(a) In case bills are submitted by any service provider of local telecommunications service for two months' service, the tax shall be computed as if the figure of $10.00 specified in section 20-241 were $20.00, the figure of $100.00 specified in section 20-241 were $200.00 and the figure of $30.00 specified in section 20-241 were $60.00.

(b) In the case of bills submitted by a service provider of electricity service for two months' service, the tax shall be determined as follows:

(1) The kilowatt hours delivered will be divided by two;

(2) A monthly tax will be calculated using the base tax and rates in section 20-240(a); and

(3) The monthly tax calculated will be multiplied by two, but in no case shall exceed twice the monthly maximum tax set out in section 20-240(a).

(Code 1980, § 20-44; Code 1995, § 20-253; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 3, 10-10-2000)

Sec. 20-243. Amount of tax for enhanced emergency telephone service.

In addition to the tax imposed and levied under section 20-241, there is hereby imposed and levied by the county upon each and every consumer of local telephone service a tax in the amount of $1.00 per telephone line per month. This tax shall be paid by the consumer to the service provider of local telephone service for the use of the county to pay the initial capital, installation and maintenance costs of its E-911 system and to offset recurring maintenance, repair and system upgrade costs and salaries or portions of salaries of dispatchers or call-takers paid by the county which are directly attributable to the E-911 program.

(Code 1980, § 20-44.1; Code 1995, § 20-254; Ord. No. 898, § 1, 6-28-1995)

Sec. 20-244. Exemptions.

(a) The United States of America, the state and the political subdivisions, boards, commissions and authorities thereof are hereby exempted from the payment of the taxes imposed and levied by this article with respect to the purchase of electricity service and local telecommunications service used by such governmental agencies.

(b) The taxes hereby imposed and levied on consumers of local telecommunications service shall apply to all charges made for such service; provided, however, that local messages which are paid for by inserting coins in coin-operated telephones shall be exempt from the tax imposed and levied under section 20-241.

(c) Provided, further, there shall be no tax on bills rendered to a public service corporation or a municipality on sales of electricity purchased for resale.

(Code 1980, § 20-45; Code 1995, § 20-255; Ord. No. 898, § 1, 6-28-1995)

Sec. 20-245. Collection and remittance by service provider.

(a) It shall be the duty of every service provider in acting as the tax collection medium or agency for the county to collect from the consumer for the use of the county the taxes hereby imposed and levied at the time of collecting the purchase price or gross charges. The taxes imposed, levied and collected during each

calendar month shall be reported and paid by each service provider to the business section manager in the office of the director of finance on or before the 15th day of the second calendar month thereafter, except as provided in section 20-241(c), together with the name and address of any consumer who has refused to pay the taxes. The required reports shall be in the form prescribed by the director of finance.

(b) Whenever the tax imposed and levied under section 20-243 is collected by the service provider acting as a tax collecting medium or agency for the county in accordance with this section, such service provider shall be allowed as compensation for the collection and remittance of this tax, three percent of the amount of tax due and accounted for. The service provider shall deduct this compensation from the payments made to the business section manager in accordance with this section.

(Code 1980, § 20-46; Code 1995, § 20-256; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 4, 10-10-2000)

Sec. 20-246. Records of service provider.

Each and every service provider shall keep complete records showing all charges or taxable purchases, as those terms are used in this article, which records shall show the price or gross charge against each consumer, the date thereof and the date of payment thereof, the amount of tax imposed hereunder and the amount of compensation deducted by the service provider as provided by section 20-245. Such records shall be maintained for 36 months and shall be kept open for inspection by the duly authorized agents of the county during regular business hours on business days, and the duly authorized agents of the county shall have the right, power and authority to make such transcripts and copies thereof during such time as they may desire.

(Code 1980, § 20-47; Code 1995, § 20-257; Ord. No. 898, § 1, 6-28-1995; Ord. No. 970, § 1, 3-25-1998; Ord. No. 1006, § 5, 10-10-2000)

Sec. 20-247. Powers and duties of director of finance.

(a) The director of finance is hereby authorized to make and establish rules and regulations, not inconsistent with this article, to carry out the provisions of this article.

(b) The director of finance is hereby authorized to extend for good cause shown the time of filing any return required to be filed by the provisions of this article, provided that no such extension shall exceed a period of 30 days.

(c) The director of finance shall be charged with the power and duty of collecting the taxes levied and imposed under this article. The director of finance may delegate so much of the power and responsibility for the operation and enforcement of this tax as he deems advisable.

(Code 1980, § 20-48; Code 1995, § 20-258)

Secs. 20-248—20-272. Reserved.

ARTICLE IX. TRANSIENT OCCUPANCY TAX

***State law reference—** Authority to levy transient occupancy tax, Code of Virginia, § 58.1-3819 et seq.

Sec. 20-273. Definitions.

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accommodations mean any room or space, suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes, where a price is paid in a retail sale by or for a transient for the use or possession of the room or space in any hotel, motel, boarding house, travel campground, short-term rental, orother facility offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days. "Accommodations" does not include rooms or space offered by a person in the business of providing conference rooms, meeting space, or event space if the person does not also offer rooms available for overnight sleeping.

Accommodations fee means the room charge less the discount room charge, if any, provided that the accommodations fee may not be less than $0.

Accommodations intermediary means any person other than an accommodations provider that (i) facilitates the sale of an accommodation and (ii) either (a) charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale; (b) collects a room charge from the customer; or (c) charges a fee, other than an accommodations fee, to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

Accommodations intermediary does not include a person:

1. If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person;

2. Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person; or

3. Who is licensed as a real estate licensee pursuant to Code of Virginia, title 54.1, ch. 21, art. 1 (Code of Virginia, § 54.1-2100 et seq.), when acting within the scope of such license.

Accommodations provider means any person that furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession or the sale of the right to use or possess.

Affiliate means with respect to any person, any other person directly or indirectly controlling, controlled by, or under common control with such person. For purposes of this definition, "control" (including controlled by and under common control with) means the power, directly or indirectly, to direct or cause thedirection of the management and policies of such person whether through ownership or voting securities or by contract or otherwise.

Director means the director of finance of the county.

Discount room charge means the full amount charged by the accommodations provider to the accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.

Operator means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-

term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

Person includes, but is not limited to, an individual, firm, partnership, association, corporation, person acting in a representative capacity, or any group of individuals acting as a unit.

Retail sale means a sale to any person for any purpose other than for resale.

Room charge means the full retail price charged to the customer for the use of the accommodations before taxes. "Room charge" includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as an accommodations fee, facilitation fee, or any other name. The room charge will be determined in accordance with 23VAC10-210-730 and the related rulings of the Virginia Department of Taxation on the same.

Short-term rental means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

Transient means the same person who, for a period of less than 30 consecutive days, either at his own expense or at the expense of another, obtains the use or possession of a room or space in any accommodation for which a charge is made in a retail sale.

(Code 1980, § 20-51; Code 1995, § 20-281; Ord. No. 961, § 1, 9-24-1997)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 20-274. Levy; amount.

(a) There is hereby imposed and levied by the county on each transient a tax in the percentages established below of the total price paid in a retail sale by the customer for any accommodation:

(1) Pursuant to Code of Virginia, § 58.1-3819, two percent.

(2) Pursuant to Code of Virginia, § 58.1-3823(A)1, four percent.

(3) Pursuant to Code of Virginia, § 58.1-3823(A)2, two percent.

(b) Such tax must be collected from such transient at the time and in the manner provided in this article.

(Code 1980, § 20-52; Code 1995, § 20-282; Ord. No. 925, § 1, 7-10-1996; Ord. No. 978, § 1, 7-8-1998)

State law reference— Authority to levy transient occupancy tax, Code of Virginia, § 58.1-3819 et seq.

Sec. 20-275. Collection and billing.

(a) For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider must collect the tax imposed pursuant to this article, computed on the total price paid for the use or possession of the accommodations. The accommodations provider must separately state the amount of the tax in the bill, invoice, or similar documentation and must add the tax to the total pricepaid for the use or possession of the accommodations.

(b) For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary will be deemed under this article as a facility making a retail sale of an accommodation. The accommodations intermediary must collect the tax imposed pursuant to this article, computed on the room charge. The accommodations intermediary must separately state the amount of the tax on the bill, invoice, or similar documentation and add the tax to the room charge; thereafter, such tax is a debt from the customer to the accommodations intermediary, recoverable at law in the same manner as otherdebts.

(c) If the total price paid by the customer for any accommodation includes any charge for services in addition to that of use or possession of the room or space occupied, then such portion of the total charge as represents only use or possession of the room or space occupied must be distinctly set out and billed to such transient as a separate item.

(d) Every person receiving any payment in accordance with the provisions of this section for any accommodation with respect to which a tax is levied under this article must collect the amount of tax thereby imposed from the transient on whom the tax is levied, or from the person paying for such accommodation, at the time payment for such accommodation is made. Such tax will be deemed to be held in trust by the person required to collect the tax until remitted to the county as required in this article.

(Code 1980, § 20-53; Code 1995, § 20-283)

Sec. 20-276. Reports and remittance of tax.

(a) *Generally*. The person collecting the tax levied under this article is liable for the tax and must make a report upon such forms and setting forth such information as the director may prescribe and require. Such reports must show the amount of room rental charges collected and the tax required to be collected and must be signed and delivered to the director with a remittance of suchtax. Such report and remittance must be made at least once in every 30-day period and not later than the 20th day of the month next following the month in which such tax was collected.

(b) *Additional information from accommodations intermediaries*. Subject to applicable laws, an accommodations intermediary must also submit to the director the property addresses and gross receipts for all accommodations facilitated by the accommodations intermediary in the county. Such information must be submitted monthly and may be included on the return required in subsection (a).

(c) *Agreements among two or more accommodations intermediaries*. For any transaction for the retail sale of accommodations involving two or more parties that meet the definition of accommodations intermediary, nothing in this article prohibits such parties from making an agreement regarding which party is responsible for collecting and remitting the tax, so long as the party so responsible is registered with the locality for purposes of remitting the tax. In such event, the party that agrees to collect and remit the tax is the sole party liable for the tax, and the other parties to the agreement are not liable for the tax.

(Code 1980, § 20-54; Code 1995, § 20-284)

Sec. 20-277. Penalty for failure to file report or pay tax; interest on unpaid tax.

(a) If any person, whose duty it is so to do, shall fail or refuse to file with the director the report required under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax assessable on such report. Such penalty shall be assessed on the day following the day on which the report was due unless otherwise provided by Code of Virginia, § 58.1-3903. Any such penalty, when assessed, shall become a part of the tax. The imposition of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any report required in this article.

(b) If any person, whose duty it is so to do, shall fail or refuse to remit to the director the tax required to be collected and paid under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax past due. Such penalty shall be assessed on the day following the day on which the tax was due unless otherwise provided by Code of Virginia, § 58.1-3903. Any such penalty, when assessed, shall become a part of the tax.

(c) In addition, there shall be assessed interest at the rate of ten percent per year on the amount of tax past due, which interest shall commence on the day following the day on which the tax was due unless otherwise provided by Code of Virginia, § 58.1-3903.

(Code 1980, § 20-55; Code 1995, § 20-285; Ord. No. 966, § 3, 11-12-1997)

Sec. 20-278. Procedure upon failure to file return or pay tax.

If any person shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittance required in this article, the director shall make an estimate of the amount of taxes due the county by such person upon the best information available and shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article. The director shall notify such person by registered mail, sent to his last known place of address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten days from the date of such notice. The director shall have the power to examine such books and records as is provided for by section 20-374.

(Code 1980, § 20-56; Code 1995, § 20-286)

Sec. 20-279. Criminal penalties.

Any corporate or partnership officer as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a misdemeanor.

(Code 1980, § 20-56; Code 1995, § 20-287; Ord. No. 930, § 1, 8-14-1996)

Sec. 20-280. Short-term rental registry established; annual registration required; fee.

There is hereby established a short-term rental registry in the county. Operators within the county are required to register annually with the director of the department of finance and provide (i) the complete name of the operator, (ii) the address of each property in the locality offered for short-term rental by the operator, and (iii) an attestation that the property owner has granted permission for use of such property as a short-term rental if the operator is a lessee or sublessee. The operator must pay a fee of $200.00 at the time of registration each year. Registrations are valid for one year from the date of registration. No operator may offer a property for short-term rental without a valid registration.

Sec. 20-281. Exemptions.

The following operators are exempt from the registration requirements of § 20-280:

(1) Operators licensed by the Real Estate Board or who are property owners represented by a real estate licensee;
(2) Operators registered pursuant to the Virginia Real Estate Time-Share Act, Code of Virginia, § 55.1-2200 et seq.;
(3) Operators licensed or registered with the Department of Health, related to the provision of room or space for lodging;
(4) Operators licensed or registered with the county, relating to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

Sec. 20-282. Penalties.

(a) *Penalties for violations of registration requirement.* Any operator required to register who violates § 20-280 is liable to the county for a penalty of $500 for each violation. Unless and until the operator pays the penalty and registers the property, the operator may not continue to offer such property for short-term rental. Upon more than one violation of this article as it relates to a specific property, the operator will be prohibited from registering and offering that property for a short-term rental.

(b) *Penalty for violations of other applicable laws and regulations.* Any operator required to register will be prohibited from offering a specific property for short-term rental upon three or more violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

Secs. 20-283—20-306. Reserved.

ARTICLE X. SHORT-TERM RENTAL PROPERTY TAX

***State law reference—** Authority to adopt, Code of Virginia, § 58.1-3510.1.

Sec. 20-307. Short-term rental property; short-term rental business.

For purposes of this article:

(1) Short-term rental property means all tangible personal property held for rental and owned by a person engaged in the short-term rental business, except trailers as defined in Code of Virginia, § 46.2-100, as amended, and other tangible personal property required to be licensed or registered with the state department of motor vehicles, the state department of game and inland fisheries, or the state department of aviation.

(2) A person is engaged in the short-term rental business if:

a. Not less than 80 percent of the gross rental receipts of such business during the preceding year are from transactions involving the rental of short-term rental property, other than heavy equipment property, for rental periods of 92 consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessee; or

b. Not less than 60 percent of the gross rental receipts of such business during the preceding year are from transactions involving the rental of heavy equipment property for periods of 270 consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessee. For purposes of this subdivision, the term "heavy equipment property" means rental property of an industry that is described under code 532412 or 532490 of the 2002 North American Industry Classification System as published by the United States Census Bureau, excluding office furniture, office equipment, and programmable computer equipment and peripherals as defined in Code of Virginia, § 58.1-3503.A.16, as amended.

(3) For purposes of determining whether a person is engaged in the short-term rental business as defined in subsection (2) of this section:

a. A person is affiliated with the lessee of rental property if such person is an officer, director, partner, member, shareholder, parent or subsidiary of the lessee, or if such person and the lessee have any common ownership interest in excess of five percent;

b. Any rental to a person affiliated with the lessee shall be treated as rental receipts but shall not qualify for purposes of the 80 percent requirement of subsection (2)a of this section or the 60 percent requirement of subsection (2)b of this section; and

c. Any rental of personal property which also involves the provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental; provided, however, that the delivery and installation of tangible personal property shall not mean operation for the purposes of this

subsection.

(4) A person who has not previously been engaged in the short-term rental business who applies for a certificate of registration pursuant to section 20-310 shall be eligible for registration upon his certification that he anticipates meeting the requirements of a specific subdivision of subsection (2) of this section, designated by the applicant at the time of application, during the year for which registration is sought.

(5) In the event that the director of finance makes a written determination that a rental business previously certified as a short-term rental business under section 20-311 has failed to meet either of the tests set forth in subsection (2) of this section during a preceding tax year, such business shall lose its certification as a short-term rental business and shall be subject to the business personal property tax with respect to all rental property for the tax year in which such certification is lost and any subsequent tax years until such time as the rental business obtains recertification under section 20-311. In the event that a rental business loses its certification as a short-term rental business pursuant to this subsection, such business shall not be required to refund to customers short-term rental property taxes previously collected in good faith and shall not be subject to assessment for business personal property taxes with respect to rental property for tax years preceding the year in which the certification is lost unless the director of finance makes a written determination that the business obtained its certification by knowingly making materially false statements in its application, in which case the director of finance may assess the taxpayer the amount of the difference between short-term rental property taxes remitted by such business during the period in which the taxpayer wrongfully held certification and the business personal property taxes that would have been due during such period but for the certification obtained by the making of the materially false statements. Any such assessment, and any determination not to certify or to decertify a rental business as a short-term rental business as defined in this section, may be appealed pursuant to the procedures and requirement in Code of Virginia, § 58.1-3983.1 for appeals of local business taxes, which shall apply mutatis mutandis to such assessments and certification decisions.

(6) A rental business that has been decertified under the provision of subsection (5) of this section shall be eligible for recertification for a subsequent tax year upon a showing that it has met one of the tests provided in subsection (2) of this section for at least ten months of operations during the present tax year.

(Code 1980, §§ 20-58—20-60; Code 1995, § 20-311; Ord. No. 1137, § 1, 11-10-2009)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510.

Sec. 20-308. Levy; amount.

Pursuant to Code of Virginia, § 58.1-3510.6A for each tax year, there is hereby levied and imposed a tax of one percent on the gross proceeds arising from rentals of every person engaged in the short-term rental business. Such tax shall be in addition to the tax levied pursuant to Code of Virginia, § 58.1-605. The term "gross proceeds" means the total amount charged to each person for the rental of short-term rental property, excluding any state and local sales tax paid under the provisions of Code of Virginia, title 58.1, ch. 6.

(Code 1980, § 20-58; Code 1995, § 20-312; Ord. No. 1137, § 2, 11-10-2009)

Sec. 20-309. Taxation of rental property other than short-term rental property.

Except for daily rental vehicles pursuant to Code of Virginia, § 58.1-3510 and short-term rental property, rental property shall be classified, assessed and taxed as tangible personal property.

(Code 1980, § 20-61; Code 1995, § 20-313; Ord. No. 1137, § 3, 11-10-2009)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510(D).

Sec. 20-310. Application for certificate of registration.

(a) Every person engaging in the business of short-term rental shall file annually an application for a certificate of registration with the director of finance for each place of business in the county from which short-term rental business will be conducted by the applicant. Such application shall be filed by December 1 of the year preceding or within 30 days of the beginning of a short-term rental business. The application shall be on a form prescribed by the director of finance and shall set forth the name under which the applicant operates or intends to operate the rental business, the location of the business, the subsection of section 20-307(2) under which the business asserts that it is qualified for certification as a short-term rental business, and such other information as the director of finance may require.

(b) A list of rental inventory and copies of the applicant's standard rental contracts shall be submitted with each application.

(c) Each applicant shall sign the application as owner of the rental business. If the rental business is owned by an association, partnership, limited liability company or corporation, the application shall be signed by a member, partner, executive officer or other person specifically authorized by the association, partnership, limited liability company or corporation to sign.

(Code 1980, § 20-62; Code 1995, § 20-314; Ord. No. 1137, § 4, 11-10-2009)

State law reference—Renter's certificate of registration, Code of Virginia, § 58.1-3510.2.

Sec. 20-311. Issuance of certificate of registration; display; transfer; expiration.

(a) Upon approval of the application under section 20-310 by the director of finance, a certificate of registration shall be issued. This certificate shall be conspicuously displayed at all times at the place of business for which it is issued.

(b) The certificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.

(c) If the holder of a certificate ceases to conduct business at the place specified in the certificate, the certificate shall thereupon expire, and such holder shall inform the director of finance in writing within 30 days after the business has ceased at the specified location the date that the business ceased.

(Code 1980, § 20-63; Code 1995, § 20-315)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510.2.

Sec. 20-312. Collection and remittance; returns.

Every person engaged in the short-term rental business shall collect the short-term rental property tax from the lessee of the short-term rental property at the time of the rental. The lessor of the short-term rental property shall transmit a quarterly return to the director of finance, indicating the gross proceeds derived from the short-term rental business, and shall remit therewith the payment of such tax as is due for the quarter. The quarterly returns and payment of tax shall be filed with the director of finance on or before April 15, July 15, October 15 and January 15, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31. The tax imposed by this article shall become delinquent for each quarter on April 16, July 16, October 16 and January 16. The return shall be upon such forms and set forth such information as the director of finance may require, showing the amount of gross proceeds and the tax required to be collected. The taxes required to be collected under this article shall be deemed to be held in trust by the business required to collect such taxes until remitted as required in this article. Any person who neglects, fails or refuses to collect the tax imposed by this article shall be liable for and pay the tax himself.

(Code 1980, § 20-64; Code 1995, § 20-316; Ord. No. 1137, § 5, 11-10-2009)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510.1.

Sec. 20-313. Records.

(a) *Record of transactions.* The person collecting the short-term rental property tax shall maintain a record of all rental transactions for which this tax is collected, which record shall contain:

(1) A description of the property rented;

(2) The period of time for which the property was rented;

(3) The name of the person to whom the property was rented; and

(4) The amount charged for each rental, including all late charges, penalties and interest.

(b) *Record of exemptions.* In addition to the information specified in subsection (a) of this section, every person engaged in a short-term rental business shall maintain a complete record of all exemptions from payment of this tax granted to renters of short-term rental property, including:

(1) A copy of the state department of taxation tax exemption certificate; or

(2) A copy of the U.S. State Department tax exemption certificate, which U.S. State Department card must specify the renter by name as exempt from sales tax; or

(3) Other explanation and proof of claimant exemption.

(Code 1980, § 20-65; Code 1995, § 20-317; Ord. No. 1137, § 6, 11-10-2009)

Sec. 20-314. Procedure upon failure to file return or filing of false return.

Except as otherwise provided in section 20-307(5), if any person, whose duty it is so to do, shall fail or refuse to file within the time provided in this article the returns required in this article or files a return that is false or fraudulent, it shall be the duty of the director of finance to make an estimate for the taxable period of the gross proceeds of such person and assess the tax plus such penalties and interest as are provided in this article. The director of finance shall give the person ten days' notice in writing requiring such person to appear before him with such books, records and papers as he may require relating to the business for the taxable period. The director of finance may require the person or his agents and employees to give testimony or to answer interrogatories under oath administered by the director of finance respecting such gross proceeds or the failure to make a return thereof as provided in this article. If any person fails to make any such return or refuses to permit an examination of his books, records or papers or to appear and answer questions within the scope of such investigation, the director of finance shall proceed to make an assessment based upon such information as may be available to him. The assessment so made shall be deemed prima facie correct.

(Code 1980, § 20-66; Code 1995, § 20-318; Ord. No. 1137, § 7, 11-10-2009)

Sec. 20-315. Penalty for failure to file return, failure to remit tax or filing fraudulent return; interest on unpaid tax.

(a) When any person whose duty it is so to do fails to make any return and pay the full amount of the tax required by this article, there shall be imposed, in addition to other penalties provided in this article, a specific penalty to be added to the tax in the amount of six percent if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed 30 percent in the aggregate. In no case, however, shall the penalty be less than $10.00, and such minimum penalty shall apply whether or not any tax is due for the period for which such return was required. If such failure is due to providential or other good cause shown to the satisfaction of the

director of finance, such return with or without remittance may be accepted exclusive of penalties.

(b) In the case of a false or fraudulent return where willful intent exists to defraud the county of any tax due under this article, or in the case of a willful failure to file a return with the intent to defraud the county of any such tax, a specific penalty of 50 percent of the amount of the proper tax shall be assessed. It shall be prima facie evidence of intent to defraud the county of any tax due under this article when any person engaged in the short-term rental business reports his gross proceeds at 50 percent or less of the actual amount.

(c) All penalties and interest imposed by this article shall be payable by the person engaged in the short-term rental business and collectible by the director of finance in the same manner as if they were a part of the tax imposed.

(d) Interest at a rate determined in accordance with Code of Virginia, § 58.1-15 shall accrue on the tax until the tax is paid, or until an assessment is made, pursuant to Code of Virginia, § 58.1-15 after which interest shall accrue as provided therein.

(e) The imposition of any penalties or interest shall not be deemed a defense to any criminal prosecution for failing to make any return or remittance required in this article.

(Code 1980, § 20-67; Code 1995, § 20-319)

State law reference—Similar provisions, Code of Virginia, §§ 58.2-635, 58.1-3510.3.

Sec. 20-316. Exemptions.

No tax shall be collected or assessed on rentals by the state, any political subdivision of the state or the United States or any rental of durable medical equipment as defined in Code of Virginia, § 58.1-609.10. Additionally, all exemptions applicable in Code of Virginia, §§ 58.1-609.1—58.1-609.11 shall apply mutatis mutandis to the short-term rental property tax.

(Code 1980, § 20-68; Code 1995, § 20-320; Ord. No. 1137, § 8, 11-10-2009)

State law reference—Exemptions, Code of Virginia, § 58.1-3510.3.

Sec. 20-317. Collection without certificate of registration prohibited.

No person renting any property or service to any other person shall collect from the lessee the short-term rental property tax authorized by this article unless he has a valid certificate of registration issued for the current year by the director of finance. Except as otherwise provided in section 20-307(5), any payments collected by any person, certified or uncertified, in a manner not authorized by law shall be refunded to such lessees as can be identified, with the remainder forfeited to the county.

(Code 1980, § 20-69; Code 1995, § 20-321; Ord. No. 1137, § 9, 11-10-2009)

Sec. 20-318. Criminal penalties.

Any corporate or partnership officer as defined in Code of Virginia, § 58.1-3906 or any other person required to collect, account for and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a misdemeanor.

(Code 1980, § 20-70; Code 1995, § 20-322; Ord. No. 930, § 2, 8-14-1996)

State law reference—Similar provisions, Code of Virginia, §§ 58.1-3510.3, 58.1-636.

Sec. 20-319. Payment of tax with bad check.

If any check tendered for any amount due under this article is not paid by the bank on which it is drawn and any person subject to the provisions of this article fails to pay the director of finance the amount due the county within five days after the director has given him written notice by registered or certified mail or in person by an agent that such check was returned unpaid, the person by whom such check was tendered shall be guilty of a violation of Code of Virginia, § 18.2-182.1.

(Code 1980, § 20-71; Code 1995, § 20-323)

State law reference— Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-637.

Sec. 20-320. Sale or closing of business.

If any person liable for any tax, penalty or interest levied under the provisions of this article sells out his business or stock of goods or quits business, he shall make a final return and payment within 15 days after the date of selling or quitting the business. His successor or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such tax, penalty and interest due and unpaid until the former owner produces a receipt from the director of finance showing that they have been paid or a certificate stating that no tax, penalty or interest is due. If the purchaser of a business or stock of goods fails to withhold the purchase money as provided in this section, the purchaser shall be personally liable for the payment of such tax, penalty and interest due and unpaid by the former owner.

(Code 1980, § 20-72; Code 1995, § 20-324)

State law reference— Authority to so provide, Code of Virginia, §§ 58.1-3510m, 58.1-637.

Sec. 20-321. Bond.

The director of finance, when in his judgment it is necessary and advisable so to do in order to secure the collection of the short-term rental tax, may require any person subject to such tax to file with him a bond with such surety as the director of finance determines is necessary to cover the payment of the tax, penalty or interest due or which may become due from such person.

(Code 1980, § 20-73; Code 1995, § 20-325; Ord. No. 1137, § 10, 11-10-2009)

State law reference— Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-630.

Sec. 20-322. Jeopardy assessment.

If the director of finance is of the opinion that the collection of the tax or any amount of the tax required to be collected and paid under this article will be jeopardized by delay, he shall make an assessment of the tax or amount of tax required to be collected and shall mail or issue a notice of such assessment to the taxpayer, together with a demand for immediate payment of the tax or of the deficiency in tax declared to be in jeopardy, including penalties. In the case of a tax for a current period, the director of finance may declare the taxable period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated, and such tax shall be immediately due and payable, whether or not the time otherwise allowed by law for filing a return and paying the tax has expired. Assessments provided for in this section shall become immediately due and payable, and, if any such tax, penalty or interest is not paid upon demand by the director of finance, he shall proceed to collect the tax, penalty or interest by legal process or, in his discretion, he may require the taxpayer to file such bond as in his judgment may be sufficient to protect the interest of the county.

(Code 1980, § 20-74; Code 1995, § 20-326)

State law reference— Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-631.

Sec. 20-323. Period of limitations.

Except as otherwise provided in section 20-307(5), the tax imposed by this article shall be assessed within three years from the date on which such taxes became due and payable, or in the case of a false or fraudulent return with intent to evade payment of the tax imposed by this article, or a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within six years from such date. The director of finance shall not examine any person's records beyond the three-year period of limitations unless he has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a return and failed to do so.

(Code 1980, § 20-75; Code 1995, § 20-327; Ord. No. 1137, § 11, 11-10-2009)

State law reference— Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-634.

Secs. 20-324—20-349. Reserved.

ARTICLE XI. LICENSE TAX

***Cross reference—** Amusements, ch. 4; billiard parlors, § 4-31 et seq.; dance halls, § 4-61 et seq.; musical or entertainment festivals, § 4-91 et seq.; closing out and similar sales, ch. 8; massage establishments, ch. 12; dealers in precious metals and gems, § 15-104 et seq.; pawnbrokers, § 15-144 et seq.; adult businesses, § 15-181 et seq.; taxicabs and other vehicles for hire, ch. 21.

***State law reference—** Authority to levy license taxes, Code of Virginia, §§ 58.1-3702, 58.1-3703; limitations on levy, Code of Virginia, § 58.1-3706; mandatory ordinance provisions, Code of Virginia, § 58.1-3703.1.

DIVISION 1. GENERALLY

Sec. 20-350. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affiliated group means:

(1) One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

a. Stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and

b. The common parent corporation directly owns stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

(2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation; and

b. More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subsection shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

(3) Two or more entities if such entities satisfy the requirements of subsection (1) or (2) of this definition if they were corporations and the ownership interests therein were stock.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed in this chapter for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or *assessing official* means the director of finance.

Base year means the calendar year preceding the license year, except as provided elsewhere in this article.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. Business implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts create a rebuttable presumption that a person is engaged in a business:

(1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or

(2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Definite place of business means an office or location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis or real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person would not be licensable as a peddler or itinerant merchant.

Entity means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the state or another state.

Financial services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments.

Fuel sales shall mean retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

Gas retailer means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

Gross receipts means the whole, entire, total receipts, without deduction.

Gross receipts of the business.

(1) The term "gross receipts of the business" means the gross sales of merchandise and the gross receipts of the business, occupation or profession from all earnings, fees, commissions, brokerage charges and rentals, and from all income whatsoever arising from or growing out of the conduct of the business, occupation or profession licensed in this article during the license year immediately preceding the license year for which the tax is being computed, without any deductions whatsoever, unless otherwise expressly provided.

(2) The term "gross receipts of the business" shall not include:

a. Amounts received and paid to the United States, the state or any county, city or town for the state retail sales or use tax, for any local sales tax or meal tax or any local excise tax on cigarettes, or amounts received for any federal or state excise taxes on motor fuels.

b. Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in the receipts even though the creation of such debt and factoring are a regular part of the business).

c. Any amount representing returns and allowances granted by the business to its customer.

d. Receipts which are the proceeds of a loan transaction in which the taxpayer is the obligor.

e. Receipts representing the return of principal of a loan transaction in which the taxpayer is the creditor, or the return of principal or basis upon the sale of a capital asset.

f. Rebates and discounts taken or received on account of purchases by the taxpayer. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the taxpayer in consideration of the sale of goods and services shall not be considered a rebate or discount to the taxpayer, but shall be included in the taxpayer's gross receipts together with any handling or other fees related to the incentive.

g. Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received; and the occasional sale or exchange of assets other than inventory, whether a gain or loss is recognized for federal income tax purposes.

h. Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

State law reference—Similar provisions, Code of Virginia, § 58.1-3732(A).

(3) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

a. Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such

property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

b. Any receipts attributable to business conducted in another state or foreign country in which the taxpayer (or its shareholders, partners or members in lieu of the taxpayer) is liable for an income or other tax based upon income.

State law reference—Similar provisions, Code of Virginia, § 58.1-3732(B).

License year or license tax year means the calendar year for which a license is issued for the privilege of engaging in business.

Person means individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form or character, including any trustee, receiver or personal representative thereof carrying on or continuing a business, profession, trade or occupation. The term "person" also shall include governmental entities and agencies, where appropriate.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state department of taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The term "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

Real estate services means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property.

(Code 1980, § 12-2; Code 1995, § 20-351; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 1, 10-9-1996; Ord. No. 1109, § 1, 8-14-2007)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 20-351. Criminal penalty.

Except as otherwise provided in this article, any person who shall violate any provision of this article shall be punished as provided in section 1-13.

(Code 1980, § 12-38; Code 1995, § 20-352)

Sec. 20-352. Assistants to director of finance.

The director of finance shall designate such persons in his department as may be necessary to serve as assessors, collectors and clerks in the assessing, collection and issuance of licenses under the provisions of this article, and such persons within the finance department, in all respects, shall be acting as agents of the

director of finance and under his supervision and control fulfilling the terms and conditions of this article.

(Code 1980, § 12-39; Code 1995, § 20-353)

Sec. 20-353. Business section manager.

(a) *Appointment.* The director of finance shall designate some person in the department of finance to act as business section manager, and shall designate such persons in the department of finance to act as business inspectors as the director of finance may deem necessary and proper, who shall at all times be under the supervision and control of the director of finance.

(b) *Police powers.* Police powers are conferred upon the business section manager and business inspectors while engaged in performing their duties as such under the provisions of this article, and they shall exercise all the powers and authority of police officers granted to them in performing those duties. The business section manager and business inspectors shall ascertain the name of each person engaged in conducting any business, occupation or profession in the county without having obtained a license therefor, and the name of each person having a slot machine in any place mentioned in this article without having obtained a license therefor. The business section manager and business inspectors may have a summons issued for any such person charging him with a violation of the provisions of this article and may serve a copy of such summons upon such person in the manner provided by law. He shall return the original to the general district court with the manner and time of service stated thereon.

(Code 1980, § 12-34; Code 1995, § 20-354)

Sec. 20-354. License required.

(a) It shall be unlawful for any person conducting or engaged in any business, trade or occupation in the county, who is required by this article to obtain a license therefor, to conduct or engage in such business, trade or occupation without having first obtained the license required by this article.

(b) Any person who engages in a business without obtaining the required license or after being refused a license shall not be relieved of the tax imposed under this article.

(Code 1980, § 12-38; Code 1995, § 20-355; Ord. No. 935, § 2, 10-9-1996)

Sec. 20-355. Proper zoning required; use permit.

It shall be the duty of every person applying for a business license to ascertain if the location for the conducting of such business, trade or occupation is properly zoned and has the necessary use permit before making application for such business license as may be required. The director of finance, in any case where he knows that the location is not properly zoned for the type of business, trade or occupation applying for a business license, shall refuse to issue such business license.

(Code 1980, § 12-5; Code 1995, § 20-357)

Sec. 20-356. Levy of tax.

There shall be levied and collected for each license tax year, or for such other period of time as may be specifically provided in this article, the license taxes as set forth in this article. The taxes imposed by the provisions of this article are in all cases imposed upon the privilege of doing business in the county, including all phases and activities of the business, trade or occupation conducted in the county.

(Code 1980, § 12-1; Code 1995, § 20-358)

State law reference— Exemptions, Code of Virginia, § 58.1-3703.

Sec. 20-357. Application required.

Each person must apply for a license prior to beginning business or no later than March 1 of the currentlicense year if he filed a license application during the preceding license year. The application must be on forms prescribed by the assessing official, which forms and accompanying communications must clearly set out the due date for the application and the amount of any penalty to be charged for late filing of the application, the underpayment of estimated tax, and late payment of tax.

(Code 1980, § 12-6; Code 1995, § 20-359; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 3, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.a.

Sec. 20-358. Estimation of gross receipts—New businesses.

Every person beginning a business, occupation or profession that is subject to a tax equal to a percentage of the gross receipts of the business shall estimate the amount of the gross receipts of the business that he will receive between the date of beginning business and the end of the then-current license tax year, and the license tax on every such person beginning business shall be a sum equal to the percentage of the difference between that estimate and any applicable deduction prescribed by the particular provision of this article applicable to such business.

(Code 1980, § 12-7; Code 1995, § 20-360; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-359. Same—Businesses not in existence for full year.

Every person whose business, occupation or profession is subject to a tax equal to a percentage of the gross receipts of the business, and who was licensed for only a part of the next preceding license tax year, shall estimate the amount of the gross receipts of the business that he will receive during the then-current license tax year, and the license tax on every such taxpayer shall be a sum equal to the percentage of the difference between that estimate and any applicable deduction prescribed by the particular provision of this article applicable to such business.

(Code 1980, § 12-8; Code 1995, § 20-361; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-360. Estimation of tax base other than gross receipts—New businesses.

Every person beginning a business, occupation or profession that is subject to a tax equal to a percentage of a basis other than gross receipts of the business shall estimate the amount of the applicable tax base for the period between the date of beginning of business and the end of the then-current license tax year, and the tax for that year shall be an amount equal to the percentage of the difference between that estimated and any applicable deduction at the rate prescribed by the applicable provisions of this article with respect to such business.

(Code 1980, § 12-9; Code 1995, § 20-362; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-361. Same—Businesses not in existence for full year.

Every person whose business, occupation or profession is subject to a tax equal to a percentage of a basis other than the gross receipts of the business, and who was assessable for only a part of the next preceding license tax year, shall estimate the amount of the applicable tax base for the then-current license tax year, and the license tax on every such taxpayer shall be a sum equal to the percentage of the difference between that estimate and any applicable deduction prescribed by the particular provision of this article applicable to such business.

(Code 1980, § 12-10; Code 1995, § 20-363; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-362. Correction of estimate at close of tax year.

Every estimate made in accordance with the provisions of sections 20-358 through 20-361 shall be subject to correction by the director of finance at the close of the license tax year so that the final correct tax shall be computed upon the basis of the actual amount of the applicable tax base at the end of the license tax year.

(Code 1980, § 12-11; Code 1995, § 20-364)

Sec. 20-363. Designation of business location.

Every license to engage in any business, occupation or profession, unless expressly authorized elsewhere or otherwise by law, shall designate the place of such business, occupation or profession at some specified house or other definite place within the county. Engaging in any such business, occupation or profession elsewhere than at such house or definite place, unless expressly authorized elsewhere or otherwise by law, shall constitute a violation of the provisions of this article. A license which does not specify such house or definite place shall be void, provided that, where the license required is such as to clearly show that the licensee does not have a special house or definite place of business in the county, the license shall designate the residence or place of business of the licensee wherever it may be.

(Code 1980, § 12-13; Code 1995, § 20-365)

Sec. 20-364. Persons engaged in more than one business, occupation or profession.

(a) Every person engaged in more than one business, occupation or profession in the county for which license taxes are prescribed by this article at more than one rate shall be assessed with and shall pay the license tax prescribed for the respective businesses.

(b) A person engaged in two or more businesses, occupations or professions carried on at the same place of business may elect to obtain one license for all such businesses, occupations and professions if all of the following criteria are satisfied:

(1) Each business, occupation or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of this Code;

(2) All of the businesses, occupations or professions are subject to the same tax rate, or, if subject to different tax rates, the taxpayer agrees to be taxed on all businesses, occupations and professions at the highest rate; and

(3) The taxpayer agrees to supply all information the assessor may require concerning the nature of the several businesses, occupations and professions and their gross receipts or purchases.

The license receipt shall show the respective businesses, occupations or professions that are covered by the consolidated license tax.

(Code 1980, § 12-14; Code 1995, § 20-366; Ord. No. 909, § 1, 10-25-1995)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)1.

Sec. 20-365. Transfer of license.

No license issued pursuant to this article shall be assignable or transferable.

(Code 1980, § 12-15; Code 1995, § 20-367)

Sec. 20-366. Change in existing partnerships.

Where there is a change in a partnership federal tax identification number, it shall be considered that there is the creation of a new partnership for the purposes of this article and a beginner's license shall be required of such new partnership.

(Code 1980, § 12-16; Code 1995, § 20-368)

Sec. 20-367. Change in business location.

When a person has obtained a license to carry on any business, occupation or profession at any definite place in the county and desires to remove to any other place in the county and wishes his license altered accordingly, the director of finance shall make such alteration, unless there is an express provision elsewhere forbidding removal or alteration in the license.

(Code 1980, § 12-19; Code 1995, § 20-369)

Sec. 20-368. Required records; examination of records.

Every person who is assessable with any license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for each of the license years assessable and to enable the assessor to ascertain what is the correct tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the county The assessor shall have the power and right to examine the books and records of any taxpayer liable for taxes assessable under this article, with respect to the possible liability of any person using the facilities of such taxpayers, as well as with respect to the liability of the taxpayer whose books and records are so examined. Such records shall be open to inspection at all reasonable hours. The assessor shall provide the taxpayer with the option to conduct the inspection in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside the county, copies of the appropriate books and records shall be sent to the assessor's office upon demand. Every person who fails to keep such books and records and to preserve them shall be assessed with and pay a penalty of $25.00 per year in addition to any tax assessed under section 20-375. This penalty shall be assessed and collected in the same manner as license taxes generally are assessed and collected.

(Code 1980, § 12-22; Code 1995, § 20-370; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 4, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)9.

Sec. 20-369. Date of assessment and payment.

Except as may be provided elsewhere in this article and for beginners as provided herein, every license tax assessable under this article shall be assessable and due and payable on March 1 of each license year. Every license tax assessable on a person beginning business shall be assessable and due and payable, if not based on gross receipts, with the application, and, if based on gross receipts, 30 days after the commencement of the business.

(Code 1980, § 12-23; Code 1995, § 20-371; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 5, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.b.

Sec. 20-370. Penalty for failure to file return or pay tax; interest on unpaid tax.

If any license tax is not filed and paid within the times provided for in this article, the following penalties and interest will be assessed:

(1) A penalty of ten percent of the tax will be imposed upon the failure to file an application or the failure to pay a tax by the due date. Only the late filing penalty will be imposed by the assessing official if both the application and payment are late; however, both penalties will be assessed if the taxpayer has previously failed to comply with filing or payment deadlines. Any penalty imposed will be assessed on the day after the payment or filing was due and will become a part of the tax. The penalties will not be imposed or if imposed will be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer or was the fault of the official who assessed them. In order to demonstrate lack of fault, the taxpayermust show that he acted responsibly and that the failure was due to events beyond his control.

The term "acted responsibly," as used in this section, means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing and payment obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

The term "events beyond the taxpayer's control" includes, but is not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(2) Interest will be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Interest will accumulate on such sums owed at a rate of ten percent per annum, commencing on the first day following the day such taxes are due. No interest will be charged on a late payment if the late payment is made not more than 30 days from the due date of the tax.

(3) No interest will accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year if such adjustment is paid within 30 days of its assessment.

(4) Any bill issued by the director of finance or other collecting official that includes, and any communication from the assessing official that imposes, a penalty or interest pursuant to this section will separately state the total amount of tax owed, the amount of any interest assessed, and the amount of any penalty imposed.

(Code 1980, § 12-24; Code 1995, § 20-372; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 6, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.c—(A)2.e.

Sec. 20-371. Installment payments.

Whenever the aggregate amount of license taxes, exclusive of peddlers or slot machines, assessed at any one time under this article as of the first day of any license tax year against any one person with respect to the businesses, occupations and professions conducted by him in any one place is $200.00 or more, then that aggregate amount of license taxes may be due and payable as follows: one-half thereof on March 1 of the license tax year and one-half on or before June 15 of the license tax year. If one-half of that aggregate is not paid on or before March 1 of the license tax year, the whole of the aggregate of license tax shall become due and payable on March 1 of the license tax year and there shall be added thereto the appropriate penalties and interest set forth in section 20-370. If the first half of the license taxes is paid on or before March 1 of the license tax year and the last half of the aggregate of such license taxes is not paid on or before June 15 of the license tax year, there shall be added thereto a late payment penalty and interest as set forth in section 20-370.

(Code 1980, § 12-26; Code 1995, § 20-374; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 7, 10-9-1996)

Sec. 20-372. Proration of tax on closing of business.

If a person permanently ceases to engage in a business, occupation or profession within the county during a year for which a license tax has already been paid under this article, the taxpayer shall be entitled, upon application, to a refund for that portion of the license tax already paid, prorated on a monthly basis, so that the licensee is taxed only for that fraction of the year during which the business was operated within the county. However, in no event shall a refund be issued on any part of a flat fee or minimum flat tax. The operation of a business for any portion of a month shall be considered a full month for prorating purposes. The county may, at its sole discretion, elect to remit any funds in the ensuing fiscal year and may offset against such refund any amount of past-due taxes owed by the same taxpayer.

(Code 1980, § 12-27; Code 1995, § 20-375)

State law reference—Proration, Code of Virginia, § 58.1-3710.

Sec. 20-373. Payment of interest not construed as extending time for payment of tax.

Nothing contained in this article as to liability for additional interest on assessments shall be construed as extending the time for payment of such assessments or prevent prosecutions for nonpayment thereof.

(Code 1980, § 12-28; Code 1995, § 20-376)

Sec. 20-374. Powers and duties of director of finance in regard to incorrect returns.

In any case, except where otherwise provided in this article, in which the director of finance has reason to believe that the return or statement filed is incorrect, he shall cause an investigation of the taxpayer's books and records to be made and shall ascertain whether such person has made a true and correct return or statement, and to that end the director of finance or his assistant is expressly authorized and empowered, when necessary, to summon such person before him and require the production of all his books and papers which he has reasonable cause to believe will throw any light upon the matter under investigation and shall also be authorized and empowered to make such other and further investigation and examination as he may deem proper in order to accurately determine the proper return or statement to be made by such person.

(Code 1980, § 12-29; Code 1995, § 20-377)

Sec. 20-375. Procedure upon failure to file return or pay tax.

Whenever any person required under the provisions of this article to file a return or statement shall fail or refuse to file such return or statement, the director of finance shall make an estimate of the amount of taxes due the county by such person upon the best information available and assess the taxes on the basis of that information.

(Code 1980, § 12-30; Code 1995, § 20-378)

Sec. 20-376. Assessment of additional or omitted taxes.

(a) If the assessor ascertains that any person has not been assessed with a license tax levied in this article for the then-current license tax year or that any person has been regularly assessed with a license tax levied in this article for the then-current license tax year but upon a correct audit and computation of the license tax the assessment thereof should have been in an increased amount, then the assessor shall assess the taxpayer with the proper license tax for the then-current license tax year, adding thereto the relevant penalties as prescribed by section 20-370(1), except as provided in subsection (c) of this section, and interest shall be computed upon the taxes and penalty from the first day of the month following the date such tax was due and shall accrue thereon from such date until payment at a rate of ten percent per annum. Notwithstanding

the above, no interest shall be charged on any late payment, provided that the late payment is made not more than 30 days from the due date of the tax.

(b) If the assessor ascertains that any person has not been assessed with a license tax levied in this article for any license tax year of the three preceding license tax years or if the assessor ascertains that any person has been regularly assessed with a license tax levied in this article for any license tax year of the three preceding license tax years but that upon a correct audit and computation of the license tax the assessment thereof should have been in an increased amount, then the assessor shall assess the taxpayer with the proper additional or omitted license tax or taxes found to be due at the rate or rates prescribed for that year or years, plus the relevant penalties prescribed in section 20-370(1), except as provided in subsection (c) of this section, and interest which shall be computed upon the taxes and penalty from the first day following the due date in the year in which such taxes should have been paid and shall accrue thereon from such date until payment at a rate of ten percent per annum. Notwithstanding the above, no interest shall be charged on any late payment, provided that the late payment is made not more than 30 days from the due date of the tax.

(c) If the taxpayer can demonstrate that the assessment was necessitated through no fault on his part, penalty and interest shall accrue after 30 days from such date of assessment until payment.

(d) Notwithstanding subsection (c) of this section, in the case of an assessment of additional tax made by the assessor, if the application and, if applicable, the return was made in good faith and the understatement of tax was not due to any fraud, reckless or intentional disregard of law by the taxpayer, there shall be no late payment penalty assessed with the additional tax.

(e) The director of finance shall collect such penalties and interest along with the tax and in the same manner as the tax may be collected.

(f) Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund at the rate set out in section 20-382 from the date of payment or due date, whichever is later.

(Code 1980, § 12-32; Code 1995, § 20-379; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 8, 10-9-1996)

State law reference—Similar provisions as to subsection (f), Code of Virginia, § 58.1-3703.1(A)2.e.

Sec. 20-377. Relief from erroneous assessment; appeals.

(a) Except as otherwise provided in this article, the director of finance shall assess all license taxes prescribed in this article. Any person aggrieved by the action of the director of finance may apply to him as provided herein or to a court of record for relief from the alleged erroneous assessment within the time and in the manner provided by general law.

(b) Any person assessed with a license tax as a result of an appealable event may apply within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, to the director of finance for a correction of the assessment. The application must be filedin good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The director of finance may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The director of finance shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth the facts and arguments in support of his decision. The taxpayer may at any time also file an administrative appeal of the classification applicable to the taxpayer’s business, including whether the business properly falls within a business license subclassification established by the county. However, the appeal of the classification of the business shall not apply to any license year for which the tax commissioner has previously issued a final determination relating to any license fee or

license tax imposed upon the taxpayer's business for the year. In addition, any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment. Every assessment pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to a correction and the specific procedure to be followed, including the name and address of the person to whom the application should be directed, an explanation of the required content of the application for a correction and the deadline for filing the request for a correction. For purposes of facilitating an administrative appeal of the classification applicable to a taxpayer's business, the county shall maintain on its website the specific procedures to be followed with regard to such appeal and the name and address to which the appeal should be directed.

(c) Provided a timely and complete application for relief is made, collection activity with respect to the amount in dispute related to any assessment by the director of finance shall be suspended until a final determination is issued by the director of finance, unless the director of finance determines that: (i) collection would be jeopardized by delay, (ii) the taxpayer has not responded to a request for relevant information after a reasonable time, or (iii) the appeal is frivolous. Interest shall accrue in accordance with the provisions of sections 20-370 and 20-376 as to that portion of the assessment which has remained unpaid during the pendency of the application to the director of finance for relief and was determined to be properly due and owing, but no further penalty shall be assessed while collection action is suspended.

(d) Upon an application for correction pursuant to subsection (b) of this section, any person assessed with a license tax as a result of a determination, or that has received a determination with regard to the person's appeal of the license classification or subclassification of the person's business, that is adverse to the position asserted by the taxpayer in such application may apply within 90 days of the determination by the director of finance to the tax commissioner for the Commonwealth for a correction of such assessment or determination. The appeal shall be in such form as the tax commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the director of finance. The tax commissioner shall permit the director of finance to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the director of finance are notified that a longer period will be required. The application shall be treated as an application pursuant to Code of Virginia, § 58.1-1821, and the tax commissioner pursuant to Code of Virginia § 58.1-1822 may issue an order correcting such assessment or correcting the license classification or subclassification of the business and the related license tax or fee liability.

(e) On receipt of a notice of intent to file an appeal to the tax commissioner, the director of finance shall further suspend collection activity with respect to the amount in dispute related to any assessment by the director of finance until a final determination is issued by the tax commissioner, unless the director of finance determines that: (i) collection would be jeopardized by delay, (ii) the taxpayer has not responded to a request for relevant information after a reasonable time, or (iii) the appeal is frivolous. Interest shall accrue in accordance with the provisions of sections 20-370 and 20-376, but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

(f) Promptly upon receipt of the final determination of the tax commissioner with respect to an appeal pursuant to subsection (e) of this section, the director of finance shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the tax commissioner's determination and shall provide that information to the taxpayer.

(1) If the determination of the tax commissioner sets forth a specific amount of tax due, the director of finance shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the determination of the tax commissioner.

(2) If the determination of the tax commissioner sets forth a specific amount of refund due, the director of

finance shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within 30 days of the date of the determination of the tax commissioner.

(3) If the determination of the tax commissioner does not set forth a specific amount of tax due, or otherwise requires the director of finance to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the director of finance shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the tax commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the tax commissioner, whichever is later. The director of finance shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the new assessment.

(4) If the determination of the tax commissioner does not set forth a specific amount of refund due, or otherwise requires director of finance to undertake a new or revised assessment that will result in an obligation on the part of the county to make a refund of taxes previously paid, the director of finance shall promptly commence the steps necessary to undertake such new or revised assessment or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business, and provide it to the taxpayer within 60 days of the date of the determination of the tax commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the tax commissioner, whichever is later. The director of finance shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment or determination of the amount of the refund.

(g) Judicial review of determination of tax commissioner shall be in accordance with the following:

(1) *Judicial review.* Following the issuance of a final determination of the tax commissioner pursuant to subsection (f) of this section, the taxpayor or the director of finance may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to Code of Virginia, § 58.1-3984. In any such proceeding for judicial review of a determination of the tax commissioner, the burden shall be on the party challenging the determination of the tax commissioner, or any part thereof, to show that the ruling of the tax commissioner is erroneous with respect to the part challenged. Neither the tax commissioner nor the department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

(2) *Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.*

a. On receipt of a notice of intent to file an application for judicial review, pursuant to Code of Virginia, § 58.1-3984, of a determination of the tax commissioner pursuant to subsection (f) of this section, and upon payment of the amount of the tax related to any assessment by the director of finance that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the director of finance shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that:

1. The taxpayer's application for judicial review is frivolous;

2. Collection would be jeopardized by delay; or

3. Suspension of collection would cause substantial economic hardship to the county. For purposes of determining whether substantial economic hardship to the county would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the county by different taxpayers that allege common claims or theories of relief.

b. Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the county, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.

c. No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute or the application does not relate to any assessment by the director of finance.

d. The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

e. The suspension of collection activity authorized by this subsection shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action pursuant to Code of Virginia, § 58.1-3984 without prior exhaustion of the appeals provided by subsections (b) and (d) of this section.

(3) *Suspension of payment of disputed amount of refund due upon locality's notice of intent to initiate judicial review.*

a. Payment of any refund determined to be due pursuant to the determination of the tax commissioner of an appeal pursuant to subsection (f) of this section shall be suspended if the county serves upon the taxpayer, within 60 days of the date of the determination of the tax commissioner, a notice of intent to file an application for judicial review of the tax commissioner's determination pursuant to Code of Virginia, § 58.1-3984 and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the locality's application for judicial review is frivolous.

b. No suspension of refund activity shall be permitted if the county's application for judicial review fails to identify with particularity the amount in dispute.

c. The suspension of the obligation to make a refund shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(4) *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of this article, but no further penalty shall be imposed while collection action is suspended.

(h) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amount in dispute, when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

Appealable event means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the director of finance's (i) examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a local license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

An appealable event shall include a taxpayer’s appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the county, regardless of whether the taxpayer’s appeal is in conjunction with an assessment, examination, audit, or any other action taken by the county.

Frivolous means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is:

(1) Not well grounded in fact;

(2) Not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(3) Interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or

(4) Otherwise frivolous.

Jeopardized by delay means a finding by the director of finance, based on specific facts, a taxpayer designs to:

(1) Depart quickly from the county;

(2) Remove his property from the county;

(3) Conceal himself or his property; or

(4) Do any other act tending to prejudice or to render ineffective proceedings to collect the tax for the period in question.

(i) Any taxpayer whose application for correction pursuant to the provisions of subsection (b) of this section has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the director of finance, elect to treat the application as denied and appeal the assessment or classification of the taxpayer's business to the tax commissioner in accordance with the provisions of subsection (d) of this section. The tax commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of final determination on the part of the director of finance was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the director of finance to make the determination.

(Code 1980, § 12-33; Code 1995, § 20-380; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 9, 10-9-1996; Ord. No. 1033, § 1, 8-13-2002)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)5., (A)6.

Sec. 20-378. Payment of tax with bad check.

If any check tendered for any tax due under this article is not paid by the bank on which it is drawn, the taxpayer for whom such check was tendered shall remain liable for the payment of the tax the same as if such check had not been tendered, and no license shall be deemed to have been granted upon the tendering of the bad check.

(Code 1980, § 12-36; Code 1995, § 20-381)

Sec. 20-379. License application; extensions to be granted.

The assessing official may grant an extension of time, in which to file an application for a license, for reasonable cause. Any such extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid. If the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent of the portion paid after the due date shall be assessed and added to the tax, and interest from the due date shall accrue at the rate of ten percent per annum on the unpaid portion.

(Code 1995, § 20-384; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 10, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.c.

Sec. 20-380. Business situs requirement.

(a) Every person engaging in the county in any business, trade, profession, occupation or calling (collectively hereinafter "a business"), as defined in this article, unless otherwise exempted by law, shall apply for a license for each such business if:

(1) The person has a definite place of business in the county;

(2) There is no definite place of business anywhere and the person resides in the county;

(3) There is no definite place of business in the county but the person operates amusement machines or is classified as an itinerant merchant, peddler, contractor subject to Code of Virginia, § 58.1-3715, or public service corporation.

(b) A separate license shall be required for each definite place of business.

(Code 1995, § 20-385; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 11, 10-9-1996)

State law reference—Mandatory provisions (subsection (a), Code of Virginia, § 58.1-3703.1(A)1.

Sec. 20-381. Situs of gross receipts and purchases; apportionment.

(a) *General rule.* Whenever any tax imposed under this article is measured by gross receipts, the gross receipts included in the tax base shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within the county. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of Code of Virginia, § 58.1-3715 and sections 20-563 and 20-564.

(2) The gross receipts of a retail or wholesale merchant shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which such activities are directed or controlled; however, a wholesale merchant or distribution house subject to license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares or merchandise are made to customers. Any wholesale merchant who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply for the Virginia Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If a taxpayer has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of business on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of

business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the county solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements concerning apportionment.* The assessor may enter into agreements with any other local government of the commonwealth concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. If the assessing official is notified or becomes aware that his method of attributing gross receipts is inconsistent with the method of one or more local governments in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of the gross receipts from all locations in the affected localities, the assessor shall make a good faith effort to reach an apportionment agreement with the other local governments involved. If an agreement cannot be reached, either the assessor or the taxpayer may seek an advisory opinion from the Virginia Department of Taxation pursuant to Code of Virginia, § 58.1-3701. Notice of the opinion request shall be given to the other party. Notwithstanding the provisions of Code of Virginia, § 58.1-3993, when a taxpayer has demonstrated to a court that two or more localities in the state have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

(Code 1995, § 20-386; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 12, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)3.

Sec. 20-382. Interest to be paid.

Interest shall be paid on the refund of any license tax whether attributable to an amended return or other reason. Such interest, at the rate of ten percent per annum, shall be computed and paid from the date the taxes were required to be paid or were paid, whichever is later. No interest shall be paid on a refund if the refund is made not more than 30 days from the date of the payment that gave rise to the refund or the due date of the tax, whichever is later.

(Code 1995, § 20-387; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 14, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.e.

Sec. 20-383. Written ruling from the director of finance.

Any taxpayer or an authorized representative of a taxpayer may request a written ruling from the director of finance regarding the assessment of license tax in a specific fact situation. Any person requesting such a ruling must provide all the relevant facts and may present a rationale for an interpretation of the law most favorable to the taxpayer. In addition, the taxpayer or authorized representative may request a written ruling with regard to the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the county. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any ruling issued. A written ruling will be revoked or amended automatically prospectively if there is a change in the law, a court decision or the guidelines issued by the state department of taxation upon which the ruling was based. A written ruling may be revoked or amended prospectively if the assessor notifies the taxpayer of a change in policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period when such ruling was in effect.

(Code 1995, § 20-388; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 14, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)8.

Sec. 20-384. Limitations and extensions.

(a) Where, before the expiration of time prescribed for the assessment of any license tax imposed pursuant to this article, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The agreed-upon period may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding Code of Virginia, § 58.1-3903, the assessing official shall assess license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.

(c) The period for collection of any license tax shall not expire prior to the period specified in Code of Virginia, § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to subsection (a) of this section, two years after the final determination of an administrative appeal for which collection has been stayed, or two years after the final decision in a court application pursuant to Code of Virginia, § 58.1-3984, or similar law for which collection has been stayed, whichever is later.

(Code 1995, § 20-390; Ord. No. 935, § 42, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)4.

Secs. 20-385—20-413. Reserved.

DIVISION 2. BUSINESS AND MISCELLANEOUS SERVICES

Sec. 20-414. Enumerated; amount of license tax.

(a) Every person engaged in one or more of the following businesses and having a definite place of business in the county, provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00.

Accountant (other than certified public accountant).

Administration and management of health care plans.

Adult educational services, except those provided by religious or nonprofit organizations.

Appraiser or evaluator of personal property or damages to personal property.

Appraiser or evaluator of real estate for others for compensation.

Arboriculturist or pruner of trees and shrubs.

Assayer.

Auctioneer.

Auditing company or firm.

Blueprinter.

Bookkeeper, public.

Botanist.

Business management.

Claims adjustor.

Collection agent or agency.

Commercial artist.
Common crier.
Computer consultant or programmer.
Conductor of seminars.
Consulting or consultant service.
Custom house broker or freight forwarder.
Draftsman.
Ecologist.
Erection or improvement of buildings, furnisher of plans or specifications for or persons employed in consulting capacity in connection with architect.
Interpreter.
Investment broker, consultant or advisor.
Lumber measurer.
Manufacturer's agent.
Marriage or business counselor.
Merchandise broker.
Paralegal or legal assistant.
Photostater.
Public relations counselor and furnisher of publicity.
Recorder of proceedings in any court, commission or organization.
Recorder of securities transactions.
Sales agent or agency.
Security broker, dealer.
Sign painter or service.
Social counselor.
Speech therapist.
Tax return preparer or tax consultant.
Taxidermist.
Technician, including dental or medical.
Telecommunications services, including, but not limited to, telephone and cellular mobile radio communication services, provided by persons not subject to tax under section 20-821.
Title abstract or guaranty.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-40.1; Code 1995, § 20-411; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 15, 10-9-1996; Ord. No. 962, § 1, 10-8-1997; Ord. No. 981, § 1, 10-14-1998; Ord. No. 991, § 1, 9-28-1999; Ord. No. 1007, § 1, 10-24-2000)

State law reference— Limitation on levy, Code of Virginia, § 58.1-3706.

Sec. 20-415. Exemptions from requirement for auctioneer's license.

(a) *Real estate agents or brokers.* No auctioneer's license shall be required of persons engaged in business as real estate agents or brokers who, as a part of their business, offer real estate for sale at public auction or public outcry.

(b) *Sale of items at owner's residence.* No auctioneer's license shall be required for the sale of any wagon, carriage, automobile, mechanic's tools, used farming implements, livestock, poultry (dressed or undressed), seafood, vegetables, fruits, melons, berries, flowers or leaf tobacco, or for the sale of secondhand furniture and household effects, when being sold at the residence of the person desiring to dispose of them.
(Code 1980, §§ 12-40.2, 12-40.3; Code 1995, § 20-412)

Sec. 20-416. Scientific research and development services.

(a) Every person engaged in the business of furnishing scientific research and development services and having a definite place of business in the county, provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00.
(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.
(Code 1980, § 12-162; Code 1995, § 20-413; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 16, 10-9-1996; Ord. No. 962, § 2, 10-8-1997; Ord. No. 981, § 2, 10-14-1998; Ord. No. 991, § 2, 9-28-1999)

Sec. 20-417. Exclusion from gross receipts – Security brokers and dealers.

(a) For purpose of computing the tax under this division, the gross receipts of a security broker or security dealer shall not include amounts received by the broker or dealer that arise from the sale or purchase of a security to the extent that such amounts are paid to an independent registered representative as a commission on any sale or purchase of a security. The broker or dealer claiming the exclusion shall identify on its business license application each independent registered representative to whom the excluded receipts have been paid and, if applicable, the localities in the Commonwealth to which the independent registered representative is subject to business license taxes.

(b) For the purpose of this division:

(1) "Security broker" means a "broker" as that term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

(2)"Security dealer" means a "dealer" as that term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

(3)"Independent registered representative" means an independent contractor registered with the United States Securities and Exchange Commission.

Secs. 20-418—20-445. Reserved.

DIVISION 3. PERSONAL SERVICES

Sec. 20-446. Enumerated; amount of license tax.

(a) Every person engaged in one or more of the following businesses and having a definite place of business in the county, provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00.
Abattoir.

Airport.
Addressing letters or envelopes.
Advertising.
Advertising agents and agency.
Agent finding tenants for and renting single rooms.
Ambulance service.
Analytical laboratory.
Artist, literary, craft and other creative productions.
Artist's representative.
Awnings: erecting, installing, storing or taking down.
Barbershop.
Baths: Turkish, Roman or other like bath or bath parlor.
Beauty parlor.
Billiard, pool or bagatelle parlor.
Blacksmith shop.
Blood or other body fluids: withdrawing, processing, storage.
Boat landing or boat basin.
Bodies, preparing for burial.
Boiler shop and machine shop.
Booking agent.
Bottle exchange.
Bounty hunter.
Bowling alley.
Burglar alarms, servicing.
Business research service.
Canvasser.
Caterer.
Cemetery.
Chartered club.
Check cashing or currency exchange services.
Chicken hatchery.
Cleaning: chimneys; clothes, hats, carpets or rugs; outside of buildings; furnaces; diapers and infants' underwear; linens, coats and aprons; windows; towels; work clothes; houses.
Clerical help, labor or employment.
Coin-operated machine services, excluding coin machine operators and pay telephones.
Computer information on-line services.
Concert manager.
Correspondent establishment or bureau.
Credit bureau.
Data processing services.
Demineralization of water.
Detective services.
Detoxification of chemicals.

Dietician.
Domestic help, labor or employment.
Duplicating services.
Dyeing clothes, hats, carpets or rugs.
Electrologist.
Embalmer.
Employment agency and staffing firm.
Engineering laboratory.
Environmental cleanup and related services.
Escort or dating service.
Films, leasing to others for compensation.
Frozen food locker plant.
Fumigation or disinfection of rats, termites, vermin or insects of any kind.
Funerals, conducting.
Garbage, trash or refuse collection service.
Gardener.
Golf course: miniature; driving range; open to public.
Hairdressing establishment.
Horses and mules: exhibiting trained and educated horses; boarding or keeping; renting.
Impoundment lot.
Interior decorator.
Janitorial service.
Kennel or small animal hospital.
Laundry.
Lawn maintenance.
Letter writing.
Locating of apartments, rooms or other living quarters.
Lock repairing.
Locksmith.
Mailing services.
Manicurist.
Massage practitioner.
Masseur.
Messenger service, except telephone or telegraph messenger service.
Mimeographing.
Monogramming.
Motion picture theater.
Motor vehicles: cleaning, greasing, polishing, oiling, repairing, towing, washing, vulcanizing, electrical and battery repair work.
Motor vehicles for hire and transportation of passengers, chauffeured.
Multigraphing.
Nursing homes and personal care facilities, including assisted living.
Nursing services, including nurses, nursing assistants and personal care providers.

Packaging services.
Packing, crating, shipping, hauling or moving goods or chattels for others.
Parking lot for storage of or parking of motor vehicles.
Personnel agency.
Pet sitter.
Photographer.
Photographic film processing and development.
Picture framing or gilding.
Plating or coating metals or other materials.
Polygraphic services.
Press clipping service.
Pressing clothes, hats, carpets or rugs.
Protective agents or agencies.
Public address system.
Public skating rink.
Publisher of county or city directory.
Real estate broker.
Reducing salon or health club.
Registries: physicians' or nurses'.
Renting airplanes.
Renting any kind of tangible personal property, except a person engaged in a short-term rental business subject to tax under article X of this chapter.
Renting or furnishing automatic washing machines.
Repair, renovating or servicing the following: bicycles; radios and television apparatus; electric refrigerators; pianos; pipe organs or other musical instruments; fire extinguishers; road construction machinery; road repair machinery; farm machinery; industrial or commercial machinery; business office machinery or appliances; household appliances; shoes; watches; jewelry; umbrellas; harnesses; leather goods or shoes; guns; window shades; dolls; cameras; toys; fountain pens; pencils; Kodaks; lawn mowers; mattresses or pillows; mirrors; electric motors; scales; saws or tools; rewinding electric apparatus; furniture; clothing or hosiery; septic tanks or systems; hats; carpets; rugs; repairing, servicing or renovating any other article not mentioned.
Scalp treating establishment.
Seamstress or tailor.
Sewage collection and disposal.
Sponging clothes, hats, carpets or rugs.
Spotting clothes, hats, carpets or rugs.
Statistical or actuarial service.
Stevedoring.
Survey taker.
Telephone answering or sanitizing service.
Telephone wiring or installation.
Tennis court.
Theater.
Ticket, transportation, travel and tour agents or brokers.

Title search.
Typesetting.
Undertaker.
Warehouse for storage of merchandise, tobacco, furniture, or other goods, wares or materials; cold storage warehouses; warehouse for icing or precooling goods, wares or merchandise.
Wheelwright shop.
Window dresser.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, §§ 12-41, 12-161; Code 1995, § 20-431; Ord. No. 909, §§ 1, 2, 10-25-1995; Ord. No. 935, § 17, 10-9-1996; Ord. No. 962, § 3, 10-8-1997; Ord. No. 981, § 3, 10-14-1998; Ord. No. 1007, § 2, 10-24-2000)

State law reference— Limitations on levy, Code of Virginia, § 58.1-3706; real estate brokers, Code of Virginia, § 58.1-3732.2.

Sec. 20-447. Exemption for nonprofit cemeteries; computation of gross receipts for other cemeteries.

Cemeteries operating as a nonprofit corporation or a stock corporation, the stock of which is, by the provisions of the charter of such corporation, non-dividend paying, shall be exempt from the provisions of this division. The gross receipts of a cemetery shall exclude the amounts received from the sale of burial lots.

(Code 1980, § 12-42; Code 1995, § 20-432)

Sec. 20-448. Exclusions from gross receipts—Advertising agencies and advertisers.

(a) Advertising agents and agencies, when acting on the behalf of their clients in disseminating a message through the media, shall exclude amounts paid by them for the following: advertising space, radio time, electrical transcription, pressings, artwork, engraving, plate, mats, printing, printing stock and postage, from the amount of gross receipts of the business of the advertising agent or agency, in computing the basis for their license tax under this division.

(b) Advertisers, when acting on the behalf of their clients in creating material to be dispersed through the mail, shall be entitled to exclude those amounts which they have paid for postage.

(Code 1980, § 12-43; Code 1995, § 20-433)

Sec. 20-449. Same—Real estate brokers.

(a) For the purpose of computing the tax under this division, a real estate broker shall exclude from his gross receipts the commissions on insurance premiums and receipts from conducting business with respect to real estate belonging to such person and excluding interest, brokerage and other receipts from the business of lending money belonging to such person.

(b) If a real estate agent receives the full commission from the broker less an adjustment for the business license tax paid by the broker on such commission and the agent pays a desk fee to the broker, then the desk fee and other overhead costs paid by the agent to a broker shall not be included in the broker's gross receipts.

(Code 1980, § 12-44; Code 1995, § 20-434; Ord. No. 1035, § 1, 8-13-2002)

State law reference— Similar provisions, Code of Virginia, § 58.1-3732.2.

Sec. 20-450. Same—Impounding lot operators.

The amounts received by the operator of an impounding lot for feeding animals shall be excluded from

the gross receipts of the business for the purpose of computing the license tax under this division on such operator.

(Code 1980, § 12-46; Code 1995, § 20-436)

Sec. 20-451. Additional licenses for slot machines or vehicles.

The license taxes prescribed in this article shall be in addition to the license taxes prescribed elsewhere upon slot machines or upon vehicles of any kind.

(Code 1980, § 12-47; Code 1995, § 20-437)

Sec. 20-452. Limitation on gross receipts—Providers of funeral services.

Gross receipts of providers of funeral services shall not include amounts collected by any provider of funeral services on behalf of, and paid to, another person providing goods or services in connection with a funeral. The exclusion provided by this section shall apply if the goods or services were contracted for by the provider of funeral services or his customer. A provider of funeral services claiming the exclusion shall identify on its license application each person to whom the excluded receipts have been paid and the amount of the excluded receipts paid by the provider of funeral services to such person. As used in this section, the term "provider of funeral services" means any person engaged in the funeral service profession, operating a funeral service establishment, or acting as a funeral director or embalmer.

(Code 1995, § 20-438; Ord. No. 981, § 26, 10-14-1998)

State law reference—Similar provisions, Code of Virginia, § 58.1-3732.3.

Sec. 20-453. Same—Staffing firms.

(a) Gross receipts of a staffing firm shall not include employee benefits paid by a staffing firm to, or for the benefit of, any contract employee for the period of time that the contract employee is actually employed for the use of the client company pursuant to the terms of a PEO services contract or temporary help services contract. The taxable gross receipts of a staffing firm shall include any administrative fees received by such firm from a client company, whether on a fee-for-service basis or as a percentage of total receipts from the client company.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Client company means a person, as defined in Code of Virginia, § 1-230, that enters into a contract with a staffing firm by which the staffing firm, for a fee, provides PEO services or temporary help services.

Contract employee means an employee performing services under a PEO services contract or temporary help services contract.

Employee benefits means wages, salaries, payroll taxes, payroll deductions, workers' compensation costs, benefits, and similar expenses.

PEO services or *professional employer organization services* means an arrangement whereby a staffing firm assumes employer responsibility for payroll, benefits, and other human resources functions with respect to employees of a client company with no restrictions or limitations on the duration of employment.

PEO services contract means a contract pursuant to which a staffing firm provides PEO services for a client company.

Staffing firm means a person, as defined in Code of Virginia, § 1-230, that provides PEO services or temporary help services.

Temporary help services means an arrangement whereby a staffing firm temporarily assigns employees to support or supplement a client company's workforce.

Temporary help services contract means a contract pursuant to which a staffing firm provides temporary help services for a client company.

(Code 1995, § 20-439; Ord. No. 981, § 27, 10-14-1998)

State law reference—Similar provisions, Code of Virginia, § 58.1-3732.4.

Secs. 20-454—20-474. Reserved.

DIVISION 4. PROFESSIONAL SERVICES

Sec. 20-475. Enumerated; amount of tax.

(a) Every person engaged in one or more of the following businesses or professions and having a definite place of business in the county, provided that the gross receipts of the business or profession exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00.

Architect.
Attorney at law.
Ceramic engineer.
Certified public accountant.
Chemical engineer.
Chemist.
Chiropodist.
Chiropractor.
Civil engineer.
Coal mining engineer.
Consulting engineer.
Contracting engineer.
Dentist.
Doctor of medicine.
Electrical engineer.
Heating and ventilating engineer.
Highway engineer.
Homeopath.
Industrial engineer.
Landscape architect.
Mechanical engineer.
Metallurgist.
Mining engineer.

Naturopathist (naturopath).
Optometrist.
Osteopath.
Patent attorney or agent.
Physician.
Physician services, chiropodist services, chiropractor services, dentist services, doctor of medicine services, homeopath services, naturopath services, optometrist services, osteopath services, physiotherapist services, podiatrist services, psychologist services, radiologist services or surgeon services provided by a health maintenance organization.
Physician's services provided by a nonprofessional corporation.
Physiotherapist.
Podiatrist.
Professional engineer.
Psychiatrist.
Psychologist.
Radio engineer.
Radiologist.
Railway engineer.
Refrigerating engineer.
Sanitary engineer.
Stream power engineer.
Structural engineer.
Surgeon.
Surveyor.
Veterinarian.

(b) If the gross receipts of the business or profession are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-48; Code 1995, § 20-461; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 18, 10-9-1996; Ord. No. 962, § 4, 10-8-1997; Ord. No. 981, § 4, 10-14-1998; Ord. No. 991, § 3, 9-24-1999)

Sec. 20-476. State certificate of registration prerequisite to issuance of certain licenses.

No license shall be issued to one engaged in the practice of medicine, homeopathy, chiropractic, naturopathy or chiropody, dentist, attorney at law, chemical engineer, civil engineer, highway engineer, sanitary engineer, or any other profession which requires a certification of registration and examination under the provisions of the Code of Virginia unless such person furnishes evidence to the director of finance that he has properly registered and has in effect a current registration as required by state law.

(Code 1980, § 12-52; Code 1995, § 20-462)

Secs. 20-477—20-505. Reserved.

DIVISION 5. AMUSEMENT PARKS, GARDENS OR BUILDINGS, ATHLETIC FIELDS AND PARKS, COLISEUMS, AUDITORIUMS AND DANCEHALLS

*__Cross reference—__ Amusements, ch. 4.

***State law reference—** Amusement machines, Code of Virginia, § 58.1-3720; permanent coliseums, arenas or auditoriums, Code of Virginia, § 58.1-3729.

Sec. 20-506. Tax on owners and operators.

(a) Every person owning and operating an amusement park, garden, athletic field or park, coliseum and auditorium devoted to general amusement and entertainment which is open to the public and where admission charges are made and where a professional basketball, baseball or football game is conducted or where a motion picture, ballet, play, drama, lecture, monologue, comedy, musical review, musical show or concert is exhibited or conducted, or where an instrumental or vocal concert or concert presenting both instrumental and vocal music is conducted by another or others, or where there is presented or conducted a public show, exhibition or performance of any kind, or where there is operated an aggregation of Ferris wheels, toboggan ring or cane games, baby, knife or cane racks, shooting galleries, merry-go-rounds, hobbyhorses or carousels or where dancing is permitted, to which an admission fee is charged or for which compensation is in any manner received either directly or indirectly for the privilege of dancing, provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-67; Code 1995, § 20-511; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 19, 10-9-1996; Ord. No. 962, § 5, 10-8-1997; Ord. No. 981, § 5, 10-14-1998)

Sec. 20-507. Tax on promoters generally.

(a) Every person presenting a motion picture, ballet, drama, lecture, monologue, comedy, musical review, musical show or concert, or an instrumental or vocal concert or a concert of both instrumental and vocal music, or presenting a public show, exhibition or performance of any kind, or operating a merry-go-round, hobbyhorse, carousel or the like, or conducting a public dance, provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-68; Code 1995, § 20-512; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 20, 10-9-1996; Ord. No. 962, § 6, 10-8-1997; Ord. No. 981, § 6, 10-14-1998)

Sec. 20-508. Deduction of payments to charity from gross receipts.

So much of the gross receipts of any taxpayer taxable under sections 20-506 and 20-507 as is paid by the taxpayer directly to a religious, charitable or benevolent organization within the county as a contribution to that organization for the privilege of using its name and not as reimbursement to that organization of an expense in connection with the business license under this division shall be deducted from the gross receipts in computing the basis for license taxes under sections 20-506 and 20-507.

(Code 1980, § 12-69; Code 1995, § 20-513)

Sec. 20-509. Tax on promoters of athletic contests or races.

(a) Every person presenting a professional basketball, baseball, football, wrestling or boxing match or similar competitive athletic performance, or presenting an automobile, horse, dog or animal race or automobile driving contest or stock race, provided that the gross receipts of the business exceed $500,000.00, shall pay a

license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-70; Code 1995, § 20-514; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 21, 10-9-1996; Ord. No. 962, § 7, 10-8-1997; Ord. No. 981, § 7, 10-14-1998)

Sec. 20-510. Applicability of division to charities.

No license taxes prescribed in this division shall be required to be paid for any amusement, performance, exhibition, entertainment or show held or conducted exclusively for religious, charitable or benevolent purposes; but the provisions of this division shall not be construed to allow without payment of the license taxes prescribed in this division any amusement, performance, exhibition, entertainment or show for charitable, religious or benevolent purposes by any person who makes it his business to give exhibitions, no matter what terms of contract may be entered into or under what auspices such amusement, performance, exhibition, entertainment or show is given by such person for religious, benevolent or charitable purposes. It is the intent and meaning of this section that every person who makes it his business to give performances, exhibitions, entertainments or shows for compensation, whether a part of the proceeds are for religious, charitable or benevolent purposes or not, shall pay the license taxes prescribed in this article. In any case where no license tax is required to be paid for the conduct of any amusement, performance, exhibition, entertainment or show held or conducted for religious, charitable or benevolent purposes, a permit from the director of finance shall be required before any such amusement, performance, exhibition, entertainment or show shall be held or conducted.

(Code 1980, § 12-71; Code 1995, § 20-515)

Sec. 20-511. Amusements or entertainments of temporary nature.

Whenever any place of amusement or entertainment makes an admission charge which is subject to the license tax levied in this division and the operation of such place is of a temporary or transitory nature, the director of finance shall require a return and remittance of the license tax to be made on the day following its collection, if the operation is for one day only, or on the day following the conclusion of a series of performances or exhibitions conducted or operated for more than one day, or at such other reasonable time as he shall determine.

(Code 1980, §§ 12-74, 12-75; Code 1995, § 20-517)

Secs. 20-512—20-530. Reserved.

DIVISION 6. BONDSMEN

***State law reference—** Authority to license bondsmen, Code of Virginia, § 58.1-3724.

Sec. 20-531. Levy of tax; amount.

(a) Every person who engages in the business of entering or offering to enter into bonds for others for compensation, whether as a principal or surety, provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-83; Code 1995, § 20-571; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 22, 10-9-1996; Ord. No. 962, § 8, 10-8-1997; Ord. No. 981, § 8, 10-14-1998; Ord. No. 991, § 4, 9-28-1999)

State law reference—Fidelity and surety insurance, Code of Virginia, § 38.2-2400 et seq.

Sec. 20-532. License from the Virginia department of criminal justice services required.

With the exception of any bondsman or his agent who has previously obtained a certificate from a judge of the circuit court and license under section 20-531 and whose certificate, license and right to act as a bondsman continues to remain in full force and effect, no license shall be issued to any person pursuant to section 20-531 until the applicant shall have first obtained a bail bondsman license from the Virginia Department of Criminal Justice Services, as provided by Code of Virginia, § 58.1-3724.

(Code 1980, § 12-84; Code 1995, § 20-572; Ord. No. 1078, § 1, 10-11-2005)

State law reference—Similar provisions, Code of Virginia, § 58.1-3724.

Secs. 20-533—20-557. Reserved.

DIVISION 7. CONTRACTORS

***State law reference—**Contractor's license tax, Code of Virginia, §§ 58.1-3714, 58.1-3715.

Sec. 20-558. Contractors defined.

For the purpose of this division, every person accepting or offering to accept orders or contracts for doing any work on or in any building or structure requiring the use of paint, stone, brick, mortar, cement, wood, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead or other metal or any other building material; accepting or offering to accept contracts to do any paving, curbing or other work on sidewalks, streets, alleys or highways or public or private property using asphalt, brick, stone, cement, concrete, wood or any composition; accepting or offering to accept an order for or contract to excavate earth, rock or other material for foundation or any other purpose or for cutting or trimming or maintaining rights-of-way; accepting or offering to accept an order or contract to construct any sewer of stone, brick, concrete, terra cotta or other material; accepting or offering to accept an order or contract for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices or appliances permanently connected to such wiring, or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power; or engaging in the business of plumbing and steamfitting shall be deemed to be a contractor, whether such work is done or offered to be done by day labor, general contract or subcontract.

(Code 1980, § 12-85; Code 1995, § 20-591; Ord. No. 909, § 1, 10-25-1995)

State law reference—Similar provisions, Code of Virginia, § 58.1-3714.

Sec. 20-559. Amount of tax.

(a) Every contractor, for the privilege of transacting business in the county, including the performance in the county of a contract accepted outside the county, provided that the gross fees or gross receipts of the business exceed $500,000.00, shall pay a license tax as follows:

(1) A fee contractor shall pay the greater of $30.00 or 1.50 percent of the difference between the gross amount of all fees received from contracts accepted on a fee basis and $500,000.00; and

(2) A contractor other than a fee contractor shall pay the greater of $30.00 or 0.15 percent of the difference

between the gross receipts from all contracts accepted on a basis other than a fee basis and $500,000.00.

(b) If the gross amount of all fees received from contracts accepted on a fee basis or the gross receipts from all contracts accepted on a basis other than a fee basis is $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-86; Code 1995, § 20-592; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 23, 10-9-1996; Ord. No. 962, § 9, 10-8-1997; Ord. No. 981, § 9, 10-14-1998)

Sec. 20-560. Speculative builders.

(a) Every person engaged in the business of erecting a building for the purpose of selling or renting it and making no contract with a duly licensed contractor for the erection of such building, whether or not such person contracts with one or more duly licensed contractors for one or more portions, but does not contract with any one person for all of the work of erecting any one of such buildings, shall be deemed to be a speculative builder and for the privilege of transacting business in this county, provided that the total costs of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.15 percent of the difference between the entire cost (both hard and soft) of erecting the building, exclusive of the value of the land, but including the cost of off-site improvements (namely, water systems, sanitary sewerage systems, storm drainage systems and road, curb and gutter improvements) and $500,000.00.

(b) If the entire costs of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) No person who is duly licensed as a contractor under section 20-559 and who is also engaged in the business of speculative building for which a license tax would be otherwise prescribed by this section shall be liable for a separate license, assessable under this section, but every such person shall include in the basis for the tax to be computed under section 20-559 all of the costs which a speculative builder is required to include under the provisions of this section, which costs shall be considered as a part of the orders or contracts accepted by the taxpayer in computing the taxpayer's contractor's license tax.

(Code 1980, § 12-89; Code 1995, § 20-595; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 24, 10-9-1996; Ord. No. 962, § 10, 10-8-1997; Ord. No. 981, § 10, 10-14-1998)

Sec. 20-561. Designation of place of business.

Every license of a contractor or speculative builder shall designate the regular office or place of business in the county, if there be one, as the specified house or definite place at which the business is to be conducted. If there be no such regular office or place of business in the county, but such person is transacting business in the county, then such license shall designate the residence or place of business of the taxpayer, wherever it may be, and also the first place in the county at which work is to be performed, as the specified house or definite place at which the business is to be conducted.

(Code 1980, § 12-91; Code 1995, § 20-596; Ord. No. 909, § 1, 10-25-1995)

State law reference—Principal office location, Code of Virginia, § 58.1-3715.

Sec. 20-562. Scope of license.

Every license issued under this division shall be valid throughout the county.

(Code 1980, § 12-92; Code 1995, § 20-597)

Sec. 20-563. Exemption from tax when license purchased in other jurisdiction.

When a contractor or speculative builder shall have paid a local license tax to any city, town or county

in which his principal office or branch office may be located, he shall be exempt from the payment of additional license tax to the county for conducting any such business within the confines of the county, except where the amount of business done by any such person in the county exceeds the sum of $25,000.00 in any year, he shall be required to file an application and pay a license tax as provided in section 20-559 and shall be subject to all other provisions of this division. The director of finance shall have the power to require such periodic reports as he may deem necessary of all persons claiming exemption under this section. The exemption mentioned in this section shall not affect in any other way the requirements of this division.

(Code 1980, § 12-95; Code 1995, § 20-598; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 25, 10-9-1996)

State law reference—Similar provisions, Code of Virginia, § 58.1-3715.

Sec. 20-564. Receipts for business done in other jurisdictions.

In computing the license tax of a contractor or speculative builder whose principal office or branch office is located in the county, there shall be exempt from the basis of taxation the amount of business done in any other city, town or county in which the contractor or speculative builder has:

(1) A definite place of business; or
(2) No definite place of business and upon which a local license tax has been assessed as provided in Code of Virginia, § 58.1-3715.
(Code 1980, § 12-96; Code 1995, § 20-599; Ord. No. 909, § 1, 10-25-1995; Ord. No. 1136, 11-10-2009)

State law reference—Similar provisions, Code of Virginia, § 58.1-3715.

Sec. 20-565. Proration of tax on orders or contracts covering more than one year.

Any contractor's license tax imposed pursuant to this division shall be prorated on all orders or contracts covering more than one calendar year so as to ensure that the gross amount of each such order or contract is used only once as a basis for determining the amount of tax due.

(Code 1980, § 12-97; Code 1995, § 20-600)

Sec. 20-566. Exhibition of license prerequisite to obtaining permits or county contracts; furnishing of list of subcontractors.

Every contractor and speculative builder who proposes to do work in the county under a contract with the county shall, upon the award of such contract, exhibit to the proper county official the county license authorizing him to engage in the business for the year in which the contract is awarded, and shall furnish to that official and to the director of finance a list of his subcontractors. If any or all of such subcontracts have not been closed or awarded at the time of award of such contract, he shall furnish such list in writing immediately upon awarding of the subcontracts or contract. He shall not allow the work under any subcontract to proceed until the subcontractor shall have exhibited to him his county license to do such business in the county for the current year.

(Code 1980, § 12-93; Code 1995, § 20-602; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-567. Certification of compliance with workers' compensation coverage prerequisite to issuance or reissuance of license; penalty.

(a) No person licensable under this division shall be issued or reissued a license if he:

(1) Has not obtained or is not maintaining workers' compensation coverage for his employees; and

(2) At the time of application for such issuance or reissuance, is required to obtain or maintain such coverage pursuant to Code of Virginia, title 65.2, ch. 8 (Code of Virginia, § 65.2-800 et seq.).

(b) Every person licensable under this division shall provide written certification at the time of any application for issuance or reissuance of a license that he is in compliance with the provisions of Code of Virginia, title 65.2, ch. 8 (Code of Virginia, § 65.2-800 et seq.), and will remain in compliance with such provisions at all times during the license year.

(c) The director of finance shall forward the signed certification required by subsection (b) of this section to the Virginia Workers' Compensation Commission, who shall conduct periodic compliance audits of selected contractors.

(d) Any person who knowingly presents or causes to be presented with his license application a false certificate of compliance shall be guilty of a class 3 misdemeanor.

(Code 1995, § 20-603; Ord. No. 981, § 28, 10-14-1998)

State law reference—Similar provisions, Code of Virginia, § 58.1-3714; penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 20-568. Contractors without a definite place of business in the commonwealth.

Any contractor, as defined in section 20-558, conducting business in the county for less than 30 days without a definite place of business in any county, city or town of the commonwealth shall be subject to the license tax imposed under section 20-559 where the amount of business done by the contractor in the county exceeds or will exceed the sum of $25,000.00 for the license year. That portion of the gross receipts of a contractor subject to the license tax pursuant to this section shall not be subject to such tax in any other county, city or town.

(Code 1995, § 20-604; Ord. No. 991, § 12, 9-28-1999)

State law reference—Similar provisions, Code of Virginia, § 58.1-3715.

Sec. 20-569. – Prerequisite to issuance or renewal of license.

(a) Any person applying for or renewing a license under this division shall furnish prior to the issuance or renewal of the license either (i) satisfactory proof that he is duly licensed or certified under the terms of Code of Virginia, tit. 54.2, ch. 11 or (ii) a written statement, supported by an affidavit that he is not subject to licensure or certification as a contractor or subcontractor pursuant to Code of Virginia, tit. 54.1, ch. 11.

(b) No license shall be issued or renewed under this division unless the contractor has furnished his license or certificate number issued pursuant to Code of Virginia, tit. 54.1, ch. 11 or evidence or being exempt from the provisions of Code of Virginia, tit. 54.1, ch. 11.

Secs. 20-570—20-599. Reserved.

DIVISION 8. HOTELS AND RESTAURANTS

Sec. 20-600. Hotels.

(a) *Definition.* Every person who keeps a public inn or lodginghouse of more than ten bedrooms, where transient guests are fed or lodged for pay, in the county shall be deemed to be engaged in the business of

keeping a hotel. For purposes of this subsection, the term "transient guest" means a person who puts up for less than a week at such hotel, but such a house is no less a hotel because some of its guests put up for longer periods than a week.

(b) *Levy; amount of tax.* Every person operating a hotel, as defined in the preceding section, provided that the gross receipts of the business exceed $500,000.00, shall pay an annual license tax equal to the greater of $30.00 or 0.20 percent of the difference between gross receipts of the business, except receipts from the cost of telephone service and use, and except rent from stores or other space operated independently on ground level with an outside entrance, and $500,000.00.

(c) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, §§ 12-101, 12-102; Code 1995, § 20-641; Ord. No. 909, §§ 1, 2, 10-25-1995; Ord. No. 935, § 26, 10-9-1996; Ord. No. 962, § 11, 10-8-1997; Ord. No. 981, § 1, 10-14-1998; Ord. No. 991, § 5, 9-28-1999)

Sec. 20-601. Restaurants, soda fountains and similar businesses.

(a) Every person engaged in the business of operating an eating house, lunchstand, lunchroom, restaurant or soda fountain, or who shall sell, offer for sale, cook or otherwise furnish for compensation, diet, food or refreshments of any kind, at his house or place of business, for consumption therein, provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax therefor equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Every license issued to such person shall authorize the licensee to sell, offer for sale, cook or otherwise furnish for compensation, at retail only and not for resale, diet, food or refreshments of any kind at the house or place of business of the licensee for consumption therein. A separate license shall be required for each house or definite place of business.

(Code 1980, § 12-103; Code 1995, § 20-642; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 27, 10-9-1996; Ord. No. 962, § 12, 10-8-1997; Ord. No. 981, § 12, 10-14-1998)

Sec. 20-602. Applicability of restaurant license tax when meals furnished in hotel or lodginghouse.

If meals are furnished by public lodginghouses, hotels, inns or tourist homes to persons other than those to whom bedrooms are also furnished for compensation, or if meals are furnished to those who are furnished bedrooms and an additional charge is made for such meals, then in addition to the license tax otherwise imposed in this division there shall be assessed a restaurant license tax for the gross receipts of the business from such meals, including the additional charges for meals furnished those to whom bedrooms are also furnished.

(Code 1980, § 12-105; Code 1995, § 20-644)

Secs. 20-603—20-622. Reserved.

DIVISION 9. LOAN COMPANIES AND BANKERS

Sec. 20-623. Term defined.

For purposes of this division, the term "person" shall mean, in addition to the definition provided in section 20-350, a real estate investment trust, including its qualified subsidiaries engaged in business activities subject to taxation under this division, as the terms "real estate investment trust" and "qualified subsidiary" are defined in section 856 of the Internal Revenue Code, and also including any of the real estate

investment trust's nonqualified subsidiaries provided that stock possessing at least 90 percent of the equity of each nonqualified subsidiary is owned directly or indirectly by the real estate investment trust and further provided that the nonqualified subsidiary is engaged in business activities subject to taxation under this division.

(Code 1980, § 12-107; Code 1995, § 20-661)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 20-624. Small loan companies.

(a) Every person licensed pursuant to Code of Virginia, title 6.2, ch. 15 (Code of Virginia, § 6.2-1500 et seq.), provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business, excluding repayments of principal, and $500,000.00. In no event, however, shall the tax calculated as 0.20 percent, as stated in this subdivision, exceed $90,000.00.

(b) If the gross receipts of the business, excluding repayments of principal, are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-108; Code 1995, § 20-662; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 28, 10-9-1996; Ord. No. 962, § 13, 10-8-1997; Ord. No. 981, § 13, 10-14-1998; Ord. No. 991, § 6, 9-28-1999)

Sec. 20-625. Persons other than small loan companies lending money for purchase of chattels secured by liens; purchasers of conditional sale contracts.

(a) Every person, other than a person licensed pursuant to Code of Virginia, title 6.2, ch. 15 (Code of Virginia, § 6.2-1500 et seq.), engaged in the business of lending money to others for the purchase of motor vehicles, refrigerators, radios, oil or gas burners, electrical appliances, household furniture or equipment, or any other goods or chattels, whether new or used, secured by a lien on such goods or chattels, or paying the purchase price of any goods or chattels for the buyer and securing the sum so paid by a lien on the goods or chattels, or, by the purchase from a dealer of conditional sales contracts or chattels, mortgages, and the notes or other obligations, if any, secured thereby, or in any other manner or by any other method financing in whole or in part, the purchase of such goods or chattels by or for others; and every person, other than a person licensed pursuant to Code of Virginia, title 6.2, ch. 15 (Code of Virginia § 6.2-1500 et seq.), engaged in the business of lending money to others, secured by lien on such goods or chattels, whether for the purchase thereof or not, provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business, excluding repayments of principal, and $500,000.00. In no event, however, shall the tax calculated under the provision of the previous sentence as 0.20 percent exceed $90,000.00.

(b) If the gross receipts of the business, excluding repayments of principal, are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Nothing herein requires the payment of any license tax under this section by any bank or trust company or any director of such company.

(Code 1980, § 12-109; Code 1995, § 20-663; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 29, 10-9-1996; Ord. No. 962, § 14, 10-8-1997; Ord. No. 981, § 14, 10-14-1998; Ord. No. 991, § 7, 9-28-1999)

State law reference— Bank and trust company exemption, Code of Virginia, § 58.1-3703(C)12.

Sec. 20-626. Other moneylenders.

(a) Every person, except those engaged in first mortgage loans and first mortgage note purchasing,

conducting or engaging in any of the following money lending or note purchasing occupations, businesses or trades, namely: an industrial loan company, loan or mortgage company, insurance premium finance company, pawnshop or pawnbroker, a factor, a buyer of promissory notes, deed of trust notes or installment loan agreements, provided that the gross receipts of the business exceed $500,000.00, shall pay for the privilege an annual license tax therefor equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00. In no event, however, shall the tax calculated under the provision of the previous sentence as 0.20 percent exceed $90,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Notwithstanding subsection (e) of this section, the maximum tax for industrial loan associations shall not exceed $500.00.

(d) A pawnshop or pawnbroker must comply with the requirements of Code of Virginia, title 54.1, ch. 40 (Code of Virginia, § 54.1-4000 et seq.) and chapter 15, article V of this Code before issuance of a license under this section.

(e) The term "gross receipts," as used in this section, shall be deemed to mean the gross interest, gross discount, gross commission or other gross receipts earned by means of, or resulting from, such financial transactions. The term "gross receipts" shall not include amounts received as payment of principal.

(Code 1980, § 12-110; Code 1995, § 20-664; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 30, 10-9-1996; Ord. No. 962, § 15, 10-8-1997; Ord. No. 981, § 15, 10-14-1998; Ord. No. 991, § 8, 9-28-1999)

Sec. 20-627. Persons making first mortgage loans or purchasing mortgage notes.

(a) Every person conducting or engaging in a first mortgage money lending or first mortgage note purchasing occupation, business or trade, provided that the gross receipts of the business exceed $500,000.00, shall pay for the privilege an annual license tax therefor equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00. In no event, however, shall the tax calculated under the provision of the previous sentence as 0.20 percent exceed $90,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) The term "gross receipts," as used in this section, shall be deemed to mean the gross interest, discount, gross commission or other gross receipts earned by means of, or resulting from, such financial transactions. The term "gross receipts" shall not include amounts received as payment of principal.

(Code 1980, § 12-111; Code 1995, § 20-665; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 31, 10-9-1996; Ord. No. 962, § 16, 10-8-1997; Ord. No. 981, § 16, 10-14-1998; Ord. No. 991, § 9, 9-28-1999)

Sec. 20-628. Savings and loan companies.

Every savings and loan company, firm or corporation having its principal office in the county shall pay a license tax of $50.00.

(Code 1980, § 12-112; Code 1995, § 20-666)

State law reference— Authority to levy, Code of Virginia, § 58.1-3730.

Sec. 20-629. Exemption for federal and state-chartered credit unions.

The provisions of this division shall not apply to federal or state-chartered credit unions.

(Code 1980, § 12-112.1; Code 1995, § 20-667)

Secs. 20-630—20-646. Reserved.

DIVISION 10. RETAIL MERCHANTS

Sec. 20-647. License and payment of tax required; "retail merchant" defined.

Every person engaged in the business of a retail merchant shall obtain a license for the privilege of doing business in the county and shall pay a license tax therefor. The term "retail merchant," as used in this division, shall include every merchant who sells to others at retail only and not for resale. The term "retail merchant," as used in this division, shall also include any person engaged in the short-term rental business as defined in § 20-311.

(Code 1980, § 12-115; Code 1995, § 20-691)

Sec. 20-648. Amount of tax.

(a) Every person engaged in the business of a retail merchant, provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $500,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-116; Code 1995, § 20-692; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 32, 10-9-1996; Ord. No. 962, § 17, 10-8-1997; Ord. No. 981, § 17, 10-14-1998)

State law reference— Limitation on tax on retail merchant, Code of Virginia, § 58.1-3706(A)2.

Sec. 20-649. Combination wholesale and retail merchants.

Any person who is both a retail merchant and a wholesale merchant is hereby required to obtain both classes of licenses; provided that any retail merchant who desires to do a wholesale business also may elect to do such wholesale business under his retailer's license by paying license taxes under the provisions of this division as a retailer on both his retail and wholesale business.

(Code 1980, § 12-113; Code 1995, § 20-693)

State law reference— Wholesale merchants license tax limitation, Code of Virginia, § 58.1-3716.

Sec. 20-650. Commission merchants.

(a) For purposes of this article, the term "commission merchant" shall mean any person engaged in the business of selling merchandise on commission by sample, circular, or catalogue for a regularly established retailer, who has no stock or inventory under his control other than floor samples held for demonstration or sale and owned by the principal retailer. A commission merchant shall be taxed on commission income and shall not be subject to tax on total gross receipts from such sales. Every person engaged in the business of a commission merchant, provided that the gross commissions of the business exceed $500,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross commissions of the business and $500,000.00.

(b) If the gross commissions of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Goods, wares and merchandise not belonging to a retail merchant which are offered for sale by the retail merchant or by any other person at the retail merchant's duly licensed place of business shall require such

retail merchant to take out the license of a commission merchant as provided in subsection (a) of this section.
(Code 1980, §§ 12-114, 12-124; Code 1995, § 20-694; Ord. No. 909, §§ 1, 2, 10-25-1995; Ord. No. 935, § 33, 10-9-1996; Ord. No. 962, § 18, 10-8-1997; Ord. No. 981, § 18, 10-14-1998; Ord. No. 991, § 10, 9-28-1999)

State law reference— Taxation of commission merchants, Code of Virginia, § 58.1-3733.

Sec. 20-651. Sales promotional shows and flea markets.

(a) A group of persons or merchants may sell or offer for sale at retail at a sales promotional show or flea market their goods, wares and merchandise, upon the payment of a license tax in the amount of $250.00. Such license shall authorize all sales conducted at such show. Such license shall not be granted for a period of time in excess of seven consecutive days.

(b) For purposes of this section, a sales promotional show is defined as a show, consisting of a group of persons or merchants, to stimulate the sale of specific classes of goods, wares and merchandise, such as but not limited to recreational goods, motor vehicles, antiques, hobby crafts, etc.

(c) For purposes of this section, a flea market is defined as a group of persons assembling for the purpose of selling their goods, wares and merchandise which are primarily secondhand articles.

(d) The license tax specified in this section shall apply only to shows and flea markets having gross sales of less than $125,000.00. Persons participating in shows and flea markets having gross sales in excess of $125,000.00 shall be subject to the license tax specified in section 20-648.

(Code 1980, § 12-117; Code 1995, § 20-695)

Sec. 20-652. Applicability of division to manufacturers.

All goods, wares and merchandise manufactured by a retail merchant and sold as merchandise shall be considered as sales; provided that this division shall not be construed as applying to manufacturers who sell or offer for sale at the place of manufacture goods, wares and merchandise manufactured by them. A manufacturer may, without a retail merchant's license, sell at the place of manufacture the goods, wares and merchandise manufactured by him. If a manufacturer desires to sell other than at the place of manufacture, at retail only and not for resale, the goods, wares and merchandise manufactured by him, such manufacturer must take out a retail merchant's license. When a manufacturer establishes a place for the sale of his goods, wares and merchandise, other than at his place of manufacture, at retail only and not for resale, the gross receipts of the business shall include not only the amount of sales made by such manufacturer of goods, wares and merchandise purchased from others, but also the gross receipts from the sale of the goods, wares and merchandise manufactured by him, sent from the point of manufacture and sold at or through such place; and he is required to report, as provided in this division, not only the amount of sales of goods, wares and merchandise purchased by him from others and sold, but also the amount of sales of goods, wares and merchandise manufactured by him either within or without the county and offered for sale by him and sold at or through a place in the county other than the place of manufacture. Notwithstanding the provisions of this section, with respect to goods, wares or merchandise manufactured by a retail merchant and sold or offered for sale by him at or through a place in the county other than the place of manufacture and shipped directly to the customer, the retail merchant is required to report, as provided in this division, only the amount of goods, wares and merchandise delivered within the state.

(Code 1980, § 12-118; Code 1995, § 20-696)

Sec. 20-653. Reserved.

(Code 1980, § 12-119; Code 1995, § 20-697)

Sec. 20-654. Cooperatives.

Every cooperative association, society, company or exchange created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 1 (Code of Virginia, § 13.1-301 et seq.), and every nonprofit, cooperative association, with or without capital stock, created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 2 (Code of Virginia, § 13.1-312 et seq.), and every cooperative marketing or purchasing association or corporation incorporated or organized under the general corporation laws of this state and brought under the provisions of Code of Virginia, title 13.1, ch. 3 (Code of Virginia, § 13.1-301 et seq.), whether such association, society, company, exchange or corporation be organized or brought under the provisions of those sections of the Code of Virginia prior or subsequent to the effective date of the ordinance from which this section is derived and whether chartered under the laws of this state or otherwise chartered and doing business in this state and conducting a mercantile, merchandise or brokerage business on the cooperative plan, shall be taxable as a merchant by the county. Every such association, society, company, exchange or corporation which sells to others at retail only and not for resale shall be a retail merchant and taxable as such under this division.

(Code 1980, § 12-123; Code 1995, § 20-698)

State law reference— Authority to tax cooperatives, Code of Virginia, §§ 13.1-311, 13.1-341.

Sec. 20-655. Operators of coin-in-the-slot machines.

Every person who sells merchandise by means of machines operated on the coin-in-the-slot principle shall pay the merchant's license tax prescribed by this division. All such machines are to be plainly marked so as to show the name and address of the owner thereof.

(Code 1980, § 12-125; Code 1995, § 20-699)

Sec. 20-656. Special license for closing out business.

If, after the close of the year for which a license is issued under this division, the retail merchant elects not to renew it but desires the privilege to sell whatever goods, wares and merchandise he may have on hand at the time, it shall be lawful for him to do so upon obtaining a license and the payment of a license tax therefor measured by the retail sale value of such goods, wares and merchandise, less any applicable deduction, which value he shall estimate and report to the director of finance. No additional purchases shall be made and added to the goods, wares and merchandise on hand after the estimate has been made. No such license shall be assigned or transferred.

(Code 1980, § 12-122; Code 1995, § 20-700; Ord. No. 909, § 1, 10-25-1995)

Cross reference— Closing out and similar sales, ch. 8.

Sec. 20-657. Exemption for sales conducted by nonprofit organizations at events sponsored by county government.

The license taxes specified in this article shall not apply to retail sales, sales promotional shows and flea markets being conducted by nonprofit organizations at an event sponsored or cosponsored by the county government and authorized by the county manager.

(Code 1980, § 12-125.1; Code 1995, § 20-701)

Sec. 20-658. Estimation of gross receipts for new businesses.

For the purpose of ascertaining the tax to be paid under this division by a retail merchant beginning business, he shall estimate the gross receipts of the business which he will receive between the date of the issuance of his license and the end of the then-current license year, including an estimate of the sales of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a retail merchant, provided that such place is not the place of manufacture, and his beginner's tax shall be computed on the basis of his gross receipts so ascertained, less any applicable deduction, subject to correction after the close of the license year upon the basis of his actual sales.

(Code 1980, § 12-120; Code 1995, § 20-702; Ord. No. 909, § 1, 10-25-1995)

Secs. 20-659—20-689. Reserved.

DIVISION 11. WHOLESALE MERCHANTS

***State law reference—** Authority to levy, Code of Virginia, § 58.1-3716.

Sec. 20-690. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant and shall not be construed to exclude any goods, wares and merchandise otherwise coming within the meaning of the word. All goods, wares and merchandise manufactured by a wholesale merchant and sold or offered for sale as merchandise shall be considered as purchases within the meaning of this section; provided that this section shall not be construed to apply to manufacturers who offer for sale at the place of manufacture the goods, wares and merchandise manufactured by them, but such manufacturer may, without a wholesale merchant's license, sell at the place of manufacture the goods, wares and merchandise manufactured by him. If a manufacturer desires to sell or offers for sale the goods, wares and merchandise manufactured by him, other than at the place of manufacture, to others for resale or at wholesale to institutional, commercial or industrial users, then such manufacturer must take out a wholesale merchant's license and the amount of license tax is to be measured not only by the amount of purchases made by such manufacturer from others, if any, but also by the goods, wares and merchandise manufactured by him, if any, and he is required to report, as provided in this division, not only the amount of goods, wares and merchandise purchased by him from others and offered for resale, but also the amount of goods, wares and merchandise manufactured by him either within or without the county and sold or offered for sale by him at his place of business or office in this county, other than the place of manufacture. The term "purchases," as used in this division in relation to the purchase price of goods, wares and merchandise sold by a manufacturer at or through a place other than the place of manufacture, shall be the cost of manufacturing such goods, wares and merchandise together with the factory markup and overhead.

Wholesale merchant means any person or merchant who sells goods, wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, or who sells at wholesale to institutional, commercial or industrial users.

(Code 1980, § 12-128; Code 1995, § 20-721; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 34, 10-9-1996)

Sec. 20-691. License required; tax basis.

(a) Provided that the total amount of purchases of the business exceed $500,000.00 every person engaged in the business of a wholesale merchant shall obtain a license for the privilege of doing business in the county

and shall pay a license tax therefor to be measured by the amount of purchases made by him during the next preceding license year.

(b) If the purchases of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if the wholesale merchant cannot determine the cost of manufacturing or chooses not to disclose the cost of manufacturing. If such election is made, the wholesale merchant shall be taxed upon the basis and at the rate set out in section 20-648.

(Code 1980, § 12-126; Code 1995, § 20-722; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 35, 10-9-1996; Ord. No. 962, § 19, 10-8-1997; Ord. No. 981, § 19, 10-14-1998)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 20-692. Amount of tax.

(a) For every license issued to a person engaged in the business of a wholesale merchant, the amount to be paid shall be as follows:

(1) If the amount of purchases throughout the next preceding calendar year do not exceed $10,000.00, the amount shall be $25.00;

(2) When such purchases exceed $10,000.00, the amount shall be:

a. $25.00 on the first $10,000.00 and $0.20 on every $100.00 in excess of $10,000.00 but not exceeding $5,000,000.00;

b. $0.15 on each $100.00 in excess of $5,000,000.00 but not exceeding $15,000,000.00;

c. $0.10 per each $100.00 upon all purchases in excess of $15,000,000.00 but not exceeding $25,000,000.00;

d. $0.05 per each $100.00 upon all purchases in excess of $25,000,000.00 but not exceeding $50,000,000.00;

e. $0.025 per each $100.00 upon all purchases in excess of $50,000,000.00 but not exceeding $100,000,000.00; and

f. $0.0125 per each $100.00 upon all purchases in excess of $100,000,000.00.

(b) Each wholesale merchant shall receive a deduction of $500,000.00 from purchases prior to determining his tax liability.

(Code 1980, § 12-127; Code 1995, § 20-723; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 36, 10-9-1996; Ord. No. 962, § 20, 10-8-1997; Ord. No. 981, § 20, 10-14-1998)

Sec. 20-693. Junk dealers and dealers in secondhand paper.

Every junk dealer and secondhand paper dealer shall pay for the privilege of transacting business the merchant's license tax prescribed by this division for wholesale merchants; provided, however, this section shall not apply to a retail merchant who receives and purchases at his retail store waste paper, recyclable containers or other such recyclable material.

(Code 1980, § 12-159; Code 1995, § 20-724; Ord. No. 1053, § 2, 9-9-2003)

Sec. 20-694. Reserved.

(Code 1980, § 12-129; Code 1995, § 20-725)

Sec. 20-695. Cooperatives.

Every cooperative association, society, company or exchange created or operating under the provisions

of Code of Virginia, title 13.1, ch. 3, art. 1 (Code of Virginia, § 13.1-301 et seq.), and every nonprofit, cooperative association, with or without capital stock, created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 2 (Code of Virginia, § 13.1-312 et seq.), and every cooperative marketing or purchasing association or corporation incorporated or organized under the general corporation laws of this state and brought under the provisions of Code of Virginia, title 13.1, ch. 3 (Code of Virginia, § 13.1-301 et seq.), whether such association, society, company, exchange or corporation is organized or brought under the provisions of those sections of the Code of Virginia prior or subsequent to the effective date of the ordinance from which this section is derived, and whether chartered under the laws of this state or otherwise chartered and doing business in this state, and conducting a mercantile, merchandise or brokerage business on the cooperative plan, shall be taxable as a merchant by the county. Every such association, society, company, exchange or corporation which sells to others for resale only, or which sells at wholesale to institutional, commercial or industrial users, shall be a wholesale merchant and taxable as such under this division.

(Code 1980, § 12-130; Code 1995, § 20-726)

State law reference— Authority to tax cooperatives, Code of Virginia, §§ 13.1-311, 13.1-341.

Sec. 20-696. Special license for closing out business.

If, after the close of the year for which a license is issued under this division, the wholesale merchant elects not to renew it but desires the privilege to sell whatever goods, wares and merchandise he may have on hand at the time, it shall be lawful for him to do so upon obtaining a license and the payment of a license tax therefor upon the basis of regarding such goods, wares and merchandise as purchases for the purpose of computing the license tax. No additional purchases shall be made and added to the goods, wares and merchandise on hand. No such license shall be assigned or transferred.

(Code 1980, § 12-133; Code 1995, § 20-727)

Cross reference— Closing out and similar sales, ch. 8.

Sec. 20-697. Businesses requiring commission merchant's license.

Goods, wares and merchandise not belonging to a wholesale merchant which are offered for sale by the wholesale merchant or by any other person at the wholesale merchant's duly licensed place of business shall require such wholesale merchant to take out the license of a commission merchant as provided in section 20-650(a).

(Code 1980, § 12-134; Code 1995, § 20-728)

Sec. 20-698. Sale and delivery of goods at place other than place of business.

A wholesale merchant who has been duly licensed by the county may, other than at a definite place of business, sell and deliver at the same time to licensed dealers or retailers, but not to consumers, anywhere in the county, without the payment of any additional license tax of any kind for any such privilege to the county, unless otherwise provided by law.

(Code 1980, § 12-135; Code 1995, § 20-729)

Sec. 20-699. Computation of tax for new businesses or businesses not in existence for full year.

(a) For the purpose of ascertaining the tax to be paid by a wholesale merchant beginning business, his purchases shall be considered to be the amount of goods, wares and merchandise bought to commence

business with, including goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture; also including an estimate of purchases which the wholesale merchant will make between the date of the issuance of his license and the end of the current license year; and including an estimate of the amount of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture. His beginner's license tax shall be computed upon the basis of the purchases so ascertained, less any applicable deduction, subject to correction after the close of the year upon the basis of his actual purchases.

(b) The license tax of every wholesale merchant who was licensed at a definite place of business for only a part of the next preceding license year shall be computed for the then-current license year on the basis of an estimate of purchases, less any applicable deduction, which the wholesale merchant will make throughout the then-current license year, including an estimate of the amount of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture.

(Code 1980, § 12-131; Code 1995, § 20-730; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-700. Correction of estimated tax.

Every estimate of purchases made by or for a wholesale merchant beginning business and every estimate of purchases made by or for a wholesale merchant licensed for only a part of the next preceding license tax year, including every estimate of the amount of goods, wares and merchandise manufactured by any such wholesale merchant to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture, shall be subject to correction by the director of finance, so that the tax shall be finally based upon the correct amount of purchases actually made, less any applicable deduction.

(Code 1980, § 12-132; Code 1995, § 20-731; Ord. No. 909, § 1, 10-25-1995)

Secs. 20-701—20-728. Reserved.

DIVISION 12. ITINERANT AND TRANSIENT MERCHANTS

***State law reference—** Itinerant vendors, retail, Code of Virginia, § 58.1-3717.

Sec. 20-729. Itinerant merchants.

(a) *Definition.* Every person engaged in temporary or transient business in the county and who, for the purpose of carrying on such business, hires, leases or occupies any building or structure, motor vehicle, tent, car, boat or public room, or any part thereof, for any period less than one year for the purpose of selling or offering for sale goods, wares and merchandise to others at retail only and not for resale, except goods, wares and merchandise received from bankruptcy sales, trustee sales, railroad wrecks, fire sales, slaughter sales or sales of like character or designation, and stock received from expositions and fairs, whether such person associates temporarily with another merchant or engages in such temporary or transient business in connection with or as a part of the business or in the name of another merchant or not, shall be deemed an itinerant merchant.

(b) *License required; amount of tax.* Every itinerant merchant shall obtain a license for the privilege of doing business in the county and shall pay a license tax of $200.00 minimum, or a tax based on an amount estimated to be the amount of sales that he will make between the time of beginning business and the close of the license tax year, based on the rate of the retail merchant's license, if that amount is greater, and such license tax paid shall be subject to correction after the close of license year based on the gross receipts at the

rate of taxation for retail merchants; provided that the license tax for any one calendar year shall not be less than $200.00 or more than $500.00.

(c) *Prerequisites to issuance of license.* Every itinerant merchant, when applying for a license to do business in the county, shall report to the director of finance the street and house number of the place where he proposes to conduct business, and no license shall be issued unless such place is adequately illuminated in the daytime without the aid of artificial light. He shall further report in detail the goods, wares and merchandise to be sold at such place and what statements or representations are to be made or advertised concerning them; and, if previously engaged in a like or similar business, he shall designate all the places where the business has been conducted within the preceding 12 months.

(Code 1980, §§ 12-136—12-138; Code 1995, § 20-751)

State law reference—Peddlers and itinerant merchants, Code of Virginia, § 58.1-3717.

Sec. 20-730. Exception for sales by court officers.

Nothing in this division shall be construed to require the payment of a license tax for the sale of goods, wares and merchandise by an assignee, trustee, executor, fiduciary, officer in bankruptcy or other officer appointed by any court of this state or of the United States.

(Code 1980, § 12-141; Code 1995, § 20-753)

Secs. 20-731—20-758. Reserved.

DIVISION 13. PEDDLERS

*__State law reference—__**State law reference—**Peddlers, Code of Virginia, § 58.1-3717.

Sec. 20-759. Applicability of state law.

The definition of a peddler as provided in Code of Virginia, § 58.1-3717(A), and the exemptions provided in Code of Virginia, § 58.1-3717(D) and other sections of the Code of Virginia with reference to peddlers generally shall be applicable in this division.

(Code 1980, § 12-142; Code 1995, § 20-771)

Sec. 20-760. Amount of tax.

(a) *Generally.* Except as otherwise provided, the license tax for peddling or bartering, for each person so engaged or employed, when he travels on foot, shall be $200.00. When such person peddles otherwise than on foot the fee shall be $200.00 each vehicle used in such peddling.

(b) *Peddlers of ice, wood or coal.* The tax on peddlers of ice, wood or coal not produced by them, but purchased for resale, shall be $30.00 for each vehicle used in such peddling.

(c) *Peddlers of homegrown agricultural products.* The tax on peddlers of meat, milk, butter, eggs, poultry, fish, oysters, game, vegetables, fruits or other family supplies of a perishable nature not grown or produced by them shall $50.00 for each vehicle used in such peddling.

(d) *Seafood peddlers.* The tax on peddlers of seafood who buy the seafood they peddle directly from persons who catch or take such seafood shall be $15.00.

(e) *Persons peddling to licensed dealers or retailers.* The tax on peddlers of goods, wares and merchandise who shall peddle goods, wares or merchandise to licensed dealers or retailers shall be the same as that imposed on wholesale merchants under division 11 of this article, and the merchandise distributed through such peddling shall be regarded as purchases for the purpose of measuring the license tax.

(Code 1980, §§ 12-143—12-146; Code 1995, § 20-772)

Sec. 20-761. Transfer of license; proration of tax; payment of tax.

A peddler's license shall not be transferable, and the tax shall not be subject to proration. The full amount of the license tax shall be paid when assessed.

(Code 1980, § 12-148(a); Code 1995, § 20-774)

Sec. 20-762. Time limit on parking of vehicles.

It shall be unlawful for a peddler to park, stand, stop or allow a vehicle to remain in any place for the purpose of peddling any longer than is necessary to conclude a sale of any goods, wares or merchandise or a continuous uninterrupted series of sales thereof; and, in any event, it shall be unlawful for a peddler to park, stand, stop or allow a vehicle to remain in any place for the purpose of peddling more than 30 minutes in any day.

(Code 1980, § 12-148(b); Code 1995, § 20-775)

Secs. 20-763—20-792. Reserved.

DIVISION 14. COIN-OPERATED MACHINES

***State law reference—** Amusement machines, tax, Code of Virginia, § 58.1-3720.

Sec. 20-793. Term defined; amount of tax.

(a) Every person engaged in the business of selling, leasing, renting or otherwise furnishing or providing a coin-operated machine or device operated on the coin-in-the-slot principle shall be deemed a coin machine operator, provided that the term "coin machine operator" shall not include a person owning less than three coin machines and operating such machines on property owned or leased by such person.

(b) Every coin-machine operator shall pay a license tax equal to $200.00 plus 0.20 percent of the difference between the gross receipts received by the operator from coin machines or devices operated within the county and $500,000.00.

(Code 1980, § 12-150; Code 1995, § 20-791; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 37, 10-9-1996; Ord. No. 962, § 21, 10-8-1997; Ord. No. 981, § 21, 10-14-1998; Ord. No. 991, § 11, 9-28-1999)

State law reference— Authority to levy tax, Code of Virginia, § 58.1-3720.

Sec. 20-794. Exemptions.

The provisions of section 20-793 shall not be applicable to operators of weighing machines, operators of automatic baggage or parcel-checking machines or receptacles, operators of vending machines which are constructed to vend only goods, wares and merchandise or postage stamps or provide service only, operators of viewing machines or photomat machines, or operators of devices or machines affording rides to children or for the delivery of newspapers.

(Code 1980, § 12-151; Code 1995, § 20-792)

State law reference— Similar provisions, Code of Virginia, § 58.1-3721.

Sec. 20-795. Stickers or decals to be displayed on machines.

Each machine licensed by a coin-machine operator and merchant placing vending machines shall have conspicuously located thereon a decal, sticker or other adhesive label which shall clearly denote the name and address of the machine owner. Such sticker or decal shall be no less than one inch by two inches in size.

(Code 1980, § 12-153; Code 1995, § 20-793)

State law reference—Stickers as evidence of payment of license tax, Code of Virginia, § 58.1-3722.

Sec. 20-796. Penalty.

Any person having any coin-operated machine or other device subject to this division and failing to procure a county license therefor, or otherwise violating this division, shall be subject to the penalty provided in section 1-13 for each offense.

(Code 1980, § 12-154; Code 1995, § 20-794)

State law reference—Similar provisions, Code of Virginia, § 58.1-3723.

Sec. 20-797. Article not construed as permitting operation of unlawful machine.

Nothing contained in this article shall be construed as permitting any person to keep, maintain, exhibit or operate any coin machine or other device the operation of which is prohibited by law.

(Code 1980, § 12-149; Code 1995, § 20-795)

Secs. 20-798—20-817. Reserved.

DIVISION 15. UTILITY AND SERVICE COMPANIES

***State law reference—**Authority to levy license tax on certain public service corporations, rate limitation, Code of Virginia, §§ 58.1-2690, 58.1-3731.

Sec. 20-818. Amount of tax on persons furnishing water.

(a) Every person engaged in the business of furnishing water, provided that the gross receipts of the business exceed $500,000.00, shall pay for the privilege an annual license tax equal to 0.50 percent of the difference between the gross receipts of the business accruing to such person from sales to the ultimate consumer in the county and $500,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-155; Code 1995, § 20-811; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 38, 10-9-1996; Ord. No. 962, § 22, 10-8-1997; Ord. No. 981, § 22, 10-14-1998)

State law reference—Water companies, tax authorized, Code of Virginia, § 58.1-3731.

Sec. 20-819. Amount of tax on persons furnishing heat, light and power, and gas.

(a) Every person engaged in the business of furnishing heat, light and power, and gas for domestic, commercial and industrial consumption in the county, provided that the gross receipts of the business exceed $500,000.00, shall pay for the privilege an annual license tax equal to 0.50 percent of the difference between the gross receipts of the business accruing to such person from sales to the ultimate consumer in the county and $500,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) For purposes of this section, the term "gross receipts" shall not include receipts for services furnished to federal, state and local public authorities, their officers or agents or sales to other electric utilities for resale.

(Code 1980, § 12-156; Code 1995, § 20-812; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 39, 10-9-1996; Ord. No. 962, § 23, 10-8-1997; Ord. No. 981, § 23, 10-14-1998)

State law reference— Authority to levy license tax on heat, light and power companies, Code of Virginia, § 58.1-3731.

Sec. 20-820. Deductions from gross receipts.

There shall be deducted any sum paid by such person to the county as merchant's license tax from the amount of gross receipts when computing the amount of gross receipts as required by sections 20-818 and 20-819. The amount paid for motor vehicle license tax shall not be considered as deductible.

(Code 1980, § 12-157; Code 1995, § 20-813)

Sec. 20-821. Amount of tax for telephone and telegraph businesses.

(a) Any person engaged in the business of providing telephone service, including cellular mobile radio communications services, or telegraph service in the county, provided that the gross receipts of the business exceed $500,000.00, shall pay a license tax equal to 0.50 percent of the difference between the gross receipts of the business accruing to such person from sales to the ultimate consumer in the county and $500,000.00.

(b) If the gross receipts of the business are $500,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) In the case of telephone companies, charges for long distance calls shall be excluded in computing the basis for license taxation.

(Code 1980, § 12-158; Code 1995, § 20-814; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 40, 10-9-1996; Ord. No. 962, § 24, 10-8-1997; Ord. No. 981, § 23, 10-14-1998)

State law reference— Authority to impose license tax on telephone and telegraph businesses, Code of Virginia, § 58.1-3731.

Secs. 20-822—20-840. Reserved.

ARTICLE XII. FOOD AND BEVERAGE TAX*

***State Law reference: Authority to adopt, Code of Virginia, § 58.1-3833.**

Sec. 20-841. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beverage: the term “beverage” means alcoholic beverages as defined in Code of Virginia, § 4.1-100 and nonalcoholic beverages served as part of a meal.

Grocery items: the term “grocery items” means any food and foodstuffs, green groceries, including whole fruits and vegetables, beverages and household goods usually prepackaged or measured into quantities for household use from containers made for retail grocery or baking sales and usually not suitable for immediate consumption by the purchaser. Grocery items, sometimes called staples, include, by way of illustration and not limitation, sugar, flour, spices, dry pasta, loaves of bread, whole chickens, ground coffee, coffee beans, loose or bagged tea, cooking oils, and canned and jarred goods.

Meals: the term “meals” means any prepared food and beverage sold for human consumption, whether designated as breakfast, lunch, dinner, supper or by some other name, and without regard to the manner, time, and place of service or consumption, except that the following do not constitute meals: (1) grocery items, (2) snack foods alone, (3) beverages alone, and (4) any combination consisting entirely of snack foods, beverages, or grocery items.

Restaurant: the term “restaurant” means any one of the following:

(1) Any place where food is prepared for service to the public on or off the premises, or any place where food is served. Examples of such places include but are not limited to lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and colleges, and kitchen areas of local correctional facilities subject to standards adopted under Code of Virginia, § 53.1-68. Excluded from the definition are places manufacturing packaged or canned foods which are distributed to grocery stores or other similar food retailers for sale to the public.

(2) Any place or operation which prepares or stores meals for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include but are not limited to operations preparing or storing food for catering services, push cart operations, hotdog stands, and other mobile points of service. Such mobile points of service are also deemed to be restaurants unless the point of service and of consumption is in a private residence.

Snack foods: the term “snack foods” means any candy, chewing gum, peanuts and other nuts, popcorn, cookies, crackers, donuts, muffins, bagels, and fried or baked goods of a similar nature, potato chips, ice cream or frozen yogurt, single-serving cakes and pies, and other items of essentially the same nature consumed for essentially the same purpose.

Sec. 20-842. - Levy of tax; amount.

For the purpose of funding the operational needs and capital projects of the Henrico County Public Schools, there is hereby imposed and levied by the county a tax on food and beverages sold as meals by restaurants and on prepared foods ready for human consumption at a delicatessen counter sold by grocery stores and convenience stores. The rate of the tax shall be four percent of the sales price. In the computation of this tax, any fraction of one-half cent ($.005) or more shall be

treated as one cent ($.01).

Sec. 20-843. - Exemptions.

The following transactions shall not be subject to the tax under this article:

(1) Food and beverages sold through vending machines;

(2) Food and beverages sold by boardinghouses that do not accommodate transients;

(3) Food and beverages sold by cafeterias operated by industrial plants for employees only;

(4) Food and beverages sold by restaurants to their employees as part of their compensation when no charge is made to the employee;

(5) Food and beverages sold by volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, the first $100,000.00 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes;

(6) Food and beverages sold by churches that serve meals for their members as a regular part of their religious observances;

(7) Food and beverages sold by public or private elementary or secondary schools, colleges, and universities to their students or employees;

(8) Food and beverages sold by hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof;

(9) Food and beverages sold by day care centers;

(10) Food and beverages sold by homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics;

(11) Food and beverages sold by age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees;

(12) Food and beverages when used or consumed and paid for by the Commonwealth of Virginia, any political subdivision of the Commonwealth of Virginia, or the United States;

(13) Food and beverages provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations;

(14) Food and beverages provided by private establishments that contract with the appropriate agency of the Commonwealth of Virginia to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations;

(15) That portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price;

(16) That portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed twenty percent of the sales price;

(17) Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption; and

(18) Food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to the Act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

(19) Food and beverages sold by sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed $2,500.00. For purposes of this exemption, the sellers' annual income includes income from sales at all local farmers markets and roadside stands, not just those sales occurring in the County.

Sec. 20-844. - Certificate of registration.

(a) Every person responsible for the collection of the tax levied under this article shall file an application for a certificate of registration with the director of finance. The application shall be on a form prescribed by the director of finance to provide information for the assessment and collection of this tax and for the enforcement of the provisions of this article.

(b) Upon approval of the application by the director of finance a certificate of registration authorizing the collection of this meals tax shall be issued to the applicant.

(c) Each person with a certificate of registration pursuant to this section shall notify the director of finance of any changes to the information provided on their application for the certificate within thirty (30) days of the change.

Sec. 20-845. - Payment and collection of tax.

Every seller of food and beverages with respect to which a tax is levied under this article shall collect the amount of tax imposed under this article from the purchaser on whom the same is levied at the time payment for such food and beverages becomes due and payable, whether payment is made in cash, by check, by electronic funds transfer, or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the food and beverages by the seller who shall pay the taxes collected to the county as provided in this article.

Taxes collected by the seller shall be held in trust by the seller until remitted to the county. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to Code of Virginia, § 18.2-111.

Sec. 20-846. - Commission to seller for collection of tax.

For the purpose of defraying some of the costs incurred by the seller in collecting the tax imposed by this article, every seller who files and pays the tax levied under this article in a timely manner shall be allowed three percent of the amount of the tax due and accounted for in the form of a deduction on his return.

Sec. 20-847. - Reports and remittances generally.

(a) Every seller of food and beverages with respect to which a tax is levied under this article shall make out a report, upon such forms and setting forth such information as the director of finance may prescribe and require, and shall sign and deliver such report to the director of finance with a remittance of such tax. Such reports and remittance shall be made on or before the 20th day of each month, covering the amount of tax collected during the preceding month.

(b) Notwithstanding the foregoing provisions of this section, the director of finance may allow any person collecting the tax to elect to make reports and remittances on a quarterly basis when the person has established for a period of one year that his monthly remittances average less than $100.00 per month or on a seasonal basis for persons operating in the county only periodically during the year. Persons electing to make reports and remittances on a quarterly basis shall make them on or before the 20th day of the month following the close of the quarter. Persons electing to make reports on a seasonal basis shall make reports and remittances on or before the 20th day of the month following each month during which they operated, covering the amount of tax collected during the preceding month.

Sec. 20-848. - Preservation of records.

It shall be the duty of any seller of food and beverages liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of five years records showing gross sales of all food and beverages, the amount charged to the purchaser for each such purchase, the date of the purchase, the taxes collected on the purchase, and the amount of tax required to be collected under this article. The director of finance shall have the power to examine such records at reasonable times and without unreasonable interference with the business of the seller for the purpose of administering and enforcing the provisions of this article and to make copies of all or any parts of the records.

Sec. 20-849. - Duty of seller when going out of business.

Whenever any person required to collect or pay to the county a tax under this article shall cease to operate or otherwise dispose of a business required to collect or pay to the county a tax under this article, any tax payable under this article shall become immediately due and payable, and such

person shall immediately make a report and pay the tax due.

Sec. 20-850. - Enforcement; duty of director of finance; powers of business section manager.

(a) The director of finance shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall also be the duty of the director of finance to ascertain the name of every seller liable for the collection of the tax imposed by this article who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The director of finance shall have all of the enforcement powers authorized under Code of Virginia, title 58.1, chapter 31, article 1 (Code of Virginia, § 58.1-3100 et seq.) for purposes of this article.

(b) Police powers are conferred upon the business section manager, appointed pursuant to Sec. 20-353 of Article XI of the Code, and business inspectors while engaged in performing their duties as such under the provisions of this article, and they shall exercise all the powers and authority of police officers granted to them in performing those duties. The business section manager and business inspectors may have a summons issued for any person charging him with a violation of the provisions of this article and may serve a copy of such summons upon such person in the manner provided by law. He shall return the original to the general district court with the manner and time of service stated on the summons.

Sec. 20-851. - Penalty for failure to file report or pay tax; interest on unpaid tax.

(a) If any person shall fail or refuse to file with the director of finance the report required under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax assessable on such report. Such penalty shall be assessed on the day following the day on which the report was due. Any such penalty, when assessed, shall become a part of the tax. The imposition of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any report required in this article.

(b) If any person shall fail or refuse to remit to the director of finance the tax required to be collected and paid under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax past due. Such penalty shall be assessed on the day following the day on which the tax was due. Any such penalty, when assessed, shall become a part of the tax.

(c) In addition, there shall be assessed interest at the rate of ten percent per year on the amount of tax past due, which interest shall commence on the day following the day on which the tax was due and continue until paid.

Sec. 20-852. - Procedure upon failure to file return or pay tax.

If any person shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittance required in this article, the director of finance

shall make an estimate of the amount of taxes due the county by such person upon the best information available and shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article. The director of finance shall notify such person by registered mail, sent to his last known address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten days from the date of such notice.

Sec. 20-853. - Bond or letter of credit.

The director of finance shall require any seller with a record of late filing of the tax returns or of late remittance of the taxes required by this article to post annually a bond in a form acceptable to the director of finance and payable to the county to insure the seller's faithful performance of the requirements of this article. The bond shall be in an amount which is three times the taxes collected or which should have been collected by the seller during the preceding month, but in no case shall be less than $1,000. An irrevocable letter of credit from a local bank approved by the director of finance with an expiration date not earlier than one year from the date of issuance in the amount specified in this section and payable to the county may be accepted in lieu of the bond.

Sec. 20-854. - Criminal penalties.

Any person required to collect, account for, and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a class 1 misdemeanor. Any person who willfully violates any other provision of this article shall be guilty of a class 3 misdemeanor.

Sec. 20-855. - Severability.

The sections, paragraphs, sentences, clauses and phrases of this article are severable, and if any phrase, clause, sentence, paragraph or section of this article shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the remaining phrases, clauses, sentences, paragraphs and sections of this article shall remain valid.

Secs. 20-856—20-874. Reserved.

Article XIII. Special Service Districts

DIVISION 1. – GENERALLY

Sec. 20-875. - Levy and collection.

The board of supervisors will annually levy in each special service district established under this article a special tax on all taxable property in the district at a rate determined by the board. All assessments levied under this article will be added to the general levy for the property and will be subject to the sections of this chapter governing the levy and collection of property taxes and the penalties thereto.

Sec. 20-876. - Revenue collected.

All revenue from the special service district taxes collected pursuant to this article will be segregated and expended in the district in which raised.

DIVISION 2. – VIRGINIA CENTER COMMONS SPECIAL SERVICE DISTRICT

Sec. 20-877. - District boundaries.

The Virginia Center Commons Special Service District consists of the real estate described as follows:

Beginning at the intersection of the Chickahominy River and Telegraph Road; thence southwardly along Telegraph Road to its intersection with Jeb Stuart Parkway; then westwardly on Jeb Stuart Parkway to its intersection with Brook Road (U.S. Route 1); thence northwardly on Brook Road (U.S. Route 1) to the north line of Tax Map Parcel 784-771-6991 (10101 Brook Road); thence northeastwardly along the north line of Tax Map Parcel 784-771-6991 (10101 Brook Road) to its intersection with the Chickahominy River; thence northeastwardly along the Chickahominy River to its intersection with Telegraph Road and the point of beginning. The following parcels located along Brook Road are excluded from the Virginia Center Commons Special Service District: Tax Map Parcel 783-769-9285 (10087 Brook Road); Tax Map Parcel 783-770-9613 (10091 Brook Road); Tax Map Parcel 783-770-9137 (10093 Brook Road); Tax Map Parcel 783-770-8954 (10097 Brook Road); Tax Map Parcel 783-770-8483 (10151 Brook Road); Tax Map Parcel 783-771-8107 (10165 Brook Road); and Tax Map Parcel 783-771-8132 (10177 Brook Road).

Sec. 20-878. - Purpose of the district.

The purpose of the Virginia Center Commons Special Service District is to construct, maintain, and operate streetlights in the District. The provision of streetlights in the District is an additional service that is not desired in the County as a whole.

Sec. 20-879. - Plan for provision of services.

The planned streetlights may be constructed, maintained, and operated by the County alone or via contractors or other third parties, subject to applicable management and oversight by the County pursuant to appropriate governing contracts, leases, or other agreements.

Sec. 20-880. - Expected benefits.

The special service district taxes collected in the Virginia Center Commons Special Service District will be used only for the purpose of constructing, maintaining, and operating streetlights along the public roads in the Virginia Center Commons Special Service District. These streetlights are expected to benefit all properties in the District by increasing the safety of the area for pedestrians and vehicular traffic.

Chapter 21 - TAXICABS AND OTHER VEHICLES FOR HIRE

*__Cross reference—__License tax, § 20-350 et seq.; traffic and vehicles, ch. 22; use of bus stops and taxicab stands, § 22-159; vehicle license taxes, § 22-215 et seq.

*__State law reference—__Authority to regulate, Code of Virginia, § 46.2-2062 et seq.

ARTICLE I. IN GENERAL

Secs. 21-1—21-18. Reserved.

ARTICLE II. TAXICABS AND CERTAIN OTHER VEHICLES CARRYING PASSENGERS FOR HIRE

DIVISION 1. GENERALLY

Sec. 21-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate means the certificate of public convenience and necessity granted by the county to owners of for-hire cars to authorize such owners to engage in the business of providing for-hire car service in the county as provided in this article.

Certificate holder means the owner of one or more for-hire cars who holds a valid unexpired or unrevoked certificate of public convenience and necessity to operate one or more for-hire cars under the provisions of this article.

Driver means any person operating a for-hire car while such car is available for public hire in the county or is being used by the public in the county.

For-hire car means a passenger-carrying, self-propelled motor vehicle maintained for hire by the public and operated upon the streets of the county in the transportation of passengers for compensation, but excluding common carriers of persons or property operating as public carriers under a certificate of public convenience and necessity issued by the state corporation commission or under a franchise granted by the county.

Motor vehicle means any vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used upon the public roads of the county and the roads open to the public on the property of public bodies, including the Capital Region Airport Commission, in the transportation of passengers or property, but does not include any vehicle, locomotive or car operated exclusively on a rail or rails.

Owner means any person in the business of providing for-hire car service and having control of the operation or maintenance of for-hire cars and including the purchaser of any for-hire car under a conditional sales contract or other title-reserving agreement, and persons controlling the operation of independently owned vehicles through methods such as, but not limited to, radio-dispatched systems and name-licensing agreements.

Regular service means the provision of a minimum of two trips per week, for at least two consecutive months, with the same individual.

Taxicab means a for-hire passenger-carrying, self-propelled motor vehicle not operating on a regular route or between fixed terminals and having a seating capacity of not more than six passengers.

Taxicab stand means a stand designated for the sole use of taxicabs in accordance with this article.

(Code 1980, § 20.2-1; Code 1995, § 21-31)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 21-20. Penalty.

Any person violating the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $100.00 for the first offense and not more than $500.00 for each subsequent offense.

(Code 1980, § 20.2-45; Code 1995, § 21-32)

Sec. 21-21. Scope of article.

The provisions of this article are adopted in the exercise of the police power granted to the county by general law. This article is not intended to grant or offer a franchise to use the streets, but it is intended to regulate the operation of taxicabs and other for-hire cars. The board of supervisors reserves the right to amend or repeal this article at any time. Upon the repeal of this article all privileges granted under this article shall cease and terminate. The operation of taxicabs and other for-hire cars within the county shall be subject to the conditions, regulations and restrictions set forth in this article.

(Code 1980, § 20.2-1.1; Code 1995, § 21-33)

Sec. 21-22. Exemptions from article; applicability of rules of Capital Region Airport Commission.

The provisions of this article shall not apply to vehicles listed in Code of Virginia, § 46.2-2000.1, as amended, with the exception of those vehicles listed in subsection (2) of such section, or regulated by the Virginia Department of Motor Vehicles pursuant to Code of Virginia, § 46.2-2099.46, as amended, or to funeral vehicles, or to common carriers of persons or property operating as public carriers by authority of the state corporation commission or under a franchise granted by the county. This article shall not be construed to conflict with or be in derogation of any additional rules and regulations adopted by the Capital Region Airport Commission pursuant to its enabling authority for the operation of for-hire vehicles on its property located in the county.

(Code 1980, § 20.2-47; Code 1995, § 21-34)

Sec. 21-23. Enforcement officers.

The provisions of this article shall be enforceable by all sworn law-enforcement officers to the extent of their authority.

(Code 1980, § 20.2-44; Code 1995, § 21-35)

Sec. 21-24. Authority to prescribe additional regulations.

The chief of police is authorized and empowered to make such rules and regulations concerning the operation of for-hire vehicles as are necessary and are not in conflict with this article for the purpose of administering, executing and making effective the provisions of this article. Such rules and regulations so

promulgated may include, without limitation, requirements for the provision of such safety devices and procedures as the chief of police may deem necessary for the safety of passengers and operations; additional disciplinary rules, sanctions and procedures as may be necessary and proper; and appropriate rules governing the dress, hygiene and general appearance of taxicab drivers.

(Code 1980, § 20.2-49; Code 1995, § 21-36)

Sec. 21-25. Advertising as or claiming to be operator of for-hire vehicle.

No person shall use the term "public vehicle," "taxi," "taxicab," "cab," "for-hire car" or any term of similar meaning in advertising, nor shall any person, by any means, claim to be the operator or driver of a for-hire car, unless such person shall have complied with the provisions of this article insofar as such provisions shall be applicable.

(Code 1980, § 20.2-43; Code 1995, § 21-37)

Sec. 21-26. Responsibility of certificate holder for violations by drivers.

It shall be unlawful for a certificate holder of a vehicle certificated under the provisions of this article to knowingly permit a driver operating such vehicle to violate the provisions of this article.

(Code 1980, § 20.2-46; Code 1995, § 21-38)

Sec. 21-27. Inspection of vehicles.

Every for-hire car for which a certificate has been granted by the county shall be inspected by the chief of police, or some member of the division of police designated by him or such other reputable agency as the chief of police may prescribe, at regular intervals of at least every 12 months and at such other times as the chief of police may prescribe. If such vehicle shall be found to be in violation of the requirements of this article, to have inoperable air conditioning or heating equipment, or to be unsafe, the owner thereof shall be notified by the chief of police at once of such defect and such vehicle shall not be operated thereafter until such defect has been remedied. If upon inspection it is found that the odometer of a vehicle has been unlawfully tampered with, the vehicle shall be permanently rejected for use as a for-hire car.

(Code 1980, § 20.2-3; Code 1995, § 21-39)

Sec. 21-28. Reciprocity.

Upon a finding by the chief of police that the City of Richmond, Chesterfield County, Hanover County, any county or city contiguous to Henrico, Richmond, Chesterfield County or Hanover County or any of them has adopted an ordinance containing provisions comparable to this article and providing for reciprocity with the county, then vehicles for which a person holds a current and valid certificate of public convenience and necessity issued by the City of Richmond, Chesterfield County, Hanover County, any county or city contiguous to Henrico, Richmond, Chesterfield County or Hanover County or any of them and drivers who hold a current and valid permit issued by the City of Richmond, Chesterfield County, Hanover County, any other county or city contiguous to Henrico, Richmond, Chesterfield County or Hanover County or any of them will be deemed to have complied with the certificate and permit requirements of this article and shall be deemed to possess comparable certificates or permits, as the case may be, issued by the county while such city or county certificates or permits remain in good standing; provided that no certificate or permit issued by the City of Richmond, Chesterfield County or Hanover County, any county or city contiguous to Henrico, Richmond, Chesterfield County or Hanover County or any of them shall be valid in the county where the holder of such certificate or permit has applied for and been refused a permit or certificate by the county or

has had such permit or certificate revoked by the county under the provisions of this article and is not eligible for issuance of a permit or certificate by the county.

(Code 1980, § 20.2-48; Code 1995, § 21-40)

Secs. 21-29—21-59. Reserved.

DIVISION 2. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Sec. 21-60. Required; vehicles covered by certificate.

It shall be unlawful to operate or cause to be operated within the county any for-hire car unless a certificate of public convenience and necessity has been issued to the owner thereof by the chief of police covering the operation of such vehicle, and unless the conditions, regulations and restrictions set forth and prescribed in this article have been complied with by such owner. An owner shall operate under only one certificate, and the certificate shall provide for the operation of a specified number of for-hire vehicles. It shall be unlawful to operate or cause to be operated more vehicles than the number provided in the certificate. Additional for-hire vehicles may be operated by a certificate holder only upon written application on a form provided by the chief of police, approval of such application, payment of fees provided under this article and compliance with all other provisions of this article.

(Code 1980, § 20.2-2(a); Code 1995, § 21-61)

Sec. 21-61. Authority to limit number of certificates.

When it appears that it is in the public interest to limit the number of owner's certificates issued by the chief of police, the board of supervisors may, if it finds after an advertised public hearing that it is in the public interest, prescribe the maximum number of vehicles for which such certificates are to be issued. Thereafter, no new certificates shall be issued until the total number of vehicles for which certificates are outstanding is less than the prescribed number; provided that renewal of an existing certificate shall not be regarded as a new certificate for purposes of this section.

(Code 1980, § 20.2-2(f); Code 1995, § 21-62)

Sec. 21-62. Application; term.

The initial certificate of public convenience and necessity shall last until January 31 following its issuance and may be renewed thereafter annually. The chief of police shall prescribe a form to be used in initially applying for the certificate and a form to be used in applying for a renewal.

(Code 1980, § 20.2-2(b); Code 1995, § 21-63)

Sec. 21-63. Fee.

In addition to any other fees prescribed elsewhere in this Code, each applicant for a certificate of public convenience and necessity shall pay an initial application fee of $25.00 per vehicle listed in the certificate, and upon each annual request for renewal of such certificate shall pay the same fee.

(Code 1980, § 20.2-2(e); Code 1995, § 21-64)

Sec. 21-64. Lapse on failure to use vehicle.

A certificate of public convenience and necessity shall lapse with respect to an individual vehicle or any one of the specified number of vehicles for which the certificate has been issued when the particular vehicle has not been used to provide taxicab service for 60 or more consecutive days.

(Code 1980, § 20.2-2(c); Code 1995, § 21-65)

Sec. 21-65. Transfer.

A certificate of public convenience and necessity shall not be transferable.

(Code 1980, § 20.2-2(d); Code 1995, § 21-66)

Sec. 21-66. Age and mileage of vehicles.

It shall be unlawful for a certificate holder to place into service a for-hire vehicle which either is more than 12 model years old or which is more than eight model years old and has more than 300,000 miles at the time it is placed into service. It shall be unlawful to operate any for-hire vehicle which either is more than 12 model years old or which is more than eight model years old and has more than 300,000 miles.

(Code 1980, § 20.2-2(g); Code 1995, § 21-67; Ord. No. 996, § 1, 12-14-1999)

Sec. 21-67. Minimum specifications for vehicles.

It shall be unlawful for a certificate holder to place into service a for-hire vehicle unless the vehicle is a hard-top vehicle with a minimum of four doors and wheel size of at least 14 inches.

(Code 1980, § 20.2-2(h); Code 1995, § 21-68; Ord. No. 996, § 2, 12-14-1999)

Sec. 21-68. Grounds for denial.

Subject to the provisions of section 21-70, the chief of police shall refuse to issue a certificate of public convenience and necessity to a person or entity who or which has filed an application therefor under this division if, after investigation, the chief of police finds any of the following:

(1) The applicant's vehicles do not meet the standards set forth in section 21-27, 21-136, 21-137, 21-138 or 21-139(c);

(2) The applicant fails to meet the requirements of section 21-140, 21-141 or 21-142;

(3) The applicant, within the past 12 months, has been convicted of, pleaded guilty to or pleaded nolo contendere to three or more violations of this article or of any other local law in the state governing the operation of taxicabs or other for-hire cars or vehicles; or

(4) The applicant knowingly makes, or causes to be made, either directly or indirectly, any false statement on the application.

(Code 1980, § 20.2-38; Code 1995, § 21-69)

Sec. 21-69. Grounds for revocation.

Subject to the provisions of section 21-70, the certificate of public convenience and necessity shall immediately become void and shall be immediately surrendered upon the occurrence of any of the following:

(1) The chief of police determines, after investigation, that any or all of the vehicles subject to the certificate

fail to comply with section 21-27, 21-136, 21-137, 21-138 or 21-139(c) and the certificate holder, after notification of the violations, knowingly operates, or permits to be operated, such vehicle prior to correcting the violation;

(2) The chief of police determines, after investigation, that the certificate holder is in violation of section 21-140, 21-141 or 21-142 and the certificate holder knowingly fails to comply with such sections within 15 days after notification of such violation;

(3) The certificate holder, within a 12-month period, is convicted of, pleads guilty to or pleads nolo contendere to three or more violations of this article or of any other local law in this state governing the operation of taxicabs or other for-hire cars or vehicles;

(4) The chief of police finds, after investigation, that the certificate holder has knowingly made, or caused to be made, either directly or indirectly, any false statement on the application for the permit which was issued to such certificate holder; or

(5) The chief of police finds, after investigation, that a charge has been made above or below the rates prescribed by section 21-139(b) with the knowledge, consent or permission of the certificate holder.

(Code 1980, § 20.2-39; Code 1995, § 21-70)

Sec. 21-70. Hearing on denial or revocation; appeals.

If an application for a certificate of public convenience and necessity is refused, or if a certificate of public convenience and necessity is revoked, the chief of police shall notify in writing the applicant or certificate holder of such decision, the reason therefor and the right to a hearing if a request therefor is made in writing to the chief of police within ten days of the notice. If a request for a hearing is not made within ten days of notice, the decision of the chief of police shall be final. The hearing shall be held by the chief of police or his designee and the applicant or certificate holder shall have the right to present his own case or have counsel do so. Within a reasonable time after the hearing, the chief of police shall render his decision. If the chief of police shall refuse to issue or shall revoke a certificate after a hearing, the holder thereof may, within ten days after the date of such action, file with the circuit court of the county a petition, in writing, to review the action of the chief of police, with a copy of such petition to be served on the chief of police. The filing of the petition with the circuit court shall not postpone the effective date of the decision of the chief of police except by order of the court.

(Code 1980, § 20.2-41; Code 1995, § 21-71)

Sec. 21-71. Issuance after denial or revocation.

Any person refused a certificate of public convenience and necessity under the provisions of section 21-68, or whose certificate of public convenience and necessity is revoked under the provisions of section 21-69, shall not be eligible for issuance of a new certificate until such time as the grounds for refusal of a certificate under section 21-68 no longer apply. If a certificate is refused or revoked for knowingly making, or causing to be made, either directly or indirectly, any false statement or for the fact that a charge was made above or below the rates prescribed by section 21-139(b) with the knowledge, consent or permission of the certificate holder, such owner shall not be eligible until 12 months from the date of refusal or revocation.

(Code 1980, § 20.2-40; Code 1995, § 21-72)

Sec. 21-72. Submitting false application.

It shall be unlawful for any person to knowingly make or cause to be made, either directly or indirectly, any false statement on an application for a certificate of public convenience and necessity required under the provisions of this division.

(Code 1980, § 20.2-42; Code 1995, § 21-73)

Secs. 21-73—21-102. Reserved.

DIVISION 3. DRIVER'S PERMIT

Sec. 21-103. Required; term; fees; attendance at orientation program.

No person shall drive a for-hire vehicle subject to the requirements of this article unless such person first successfully completes a basic taxicab driver orientation program approved by the chief of police, and obtains a driver's permit from the chief of police. Such person may be issued a temporary or provisional permit for a period not to exceed six months during which period such person shall successfully complete the basic taxicab orientation program. The initial driver's permit shall last for 12 months following its issuance and may be renewed thereafter annually. Successful completion of a renewal taxicab orientation program approved by the chief of police within the 12 months preceding the date of renewal application shall be required as a condition of permit renewal. The chief of police shall prescribe a form to be used in applying for a renewal. Each applicant for a driver's permit shall pay an initial application fee of $25.00 and upon each annual request for renewal of such permit shall pay a fee of $25.00. The fee for replacement of lost, stolen or damaged permits shall be $10.00. The fee for attendance at the basic or renewal taxicab orientation program shall be $15.00. The permit shall be valid for the operation of only those vehicles subject to a certificate of public convenience and necessity issued under this article.

(Code 1980, § 20.2-31; Code 1995, § 21-91)

Sec. 21-104. Application.

(a) Application for a driver's permit shall show the following:

(1) The full name of the applicant.

(2) Present address.

(3) Age and place of birth.

(4) Places of previous address and employment for the past five years.

(5) Height, weight, color of eyes, color of hair and sex.

(6) Whether or not the applicant is in good physical condition.

(7) Whether or not the applicant has good hearing and good eyesight.

(8) Whether or not the applicant is, or has been within the period of two years last past, addicted to the use of intoxicating liquors, drugs or other forms of narcotics and, if so, to what extent.

(9) Whether or not applicant has ever been convicted of, pleaded guilty to or entered a plea of nolo contendere to any larceny, robbery, assault, battery, crime of moral turpitude, felony or operating a vehicle while under the influence of alcohol or drugs and, if so, such other information as may be required by the chief of police.

(10) Whether or not the applicant is a sex offender prohibited from operating a taxicab pursuant to Code of Virginia, § 46.2-2011.33.

(11) The record of the applicant with respect to traffic offenses connected with the operation of motor vehicles and other offenses affecting the suitability of the applicant as a person who should be permitted to operate a for-hire car, including violations of this article or the provisions of any other law in this state governing the operation of for-hire cars.

(12) Whether or not the applicant has previously been employed or licensed as a chauffeur and, if so, whether or not any license or permit issued for such purpose has ever been revoked or suspended for any reason.

(13) What experience, if any, the applicant has had in the operation of motor vehicles.

(14) The name and address of owner of the for-hire vehicle to be operated by the applicant and, if different, the name and address of the company for which the applicant will be driving.

(b) Each applicant shall apply for a driver's permit in person and have his fingerprints taken, which fingerprints shall constitute a part of his application, and each applicant shall have filed with his application two recent photographs of himself of a size designated by the chief of police, one of which shall be attached to and shall become a part of the application, and the other of which shall be attached to the permit, if issued, in such a manner that no other photograph may be substituted therefor without probability of detection.
(Code 1980, § 20.2-32; Code 1995, § 21-92)

Sec. 21-105. Investigation of applicant; issuance; contents; display.

(a) The chief of police of the county, upon the filing of an application as set forth in this division and after notice to the applicant and opportunity afforded the applicant to be heard, shall promptly make an investigation of the matters stated therein. If the chief of police shall find, upon such investigation, that the applicant possesses the necessary qualifications on the basis of the information furnished in the application and the investigation thereof, the chief of police shall issue a permit card, which shall bear a number and which shall contain the name, business address and a photograph of the applicant, and the name of the owner of the vehicles to be operated by the applicant and, if different, the name of the company for which the applicant will be driving. The driver shall post his permit card in full view of the passenger in any for-hire car which is being operated or is in charge of the applicant. The permit shall be valid only for the operation of such vehicles owned by the person listed on such permit card and shall not be valid for operation of any other for-hire vehicle until such time as the driver has provided written notification, on a form provided by the chief of police, and shall have had the name of the owner of such other vehicles indicated on his permit.

(b) The possession by a person of a valid current driver's license issued by the state department of motor vehicles shall create a presumption that such person has the minimum physical and mental qualifications provided in this division for driving a for-hire car. If the chief of police has doubts as to an applicant's physical or mental capability, then the chief of police may require the applicant to submit to a physical examination by a licensed doctor of medicine and to verify by written report filed by such doctor the applicant's physical or mental capabilities.
(Code 1980, § 20.2-33; Code 1995, § 21-93; Ord. No. 996, § 3, 12-14-1999)

Sec. 21-106. Grounds for denial.

Subject to the provisions of section 21-108, the chief of police shall refuse to issue a driver's permit to a person who has filed an application as set forth in this division if, based upon the application and after investigation, the chief of police finds any of the following:

(1) The applicant, within the past three years, has been convicted of, pleaded guilty to or pleaded nolo contendere to any felony;

(2) The applicant, within the past 12 months, has been convicted of, pleaded guilty to or pleaded nolo contendere to any larceny, assault, battery, crime of moral turpitude or illegal possession of controlled substances where such crime is other than a felony;

(3) The applicant, within the past 12 months, has been convicted of, pleaded guilty to or pleaded nolo contendere to operating a motor vehicle while under the influence of alcohol or drugs;

(4) The applicant, within the past 12 months, has been convicted of, pleaded guilty to or pleaded nolo contendere to three or more moving violations under the motor vehicle laws of this state other than those involving operating a motor vehicle while under the influence of alcohol or drugs;

(5) The applicant, within the past 12 months, has been convicted of, pleaded guilty to or pleaded nolo contendere to three or more violations of this article or of any other local law in this state governing the

operating of taxicabs or other for-hire cars;

(6) The applicant has ever been convicted of, pleaded guilty to or pleaded nolo contendere to any felony involving violence, or distribution of a controlled substance, or to any other felony, or combination of felonies, which indicates to the chief of police that the applicant is of unfit or unworthy character. The chief shall consider the period of time that has passed since the conviction or plea as well as any other mitigating circumstances presented by the applicant;

(7) The applicant is prohibited from operating a taxicab pursuant to Code of Virginia § 46.2-2011.33.

(8) The applicant knowingly makes or causes to be made, either directly or indirectly, any false statement on his application;

(9) The applicant otherwise lacks the following minimum physical or mental qualifications:

a. Drivers shall have no mental, nervous, organic or functional disease likely to interfere with safe driving;

b. Drivers shall have no loss or impairment of use of a foot, leg, fingers, hand or arms or other structural defect or limitation likely to interfere with safe driving;

c. Drivers shall in all other respects satisfy the minimum physical and mental requirements for issuance of a driver's license by the state department of motor vehicles;

(10) The applicant is less than 18 years of age; or

(11) The applicant does not possess a valid and current driver's license issued by the state department of motor vehicles.

(Code 1980, § 20.2-34; Code 1995, § 21-94; Ord. No. 996, § 4, 12-14-1999)

Sec. 21-107. Grounds for revocation.

(a) Subject to the provisions of section 21-108, the permit of any driver of a for-hire car shall immediately become void and shall be immediately surrendered upon the occurrence of any of the following:

(1) The driver is convicted of, pleads guilty to or pleads nolo contendere to any felony;

(2) The driver is convicted of, pleads guilty to or pleads nolo contendere to any larceny, assault, battery, crime of moral turpitude or illegal possession of controlled substances where such crime is other than a felony;

(3) The driver is convicted of, pleads guilty to or pleads nolo contendere to operating a motor vehicle while under the influence of alcohol or drugs;

(4) The driver, within a 12-month period, is convicted of, pleads guilty to or pleads nolo contendere to three or more moving violations under the motor vehicle laws of this state other than those involving operating a motor vehicle while under the influence of alcohol or drugs;

(5) The driver, within a 12-month period, is convicted of, pleads guilty to or pleads nolo contendere to three or more violations of this article or of any other local law in this state governing the operation of taxicabs or other for-hire cars or vehicles;

(6) The driver becomes prohibited from operating a taxicab pursuant to Code of Virginia, § 46.2-2011.33.

(7) The chief of police finds, after investigation, that the driver, within a three-year period, has on two or more occasions made a charge above or below the rates prescribed by section 21-139(b);

(8) The chief of police finds, after investigation, that the driver knowingly made or caused to be made, either directly or indirectly, any false statement on the application for a permit which was issued;

(9) The chief of police finds, after investigation, that the driver no longer possesses the physical or mental qualifications prescribed in section 21-106(9); or

(10) The driver no longer possesses a valid and current driver's license issued by the state department of motor vehicles.

(b) All drivers and certificate holders shall notify the chief of police within 15 days of the occurrence of any

event enumerated in subsection (a)(1), (2), (3), (4), (5), (6) or (10) of this section.
(Code 1980, § 20.2-35; Code 1995, § 21-95)

Sec. 21-108. Hearing on denial or revocation; appeals.

If an application for a driver's permit is refused, or if a driver's permit is revoked, the chief of police shall notify in writing the applicant or permit holder of such decision, the reason therefor and the right to a hearing if a request therefor is made in writing to the chief of police within ten days of the notice. If a request for a hearing is not made within ten days of notice, the decision of the chief of police shall be final. The hearing shall be held by the chief of police or his designee and the applicant or permit holder shall have the right to present his own case or have counsel do so. Within a reasonable time after the hearing, the chief of police shall render his decision. If the chief of police shall refuse to issue or shall revoke a permit after a hearing, the holder thereof may, within ten days after the date of such action, file with the circuit court of the county a petition, in writing, to review the action of the chief of police, with a copy of such petition to be served on the chief of police. The filing of the petition with the circuit court shall not postpone the effective date of the decision of the chief of police except by order of the court.

(Code 1980, § 20.2-41; Code 1995, § 21-96)

Sec. 21-109. Issuance after denial or revocation.

Except as provided in section 21-110, any person refused a driver's permit under the provisions of section 21-106 or whose driver's permit is revoked under the provisions of section 21-107 shall not be eligible for issuance of a new permit until such time as the grounds for refusal of a permit under section 21-107 no longer apply. If a driver's permit is refused or revoked for knowingly making or causing to be made, either directly or indirectly, any false statement or for making charges above or below the rates prescribed by section 21-139(b), or if a driver's permit is revoked under section 21-107(a)(3), (4) or (5), such driver shall not be eligible until 12 months from the date of refusal or revocation or from the date the chief of police was informed of the grounds supporting such revocation, whichever is later.

(Code 1980, § 20.2-36; Code 1995, § 21-97; Ord. No. 996, § 6, 12-14-1999)

Sec. 21-110. Probationary permit.

(a) The chief of police may issue a probationary permit to an applicant for a driver's permit who fails to meet the standards set forth in section 21-106(1) upon the recommendation of a court whose conviction of the applicant resulted in ineligibility for a permit under this division. A probationary permit shall not be issued to any such applicant who has, within 12 months of the date of application, been convicted at trial of a felony, or who has pleaded guilty or nolo contendere thereto.
(b) The chief of police may issue a probationary permit to a driver, following revocation of such driver's permit under section 21-107(a)(1), upon the recommendation of a court whose conviction of the driver resulted in ineligibility for a permit under this division. A probationary permit shall not be issued to such driver sooner than 12 months from the date of revocation of the driver's permit.
(c) A probationary permit shall be effective until such time as the driver is eligible for reissuance under section 21-109; provided, however, that a probationary permit may be revoked at any time by the chief of police upon a finding of violation of any provisions of this article.
(Code 1980, § 20.2-37; Code 1995, § 21-98)

Sec. 21-111. Submitting false application.

It shall be unlawful for any person to knowingly make or cause to be made, either directly or indirectly,

any false statement on an application for a driver's permit required under the provisions of this division.

(Code 1980, § 20.2-42; Code 1995, § 21-99)

Secs. 21-112—21-135. Reserved.

DIVISION 4. OPERATING REGULATIONS

Sec. 21-136. Color scheme for vehicles; identification on vehicles; decals.

(a) There shall be displayed on every for-hire car lettering clearly showing the name and number of the owner thereof and indicating that such vehicle is a for-hire car. Taxicabs shall use only the words "taxi," "cab" or "taxicab" to indicate that such vehicle is a for-hire car. The color scheme and the size, content and character of such lettering and the position thereof on each such vehicle shall be approved by the chief of police and no vehicle shall be operated under the provisions of this article unless and until such specifications have been complied with. The failure of any owner to comply with such specifications shall constitute a violation of this article.

(b) No vehicle shall be operated under the provisions of this article unless the chief of police has first assigned to such vehicle a decal which shall be affixed to and visible from the left rear of the vehicle and which shall contain a number registered with the chief of police. Such decal shall not be transferred to another vehicle, shall be displayed at all times and shall not be removed except when such vehicle is no longer in service in the certificate holder's fleet or except upon direction of the chief of police.

(c) If a vehicle is for any reason taken out of service as a for-hire car on a permanent basis, the owner of the vehicle shall, within 72 hours, remove the assigned decal along with all other indicia of the vehicle's use as a taxicab.

(d) It shall be unlawful to operate a vehicle which does not meet the requirements of this section.

(Code 1980, § 20.2-4; Code 1995, § 21-121)

Sec. 21-137. Taximeters.

Every taxicab shall be equipped with a taximeter prescribed by the chief of police by which the charge for hire is mechanically or electronically calculated, both for distance traveled and for waiting time, and upon which such charge shall be indicated by means of figures clearly visible to the passenger. The taximeters shall be equipped with a mechanical or electronic device by which the driver of a taxicab can put the taximeter in operation, and the device shall be kept in an operating position at all times during the transportation of paying passengers. Roof lights and meters shall operate by use of one switch only so that the light will automatically be lit when the meter is not running. It shall be unlawful for a driver to fail, refuse or neglect to put the taximeter in operation by means of the device when the transportation of every passenger is begun in the county and to keep the device in an operating position at all times during the transportation of each passenger. Taximeters shall be inspected and validated for accuracy during such inspections provided in section 21-27, provided that the chief of police may require the meter's accuracy to be validated by such independent testing agencies as may be approved by the chief of police. If such independent testing agency is used, the owner shall pay the costs of such validation. Any taxicab found to have a defective taximeter shall not be operated as a for-hire car until such defect is corrected.

(Code 1980, § 20.2-5; Code 1995, § 21-122)

Sec. 21-138. Roof light.

Each taxicab shall be equipped with a light prescribed by the chief of police mounted to the roof of the taxicab, which shall indicate to the public that the vehicle is or is not under hire. The roof light shall be lit

when the car is available to the public for hire. It shall be unlawful for a driver to fail, refuse or neglect to operate such roof light or to operate such light in a misleading manner. Such light shall be inspected during such inspections provided in section 21-27. Any taxicab found to have a defective roof light shall not be operated as a for-hire car until such defect is corrected.

(Code 1980, § 20.2-9; Code 1995, § 21-123)

Sec. 21-139. Rates.

(a) *Generally.* Except as otherwise provided for in this article, rates to be charged to passengers engaging a for-hire car shall be fixed, prescribed or established by the board of supervisors. It shall be unlawful for the owner or driver of any such vehicle to charge a rate above or below the rate so fixed, prescribed or established.

(b) *Specific rates; special contracts.*

(1) The rates to be charged passengers by certificate holders or drivers of taxicabs shall be as follows, and it shall be unlawful for a certificate holder to permit or a driver to make any greater or lesser charge for the transportation of passengers and baggage:

a. For the first one-fifth mile: $2.50.

b. For each succeeding one-fifth mile: $0.50.

c. For each 80 seconds of waiting time: $0.50.

(2) Waiting time shall include the time consumed while the taxicab is stopped or moving at a speed less than 15 miles per hour and time consumed waiting for a passenger beginning five minutes after the time of arrival at the place to which it has been called and the time consumed while it is standing at the direction of the passenger. Waiting time shall not include, and no charge shall be made for, the time lost on account of inefficiency of the taxicab, or its operation, or time consumed by premature response to a call. No charge shall be made for mileage while waiting time is being charged.

(3) For each additional passenger over one, an additional charge of $1.00 shall be made; provided that children six years of age or younger, when accompanying a fee-paying passenger, shall not be deemed additional passengers for the assessment of such additional charge.

(4) For a trip originating between the hours of 9:00 p.m. and 6:00 a.m. of the day following, in addition to the charges registered on the meter, a surcharge of $1.00 per trip shall be added to compute the fare for such trip.

(5) For a trip originating at Richmond International Airport, the rate shall be $10.00 or the charge registered on the meter, whichever is greater, plus $2.30.

(6) The owner of any cab may, upon receipt of satisfactory proof that a person is 65 years of age or older, disabled, or active or reserve duty United States military or veteran, offer a discount not to exceed 20 percent of the total charge for transportation and services. For purposes of eligibility under this subsection, disabled persons include individuals who are physically, hearing, mentally or visually impaired. The following identification may serve as satisfactory proof of age or disability: a valid driver's license, a valid GRTC Senior Citizens ID or Medicare Card, a valid GRTC Handicapped or Disabled Identification Card, or a valid identification card issued by a public transportation provider to meet the requirements of the federal Americans with Disabilities Act, or a valid military or veteran identification card.

(7) The owner of any taxicab may enter into written contracts with organizations and companies to provide taxicab services on a negotiated basis. The owner of any taxicab may enter into written contracts with individuals to provide, on a negotiated basis, regular service, as defined in section 21-19. All such contracts must be kept and preserved, and shall be subject to inspection, in the main offices of the taxicab company during the terms of the contract and for 12 months after termination of the contract. The rates to be charged for such services under written contract shall not be fixed, prescribed or established by the board of supervisors. As required by section 21-137, taximeters shall be in operation at all times during the

transportation of passengers; however, the charge for such services shall be governed by the written contract, and not the taximeter.

(c) *Display.* No for-hire car shall be operated on the streets of the county in which there is not displayed at some conspicuous point inside of such vehicle, in full view of the passenger or person hiring such vehicle, the rates fixed, prescribed or established for the use of any such vehicle. Such rates shall also be displayed on the exterior of each side of for-hire cars in a manner to be approved by the chief of police.

(Code 1980, §§ 20.2-6—20.2-8; Code 1995, § 21-124; Ord. No. 996, § 6, 12-14-1999; Ord. No. 1077, § 1, 9-13-2005; Ord. No. 1112, § 1, 10-9-2007; Ord. No. 1129, § 1, 12-9-2008)

Sec. 21-140. Liability insurance.

No owner shall be permitted to operate a for-hire car within the county unless and until such owner shall have secured and deposited with the chief of police a certificate of insurance against public liability and property damage for each such vehicle so operated within the county, issued by a solvent insurance company licensed and duly authorized to execute such policy within the state and to carry on business within the state. Such certificate of insurance shall be issued to such owner on each for-hire car owned or operated by such owner within the county and shall provide for the payment of any final judgment, not to exceed the sum of $100,000.00 for injury or death to any one person, the sum of $500,000.00 for a total public liability for any one accident, the sum of $50,000.00 for property damage in any accident, and the sum of $10,000.00 for cargo liability, which may be rendered against such insured for or on account of damage to property for which such owner and drivers may be liable while operating or permitting to be operated such for-hire car within the county, or by reason of or growing out of the careless or negligent operation of such vehicle by such insured or his agents, drivers or employees within the county. Such certificate of insurance shall contain a clause obligating the company issuing the certificate of insurance to give ten days' written notice to the chief of police before cancellation thereof. The insurance certificates required under Code of Virginia, § 46.2-2053, to be submitted to the state shall be accepted in satisfaction of this section.

(Code 1980, § 20.2-30; Code 1995, § 21-125)

Sec. 21-141. Business telephone listing.

Every owner holding a certificate of public convenience and necessity shall provide and maintain at all times in the Greater Richmond telephone directory a listed telephone in the name in which the certificate holder is doing for-hire business by which calls may be made for for-hire service. If the certificate holder operates five or more for-hire cars, the telephone listing shall also appear in the Greater Richmond classified telephone directory. If there has not yet been an opportunity to publish the listing in the required directories, the telephone number shall be available from the Greater Richmond directory assistance service.

(Code 1980, § 20.2-25; Code 1995, § 21-126)

Sec. 21-142. Manifest.

(a) The owner and the driver of a for-hire car shall keep a manifest, which shall be a permanent record of the transportation of each passenger. Each manifest shall include:

(1) The name of the driver of the for-hire car.

(2) The number of the for-hire car approved by the chief of police.

(3) The address or place where the transportation of each passenger originated, and the date and time thereof.

(4) The address or place, date and time the transportation of each paying passenger terminated, which shall be recorded on the manifest upon the termination of each such transportation and before transportation of

any other paying passenger has begun.

(5) The date and time each shift begins and ends.

(b) A manifest shall be carried by the driver in the for-hire car at all times during the operation of such vehicle and a separate manifest shall be kept for each day of operation of the vehicle; provided that a driver operating a for-hire car at midnight may continue to use the manifest bearing the date the work period commenced through the end of such work period. No later than 24 hours after the final entry on a manifest, it shall be delivered to the main office of the for-hire owner. The manifest, whether in possession of the driver or at the place from which the business is conducted or directed, shall be subject at all times to examination or inspection by the chief of police or his designee. Each manifest shall be kept and preserved for 12 months, and thereafter any manifest involved in any investigation made or being made by any police officer shall be kept and preserved for such length of time as the chief of police shall require upon written notice from the chief of police to the certificate holder to that effect. No owner or driver of a for-hire car shall exhibit a manifest or be compelled to exhibit a manifest except to the chief of police or to such person as the chief of police may direct, or upon court order.

(Code 1980, § 20.2-29; Code 1995, § 21-127)

Sec. 21-143. Solicitation of patronage.

No driver, or any other person on behalf of a driver, shall solicit patronage for any for-hire car by word, signal or otherwise on any public street or public property in the county other than at such stands as may be designated and assigned in accordance with ordinances of the board of supervisors; provided that this section shall not be construed to prevent a customer from hailing a for-hire car.

(Code 1980, § 20.2-10; Code 1995, § 21-128)

Sec. 21-144. Taxicab stands.

(a) *Designation.* The chief of police shall designate such places in the streets of the county as taxicab stands as will, in the opinion of the chief of police, best serve the convenience of the public, and shall prescribe the number of taxicabs that may be parked or stopped in each stand at any one time.

(b) *Use.* Any taxicab for the operation of which a certificate of convenience and necessity has been issued shall have the privilege of parking or stopping in any taxicab stand when space is available therefor. It shall be unlawful for a driver to park or stop a taxicab at or near a taxicab stand when the number of taxicabs prescribed for the stand are parked or stopped in the stand. Only taxicabs may park at taxicab stands.

(Code 1980, § 20.2-11; Code 1995, § 21-129)

Sec. 21-145. Carrying more than one passenger in taxicab.

No person other than the first person taken into a taxicab for transportation shall be allowed to enter the taxicab except upon the direction of the first person so taken into the cab, and the certificate holder shall not authorize or permit the driver of the taxicab or any other person to request, nor shall the driver or any other person request, the first person taken into a taxicab for transportation to allow any other to be transported in the taxicab. Should the first person taken into a taxicab for transportation direct the driver to allow another to be transported in the taxicab, the first person so taken into the taxicab shall be liable for the payment of the fare for the transportation of all persons transported at the rates prescribed in section 21-139(b), unless otherwise agreed upon by the driver and any one or all of the persons transported in the taxicab.

(Code 1980, § 20.2-12; Code 1995, § 21-130)

Sec. 21-146. Maximum number of passengers in taxicab.

It shall be unlawful for a driver to transport in a taxicab more than the number of passengers for which the vehicle is equipped with operable seat belts that have been lawfully installed, which in any event shall not exceed six passengers.

(Code 1980, § 20.2-13; Code 1995, § 21-131)

Sec. 21-147. Transportation of passengers by most direct route; payment of toll charge.

Every driver of a for-hire car shall transport each passenger from the place the passenger is received in such vehicle to the destination of the passenger by the most direct route, unless otherwise directed by the passenger. When such route requires the payment of a toll, the driver shall embark on the route only after informing the passenger of the toll and receiving agreement from the passenger to pay the toll charge.

(Code 1980, § 20.2-14; Code 1995, § 21-132)

Sec. 21-148. Nonpaying passengers.

No nonpaying passenger shall be transported with a paying passenger in any for-hire car, except a police officer engaged in the performance of his duty and unable to obtain other adequate means of transportation.

(Code 1980, § 20.2-15; Code 1995, § 21-133)

Sec. 21-149. Refusal of drivers to make trips; preference in response to service requests.

(a) No owner or driver of any for-hire car shall refuse to transport any passenger to any part of the county or to the City of Richmond or counties of Chesterfield and Hanover for a trip originating in the county; provided, however, no driver shall be required to drive the vehicle operated by him to any place when it may be physically detrimental to such vehicle to do so or when it may endanger the driver or any of the occupants thereof.

(b) Every certificate holder and driver shall give preference to calls or other requests for taxicab service in the order of their receipt.

(Code 1980, § 20.2-16; Code 1995, § 21-134)

Sec. 21-150. Receiving and discharging passengers.

Every for-hire car shall receive and discharge passengers only at the righthand curb of the street and only when at a full stop, except that passengers may enter or leave a taxicab from the left side at the left-hand curb of a one-way street.

(Code 1980, § 20.2-17; Code 1995, § 21-135)

Sec. 21-151. Driver to remain with vehicle.

The driver of any for-hire car shall remain in the vehicle or within five feet of the vehicle at all times while such car is on the streets while under hire or parked at a taxicab stand, except while engaged at the request of the passenger hiring the vehicle in loading or unloading the baggage or other property of such passenger or in the event of an emergency.

(Code 1980, § 20.2-18; Code 1995, § 21-136)

Sec. 21-152. Driving or being on duty while under influence of intoxicating beverage or drug; possession of alcoholic beverage by driver.

It shall be unlawful for a driver to be under the influence of any intoxicating beverage, narcotic, sedative, barbiturate, marijuana or other substance producing the effects of a narcotic or sedative while on duty to provide taxicab service, whether or not actually operating or driving a for-hire car, or to operate and drive a for-hire car at any time with any alcoholic beverage in any quantity in his possession, either on his person or in the taxicab.

(Code 1980, § 20.2-19; Code 1995, § 21-137)

Sec. 21-153. Use of vehicle for lewd or indecent purpose or for acquisition or transport of alcoholic beverages or drugs.

It shall be unlawful for a driver to permit a for-hire car to be used for lewd or indecent purposes, or to transport any person in a for-hire car to any place for such purposes, or to knowingly acquire or transport for another in a for-hire car any alcoholic beverage, narcotics or marijuana or any controlled substance.

(Code 1980, § 20.2-20; Code 1995, § 21-138)

Sec. 21-154. Possession of weapons by driver.

It shall be unlawful for a driver to operate and drive a for-hire car at any time with a dirk, Bowie knife, nunchahka, nunchuck, shuriken, throwing star, oriental dart, blackjack, brass or metal knuckles or knife with a blade longer than three inches in length in his possession or in the for-hire car.

(Code 1980, § 20.2-21; Code 1995, § 21-139)

Sec. 21-155. Duty of driver to keep vehicle clean and lighted.

It shall be unlawful for a driver to fail, refuse or neglect to keep any vehicle which he operates under the provisions of this article clean and sufficiently lighted at night through the use of properly functioning interior lights, headlights, and such other vehicle lights as may be installed in the vehicle or required by law.

(Code 1980, § 20.2-22; Code 1995, § 21-140)

Sec. 21-156. Maximum time driver may drive or be on duty.

No certificate holder shall require a driver to, and no driver shall, drive a taxicab or remain on duty for such purposes longer than 13 hours in any 24-hour period.

(Code 1980, § 20.2-23; Code 1995, § 21-141)

Sec. 21-157. False calls; interference with taxicab service.

No person shall in any way intentionally hinder, retard or interfere with, or cause to be hindered, retarded or interfered with, the furnishing of transportation by any taxicab or for-hire car. Improper, misleading, false or unauthorized calls for taxicab service shall be prima facie evidence of the intention to hinder, retard or interfere with the proper operation of a taxicab and the furnishing of transportation thereby.

(Code 1980, § 20.2-24; Code 1995, § 21-142)

Sec. 21-158. Monitoring radio dispatches.

It shall be unlawful to have radio frequency scanning or similar electronic devices in a for-hire vehicle. It shall also be unlawful to monitor communications between a dispatcher and a for-hire vehicle or between two or more for-hire vehicles for the purpose of responding to a call for for-hire service without the permission of the participants to the communication or of the company for whom they are employed.

(Code 1980, § 20.2-26; Code 1995, § 21-143)

Sec. 21-159. Disposition of property left in vehicle.

(a) It shall be unlawful for a driver to knowingly fail, refuse or neglect to preserve any property left in a for-hire car by any passenger and to thereafter deliver it to the certificate holder.
(b) Each certificate holder shall carefully preserve all property left in a for-hire car by any passenger and delivered to the certificate holder by a driver. When the property shall have been identified and ownership established, it shall be promptly delivered to its owner during normal business hours at the certificate holder's business location or at a location arranged by the certificate holder and property owner. Any property which shall not be called for within 30 days may be disposed of according to law.
(Code 1980, § 20.2-27; Code 1995, § 21-144)

Sec. 21-160. Applicability of traffic laws.

Every for-hire operating on the streets of the county shall be subject to all laws and ordinances regulating traffic applicable to other vehicles.

(Code 1980, § 20.2-28; Code 1995, § 21-145)

Sec. 21-161. Dress code.

Taxicab drivers shall be fully and neatly dressed and exhibit good personal hygiene without offensive body odor. All clothing shall be clean, free of holes, rips or tears, and present a professional appearance; clothing shall not exhibit any symbols, phrases or renderings that are obscene and shall comply with the following standards:

(1) Male drivers are required to wear long pants or professional length uniform shorts, buttoned shirts with fold-down collars and sleeves, and shoes. Pullover "polo" shirts, with fold-down collars, buttons and short sleeves, are permitted. Shoes shall be clean, closed-in and worn with socks. Hair, beards and moustaches must be neat, trimmed and present a groomed appearance.
(2) Female drivers are required to wear long pants, professional length shorts, skirts or dresses, shirts or blouses, and shoes. Pullover "polo" shirts, with fold-down collars, buttons and short sleeves, are permitted. Shoes shall be clean, closed-in and worn with socks or stockings. Hair must be neat, trimmed and present a groomed appearance.
(Code 1995, § 21-146; Ord. No. 996, § 7, 12-14-1999)

Chapter 22 - TRAFFIC AND VEHICLES

*__Cross reference—__Court costs, § 2-126 et seq.; inoperable motor vehicles, § 10-3; noise regulations, § 10-71 et seq.; motor vehicles in parks, § 14-42; traffic accident reports, § 15-50; streets and sidewalks, ch. 18; obstruction of vision at intersection prohibited, § 18-7; taxicabs and other vehicles for hire, ch. 21.

*__State law reference—__Traffic generally, Code of Virginia, § 46.2-100 et seq.; power of local governments, Code of Virginia, § 46.2-1300 et seq.

ARTICLE I. IN GENERAL

Sec. 22-1. Title of chapter.

The provisions of this chapter shall be known as the Traffic Code of the County of Henrico, and may be so cited.

(Code 1980, § 14-1; Code 1995, § 22-1)

Sec. 22-2. Adoption of state law.

(a) Pursuant to the authority in Code of Virginia, § 46.2-1313, all of the provisions and requirements of the laws of the state contained in Code of Virginia, title 46.2 (Code of Virginia, § 46.2-1-101 et seq.) and Code of Virginia, title 18.2, ch. 7, art. 2 (Code of Virginia, § 18.2-266 et seq.), and Code of Virginia, title 16.1, ch. 11, art. 9 (Code of Virginia, § 16.1-278 et seq.) except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county.

(b) References to "highways of the state" or "highways of the commonwealth" contained in the provisions and requirements adopted by this section shall be deemed to refer to the streets, highways and other public ways within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length in this chapter, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision in Code of Virginia, title 46.2 (Code of Virginia, § 46.2-1-101 et seq.) and Code of Virginia, title 18.2, ch. 7, art. 2 (Code of Virginia, § 18.2-266 et seq.), which is adopted by this section, provided that in no event shall the penalty imposed for the violation of any provision or requirement adopted by this section exceed the penalty imposed for a similar offense under in Code of Virginia, title 46.2 (Code of Virginia, § 46.2-1-101 et seq.) and Code of Virginia, title 18.2, ch. 7, art. 2 (Code of Virginia, § 18.2-266 et seq.), and Code of Virginia, title 16.1, ch. 11, art. 9 (Code of Virginia, § 16.1-278 et seq.).

(Code 1980, § 14-2; Code 1995, § 22-2)

State law reference—Penalty, Code of Virginia, § 46.2-113; powers of local governments, Code of Virginia, § 46.2-1300 et seq.; disposition of fines, Code of Virginia, § 46.2-1308.

Sec. 22-3. Powers and duties of director of public safety and traffic engineer.

(a) *Generally.* The director of public safety shall have general supervision and control of the management and direction of all vehicular and pedestrian traffic and of the parking and routing of vehicles in the interest of the public safety, comfort and convenience not inconsistent with the provisions of Code of Virginia, title 46.2 (Code of Virginia, § 46.2-1-101 et seq.). He may cause appropriate signs to be erected and maintained, designating residence and business districts, school, hospital and safety zones, highways and railway

crossings, arterial streets, arterial stops, turns at intersections, traffic lanes and such other signs as may be necessary to carry out the provisions of this chapter. He shall have power to regulate traffic by means of traffic officers or semaphores or other signaling devices on any portion of the highway where traffic is heavy or continuous, or where, in his judgment, conditions may require, and may prohibit other than one-way traffic upon certain highways, and may regulate the use of the highways by processions and assemblages. He may adopt any such regulations not inconsistent with the provisions of this chapter as he shall deem advisable and necessary; and repeal, amend or modify any such regulation; provided that such regulations, laws or rules shall not be deemed to be violated, if at the time of the alleged violation any sign or designation required under the terms of this chapter is missing, effaced, mutilated or defaced so that an ordinarily observant person under the same circumstances would not be apprised of or aware of the existence of such rule.

(b) *Engineering and traffic investigations.* The director of public safety shall conduct engineering and traffic investigations in determining that the regulations adopted will promote the public safety, comfort and convenience.

(c) *Changes in speed limits.* The director of public safety is authorized to change speed limits in the county, provided such change in speed is based upon an engineering and traffic investigation and provided such speed area or zone is clearly indicated by markers or signs. The director of public safety or traffic engineer is authorized to reduce the speed limit on any portion of any county-maintained highway on which men are working or where the highway is under construction or repair for up to 60 days without an engineering or traffic investigation.

(Code 1980, § 14-3; Code 1995, § 22-3; Ord. No. 1101, § 1, 3-27-2007)

State law reference—Powers of local authorities generally, Code of Virginia, § 46.2-1300 et seq.; authority to designate an officer of county to designate certain specific street regulations, Code of Virginia, § 46.2-1301.

Sec. 22-4. Obedience to traffic control devices.

It shall be unlawful for the driver of any vehicle to disobey county road signs, traffic signals, markings or lights within the county system of streets and roads. Unless another penalty is otherwise provided by law, every person convicted of violating this section shall be guilty of a traffic infraction and punished as provided in Code of Virginia, § 46.2-113, as amended.

(Code 1980, § 14-3.1; Code 1995, § 22-4)

State law reference—Obedience to traffic signs, Code of Virginia, § 46.2-830; power to erect signs, penalty limitation, Code of Virginia, § 46.2-1300.

Sec. 22-5. Penalty.

Unless another penalty is provided in this chapter or as otherwise provided by law, violations of this chapter shall constitute a traffic infraction punishable as provided in Code of Virginia, § 46.2-113, as amended.

(Code 1995, § 22-5)

Sec. 22-6. Keeping inoperable motor vehicles.

(a) *Restrictions.* It is unlawful to keep more than one inoperable motor vehicle outside a fully enclosed building or structure on property zoned or used for residential purposes, or any property zoned for commercial or agricultural purposes. For purposes of this section, the term "inoperable motor vehicle" means any motor vehicle, trailer or semitrailer, as defined in Code of Virginia, § 46.2-100, which:

(1) Is not in operating condition;

(2) Does not display valid license plates;

(3) Does not display an inspection decal that is valid; or

(4) Displays an inspection decal that has been expired for more than 60 days.

(b) *Shielding or screening required.* One inoperable motor vehicle may be kept outside a fully enclosed building or structure if it is shielded or screened from view. As used in this section, the term "shielded or screened from view" means not visible to someone standing at ground level from outside of the property on which the subject vehicle is located.

(c) *Exceptions.* This section does not apply to a licensed business that is regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor.

(d) *Enforcement.* The director of community revitalization is responsible for enforcement of this section.

(e) *Penalty.* A violation of this section is punishable by a fine or imprisonment not exceeding the penalty provided in general law of the Code of Virginia for the violation of a class 1 misdemeanor.

Secs. 22-7—22-28. Reserved.

ARTICLE II. OPERATION OF VEHICLES; RULES OF THE ROAD

Sec. 22-29. Damaging or interfering with operation of vehicle.

Any person who shall, individually or in association with one or more others, willfully break, injure, tamper with or remove any part of any vehicle for the purpose of injuring, defacing or destroying such vehicle, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, shall be guilty of a misdemeanor.

(Code 1980, § 14-4; Code 1995, § 22-31)

State law reference—Similar provisions, Code of Virginia, § 18.2-146.

Sec. 22-30. Entering vehicle or setting vehicle in motion.

Any person who shall, without the consent of the owner or person in charge of a vehicle, climb into or upon such vehicle, with intent to commit any crime, malicious mischief or injury thereto, or who, while a vehicle 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 such vehicle in motion, with the intent to commit any crime, malicious mischief or injury thereto, shall be guilty of a misdemeanor, except that the provisions of this section shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.

(Code 1980, § 14-5; Code 1995, § 22-32)

State law reference—Similar provisions, Code of Virginia, § 18.2-147.

Sec. 22-31. Applicability to repossession of vehicle under lien.

The provisions of sections 22-29 and 22-30 shall not apply to a bona fide repossession of a vehicle by the holder of a lien on such vehicle or by the agents or employees of such lienholder.

(Code 1980, § 14-6; Code 1995, § 22-32)

State law reference—Similar provisions, Code of Virginia, § 18.2-148.

Sec. 22-32. Washing or greasing vehicle on highway or sidewalk.

No person shall, for compensation, wash, polish or grease a vehicle upon a highway or sidewalk, nor shall the owner of a vehicle permit it to be washed, polished or greased, for compensation, upon a highway or sidewalk.

(Code 1980, § 14-7; Code 1995, § 22-34)

Sec. 22-33. Driving through funeral or other procession; manner of driving in funeral procession.

(a) No operator of a vehicle shall drive between the vehicles, persons or animals comprising a funeral or other authorized procession traveling under a police escort, except when otherwise directed by a police officer. This subsection shall not apply to authorized emergency vehicles as defined in this chapter.
(b) Each driver in a funeral procession shall drive as near to the righthand edge of the roadway as is practicable and shall follow the vehicle ahead as close as is practicable and safe.
(c) All motor vehicles participating in a funeral procession, when proceeding to any place of burial, shall display illuminated headlamps thereon and such other identification as the director of public safety may prescribe.
(d) All motor vehicles in a funeral procession under police escort shall have the right-of-way over all other vehicles, except fire apparatus, ambulances and police vehicles, at any street or highway intersection within the county, and may proceed through a stop street or signalized intersection with proper caution and safety.
(Code 1980, §§ 14-10, 14-11; Code 1995, § 22-36)

State law reference—Funeral processions, Code of Virginia, § 46.2-828.

Sec. 22-34. Boarding or alighting from vehicle in motion.

No person shall board or alight from any vehicle while such vehicle is in motion.

(Code 1980, § 14-12; Code 1995, § 22-37)

Sec. 22-35. Unlawful riding.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This section shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

(Code 1980, § 14-13; Code 1995, § 22-38)

Sec. 22-36. Vehicle exhaust.

(a) Definitions. For purposes of this section, the following words and phrases have the meanings ascribed to them:

Exhaust system means all the parts of a vehicle through which the exhaust passes after leaving the engine block, including mufflers and other sound dissipative devices.

Superintendent means the Superintendent of the Department of State Police of the Commonwealth.

(b) No person may drive and no owner of a vehicle may permit or allow the operation of any such vehicle on a highway unless it is equipped with an exhaust system in good working order and in constant operation to prevent excessive or unusual levels of noise, provided, however, that for motor vehicles, such exhaust system must be of a type installed as standard factory equipment, or comparable to that designed for use on the particular vehicle as standard factory equipment or other equipment that has been submitted to and approved by the Superintendent or meets or exceeds the standards and specifications of the Society of Automotive Engineers, the American National Standards Institute, or the federal Department of Transportation.

(c) Chambered pipes are not an effective muffling device to prevent excessive or unusual noise, and any vehicle equipped with chambered pipes is in violation of this section.

(d) It is unlawful to sell or offer for sale any (i) muffler without interior baffle plates or other effective muffling device, or (ii) gutted muffler, muffler cutout, or straight exhaust. It is unlawful for any person to operate on the highways in the county a motor vehicle, moped, or motorized skateboard or foot-scooter equipped with a gutted muffler, muffler cutout, or straight exhaust.

(e) The provisions of this section do not apply to (i) any antique motor vehicle licensed pursuant to Code of Virginia, § 46.2-730, provided that the engine is comparable to that designed as standard factory equipment for use on that particular vehicle, and the exhaust system is in good working order, or (ii) converted electric vehicles.

(Code 1980, § 14-15; Code 1995, § 22-39)

Cross reference—Noise regulations, § 10-67 et seq.

State law reference—Mufflers, Code of Virginia, §§ 15.2-919, 46.2-1050.

Sec. 22-37. Obstruction of streets by railroad cars; standing vehicle on railroad track.

It shall be unlawful for any railroad company, or any receiver or trustee operating a railroad, to obstruct for a longer period than five minutes the free passage on any street or road by standing cars or trains across the street or road, except a passenger train while receiving or discharging passengers, but a passway shall be kept open to allow normal flow of traffic. It shall be unlawful to stand any wagon or other vehicle on the track of any railroad which will hinder or endanger a moving train. When a train has been uncoupled, so as to make a passway, the time necessarily required, not exceeding three minutes, to pump up the air after the train has been recoupled shall not be included in considering the time such cars or trains were standing across such street or road. Any such railroad company, receiver or trustee, or driver of any such wagon or vehicle, violating any of the provisions of this section shall be fined not less than $100.00 and not more than $500.00, provided that the fine may be $100.00 for each minute beyond the permitted time but the total fine shall not exceed $500.00. This section shall not apply when the train is stopped due to breakdown, mechanical failure or emergency.

(Code 1980, § 14-16; Code 1995, § 22-40)

Cross reference—Streets, sidewalks and other public property, ch. 18.

State law reference—Similar provisions, Code of Virginia, § 56-412.1.

Sec. 22-38. Putting glass or other hazardous material on street.

(a) *Prohibited.* No person shall throw or deposit or cause to be deposited upon any street or highway any glass bottle, glass, nails, tacks, wires or cans, or any other substance likely to injure any person or animal or damage any vehicle upon such street or highway, nor shall any person throw or deposit or cause to be thrown or deposited upon any street or highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public.

(b) *Removal.* Any person who drops, or permits to be dropped or thrown, upon any street or highway any destructive, hazardous or injurious material shall immediately remove the material or cause it to be removed.

(c) *Materials dropped from wrecked or damaged vehicle.* Any person removing a wrecked or damaged vehicle from a street or highway shall remove any glass or other injurious substance dropped upon the street or highway from such vehicle.

(d) *Exemption.* 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.

(e) *Penalty.* Violation of this section shall constitute a misdemeanor and shall be punished as provided in section 1-13.

(Code 1980, § 14-17; Code 1995, § 22-41)

Cross reference— Trash, garbage, refuse and litter, § 10-97 et seq.; dumping waste on premises other than sanitary landfills, § 17-25; streets, sidewalks and other public property, ch. 18.

State law reference— Similar provisions, Code of Virginia, § 18.2-324.

Sec. 22-39. Depositing refuse on highway, right-of-way or private property.

(a) *Prohibited.* It is unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal for the purpose of disposal or other unsightly matter from a vehicle, on public property, including a public highway or 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) *Enforcement.* When any person is arrested for a violation of this section, and the matter alleged to have been dumped or disposed of has been ejected from a vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of Code of Virginia, § 46.2-936, as amended, in making such arrest.

(c) *Presumption of responsibility for violations.* When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such matter. Such presumption shall be rebuttable by competent evidence.

(d) *Penalty.* Any person convicted of a violation of this section shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than $250.00 or more than $2,500.00, either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform community service in litter abatement activities. Upon conviction of any person for a violation of this section, 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 highway.

(e) *Landfills.* The provisions of this section shall not apply to the lawful disposal of such matter in landfills.

(Code 1980, § 14-18; Code 1995, § 22-42)

Cross reference— Trash, garbage, refuse and litter, § 10-97 et seq.; dumping waste on premises other than sanitary landfills, § 17-25.

State law reference— Similar provisions, Code of Virginia, § 33.2-802.

Sec. 22-40. Backing.

The operator of any vehicle in the county shall not back such vehicle unless such movement can be made with safety and without interfering with other traffic.

(Code 1980, § 14-19; Code 1995, § 22-43)

Sec. 22-41. Blocking intersections.

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

(Code 1980, § 14-20; Code 1995, § 22-44)

Sec. 22-42. Driving vehicle other than bicycle, electric power-assisted bicycles, or electric personal assistive mobility devices on sidewalk.

(a) No person shall ride or drive any vehicle other than the following on the sidewalks of the county:
(1) An emergency vehicle, as defined in Code of Virginia, § 46.2-920, as amended;
(2) A vehicle engaged in snow or ice removal and control operations;
(3) A wheelchair or wheelchair conveyance, whether self-propelled or otherwise;
(4) A bicycle;
(5) An electric personal assistive mobility device; or
(6) An electric power-assisted bicycle.
(b) Any person who violates this section shall, upon conviction, be fined as provided in section 22-5.
(Code 1980, § 14-21(a); Code 1995, § 22-45)

State law reference—Similar provisions, Code of Virginia, § 46.2-903.

Secs. 22-43—22-72. Reserved.

ARTICLE III. - SPECIFIC STREET REGULATIONS

*__Cross reference—__Ordinances providing for traffic regulations in specific locations saved from repeal, § 1-10(a)(11); streets, sidewalks and other public property, ch. 18.

DIVISION 1. GENERALLY

Secs. 22-73—22-102. Reserved.

DIVISION 2. YIELD RIGHT-OF-WAY, STOP, ARTERIAL AND ONE-WAY STREETS

*__State law reference—__Authority to authorize an officer of the county to designate intersection at which vehicles shall stop or yield the right-of-way, Code of Virginia, § 46.2-1301.

Sec. 22-103. One-way streets.

(a) The director of public safety shall have the authority to designate any highway in the county system of roads for one-way traffic and shall erect appropriate signs, and traffic thereon shall move only in the direction designated.

(b) This section shall become effective as to any such one-way street when signs have been provided therefor.

(c) The director of public safety is authorized and directed to provide signs on the one-way streets so designated as will apprise an ordinarily observant person of such one-way streets.

(d) When it can be demonstrated to the satisfaction of the director of public safety or his duly authorized representative that the strict enforcement of this section will cause an unreasonable hardship relative to the loading or unloading of trucks or other vehicles on such one-way streets, the director of public safety or his duly authorized representative is authorized to issue a special permit to such person permitting a variance from the provisions of this section. Any such special permit shall be in writing and shall specify the nature of such variance and the place and period of time when such variance shall be permitted. Such permit shall only be issued when it can be demonstrated to the satisfaction of the director of public safety or his duly authorized representative that the granting of such permit will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience to the person who seeks such permit.

(Code 1980, § 14-22; Code 1995, § 22-91)

Sec. 22-104. Stop and yield right-of-way intersections.

The director of public safety shall designate intersections at which vehicles shall come to a full stop or yield the right-of-way; provided that no failure to stop or yield at such signs shall be a violation if, at the time of the alleged violation, the sign or marker placed in conformity with this section is missing or is defaced so that an ordinarily observant person under the same circumstances would not be aware of the existence of the regulation.

(Code 1980, § 14-23; Code 1995, § 22-92)

Sec. 22-105. Through streets.

For the purpose of promoting the safe use of the streets of the county, the director of public safety or his duly authorized representative shall have the authority to designate, according to his judgment, certain streets as through or arterial streets. All traffic proceeding regularly along such designated through or arterial streets shall have the right-of-way over traffic entering such streets.

(Code 1980, § 14-24; Code 1995, § 22-93)

Secs. 22-106—22-123. Reserved.

DIVISION 3. WEIGHT LIMITATIONS

*__Cross reference—__Hauling houses or heavy loads over streets, rights-of-way, etc., § 18-8.

Sec. 22-124. Weight limits generally; assessment against owner or operator of overweight vehicle.

(a) Pursuant to the authority of Code of Virginia, § 46.2-1313, as amended, the weight limits set forth in Code of Virginia, title 46.2, ch. 10 (Code of Virginia, § 46.2-100 et seq.), as amended, are hereby established and shall apply to any vehicle or combination of vehicles passing over roads under the jurisdiction of the county. There are hereby established liquidated damages as to overweight vehicles at the rates and amounts provided in Code of Virginia, § 46.2-1135, as amended.

(b) All citations issued for violations of this section shall be processed in the same manner as described in Code of Virginia, §§ 46.2-1133, 46.2-1134 and 46.2-1135, as amended. The county attorney or his designee shall represent the county in any court proceeding and any assessment order entered by the state department of motor vehicles pursuant to this section shall be entered as a judgment for the county and shall constitute a

lien upon the vehicle in favor of the county.

(c) Upon a finding of a violation of any weight limit prescribed in this section, the court shall assess the owner, operator or other person causing the operation of such overweight vehicle at such rate and amount as provided in Code of Virginia, § 46.2-1135, as amended. The assessment shall be entered by the court as a judgment for the county and payment shall be made to the state department of motor vehicles. The disposition of the case shall be recorded in an appropriate order, a copy of which shall be sent to the state department of motor vehicles. The entry of judgment shall constitute a lien in favor of the county upon the overweight vehicle.

(d) Civil penalties, processing fees, liquidated damages and weighing fees assessed for violations of this section shall be payable through the state department of motor vehicles whether or not the citation charging a violation of any such weight limit is contested, and whether or not judgment is entered by the court. All sums for civil penalties, liquidated damages and weighing fees collected by the state department of motor vehicles pursuant to this section shall be paid into the treasury of the county and allocated to the fund for the construction and maintenance of roads under the county's jurisdiction.

(Code 1980, § 14-2.1; Code 1995, § 22-111)

State law reference— Authority to adopt, Code of Virginia, § 46.2-1313; weight limits, Code of Virginia, § 46.2-1101 et seq.

Sec. 22-125. Temporary reduction of weight limits.

(a) *Authority of county engineer.* The county engineer is authorized to decrease the weight limits prescribed within the motor vehicle code, adopted by reference in section 22-2, for any vehicle or combination of vehicles passing over roads under the jurisdiction of the county for a total period not to exceed 90 days in any calendar year, whenever an engineering study discloses that operation over such roads by reason of deterioration, rain, snow or other climatic conditions will seriously damage such roads unless such weights are reduced.

(b) *Engineering study.* The engineering study shall include a determination as to:

(1) When the moisture content of the base and surface materials is critical and the continuation of heavy traffic thereover may cause breakup or distress of that section of roadway.

(2) When the depth and extent to which freezing has occurred within and under the roadway is such that the continuation of heavy traffic thereover may cause breakup or distress of that section of roadway.

(3) When rutting surface cracks or other surface changes occur which indicate that the carrying ability of the road has been impaired.

(4) When an inspection of a bridge or culvert discloses conditions which indicate impairment of its carrying ability.

(5) When in the judgment of the engineer such other conditions exist as will indicate impairment of the carrying ability of the roadway.

(c) *Placement of signs.* In all instances where the weight limits have been reduced by the county engineer, he shall cause signs stating the weight permitted on such road or section thereof for any vehicle or combination of vehicles to be erected at each end of the section of road affected, and no such reduced weight limits shall be effective until such signs shall have been posted. It shall be unlawful to operate a vehicle or combination of vehicles over or upon any road or section thereof when the weight exceeds such maximum posted weight limit.

(d) *Penalty.* Any violation of this section shall be punishable as a class 2 misdemeanor, and the vehicle or combination of vehicles involved in such violation may be held upon an order of the court until all fines and costs have been satisfied.

(Code 1980, § 14-26; Code 1995, § 22-112)

State law reference— Authority to reduce weight limits, Code of Virginia, § 46.2-1104; penalty for class 2 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 22-126. Weight limits for specific streets.

(a) It shall be unlawful for any person to use or cause to be used any motor trucks with a gross weight in excess of 5,000 pounds, except for the purpose of receiving loads or making deliveries, on Rodney Road, Morrison Road, Dean Road between Coleman Road and Morrison Road, Oakland Avenue, Kenmore Road and Battery Avenue.

(b) It shall be unlawful for any person to use or cause to be used any trucks, pickup or panel trucks, tractor trucks and trailers having a registered gross weight in excess of 7,500 pounds on Miller Road between Seven Hills Boulevard and Darbytown Road, except for the purpose of receiving loads or making deliveries on such portion of Miller Road.

(c) It shall be unlawful for any person to use or cause to be used any trucks, pickup or panel trucks, tractor trucks and trailers having a registered gross weight in excess of 7,500 pounds on Wilkinson Road between U.S. Route 1 and U.S. Route 301, except for the purpose of receiving loads or making deliveries on such portion of Wilkinson Road.

(d) It shall be unlawful for any person to use or cause to be used any trucks, pickup or panel trucks, tractor trucks and trailers, having a registered gross weight in excess of 7,500 pounds, on the following roads, except for the purpose of receiving loads or making deliveries on such portion of these roads:

(1) Hermitage Road between Woodman Road and Oakview Avenue.

(2) St. Charles Road between Parham Road and Ironington Drive.

(3) Franconia Road between Parham Road and Ironington Drive.

(4) Fredonia Road between Parham Road and Ironington Drive.

(5) Colwyck Drive between Laburnum Avenue and Meadowspring Road.

(6) Meadowspring Road between Colwyck Drive and Nine Mile Road (State Route 33).

(7) New York Avenue between Mountain Road and U.S. Route 1.

(8) Robins Road between Williamsburg Road (U.S. Route 60) and Eubank Road.

(9) Raleigh Road between Williamsburg Road (U.S. Route 60) and Eubank Road.

(10) Coxson Road between Williamsburg Road (U.S. Route 60) and Eubank Road.

(11) Derbyshire Road between Gaskins Road and Parham Road.

(12) River Road between Gaskins Road and Parham Road.

(13) Huron Avenue between Springfield Road and West End Drive.

(14) Hanover Road between Mary Street and N. Airport Drive (State Route 156).

(15) Meadow Road between Hanover Road and Dry Bridge Road.

(16) Grapevine Road between Meadow Road and Old Hanover Road.

(17) Old Hanover Road between the west dead end of Old Hanover Road, approximately 1700 feet west of Grapevine Road, and N. Airport Drive (State Route 156).

(18) Probst Street between Allenshaw Drive and Oakleys Lane.

(19) Strath Road between Darbytown Road and New Market Road (State Route 5).

(20) White Oak Road between Elko Road (State Route 156) and Williamsburg Road (State Route 60).

(21) Portugee Road between Elko Road (State Route 156) and Technology Boulevard.

(22) Miller Road between Willson Road and Darbytown Road.

(23) Willson Road between Messer Road and New Market Road.

(24) Doran Road between Darbytown Road and New Market Road.

(25) Turner Road between Charles City Road and New Market Road.

(26) Charles City Road between Beulah Road and Darbytown Road.

(27) Charles City Road between Elko Road and the Charles City County Line.
(28) Poplar Springs Road between Portugee Road and Charles City Road.
(29) Oakleys Lane between Nine Mile Road (State Route 33) and Oakleys Place.
(30) Pleasant Street between Nine Mile Road (State Route 33) and S. Holly Avenue.
(31) Newbridge Road between Nine Mile Road (State Route 33) and Pleasant Street.
(32) Darbytown Road between Oakland Street and Richmond City Line.
(33) New Osborne Turnpike between Osborne Turnpike (State Route 5) and Richmond City Line.
(34) Colwyck Drive between Laburnum Avenue and Mansfield Drive (south intersection).
(35) Thornhust Street between Laburnum Avenue and Mansfield Drive.
(36) Old Washington Highway between Greenwood Road and Hanover County Line.

(Code 1980, § 14-27; Code 1995, § 22-113; Ord. No. 941, § 1, 1-22-1997; Ord. No. 969, § 1, 2-25-1998; Ord. No. 1013, § 1, 7-10-2001; Ord. No. 1027, § 1, 5-14-2002; Ord. No. 1124, § 1, 8-12-2008)

State law reference— Authority to establish weight limits, Code of Virginia, § 46.2-1304.

Secs. 22-127—22-150. Reserved.

ARTICLE IV. STOPPING, STANDING AND PARKING

*__Cross reference—__ Parking or storage of vehicles used to transport inflammable liquids in residential areas, § 11-16; parking vehicles dripping oil or fuel on asphalt roadway prohibited, § 18-6.

*__State law reference—__ Authority to regulate parking, Code of Virginia, §§ 46.2-1220, 46.2-1221.

Sec. 22-151. Penalty.

Unless another penalty is imposed pursuant to section 22-162 or is otherwise provided by law, every person convicted of a violation of any of the provisions of this article shall be guilty of a traffic infraction and punishable as provided in section 22-5.

(Code 1980, § 14-46; Code 1995, § 22-141)

State law reference— Definition and scope of traffic infractions, Code of Virginia, §§ 46.2-100, 46.2-937, 18.2-8.

Sec. 22-152. Designation of limited or prohibited parking areas.

(a) Notwithstanding any other provisions of this chapter, the county manager or his duly authorized representative is hereby authorized, when in his judgment it is in the public interest so to do, to set apart on any of the highways of the county spaces for loading and unloading merchandise, bus stops, taxistands and other places in which no general parking shall be permitted; and he is further authorized to set aside spaces in which parking time shall be further limited; provided that signs shall be posted within or near such spaces so as to advise the public of such parking prohibitions or regulations. It shall be unlawful for any person to fail to comply with the requirements of such signs. If any such regulation concerns parking on the interstate system or the arterial network of the primary system or any extension thereof of the arterial network, it shall be subject to the approval of the state highway commissioner.
(b) Notwithstanding any other provisions of this chapter, upon request of the governing body of any political subdivision, including, but not limited to, the Capital Region Airport Commission, owning property

in the county, the county manager or his duly authorized representative is hereby authorized, when in his judgment it is in the public interest so to do, to set apart areas on any of the streets or roads within such property, regardless of whether such streets or roads are part of the county road system, expressly for loading and unloading merchandise, bus stops, taxistands and any other places in which no general parking shall be permitted; and he is further authorized to designate areas on such properties as the exclusive and only areas within which the designated activity is permitted on the property; and he is further authorized to set aside spaces in which parking time shall be further limited; provided that signs shall be posted within or near such spaces so as to advise the public of such parking prohibitions or regulations. It shall be unlawful for any person to fail to comply with the requirements of such signs.

(Code 1980, § 14-30; Code 1995, § 22-142)

Sec. 22-153. Stopping, standing or parking prohibited in specified places; towing of vehicles.

(a) It shall be unlawful for any person to stop, stand or park a vehicle, except in compliance with the directions of a police officer or traffic control device, in any of the following places:

(1) On a sidewalk.

(2) In front of a public or private driveway.

(3) Within an intersection.

(4) Within 15 feet of a fire hydrant.

(5) In a crosswalk.

(6) Within 20 feet from the intersection of curblines or, if none, then within 15 feet of the intersection of property lines at an intersection of highways.

(7) Within 50 feet of the nearest rail of a railroad grade crossing.

(8) Within 15 feet of the driveway entrance to any fire station or within 15 feet of the entrance to a building housing rescue squad equipment or ambulances, provided that such buildings are plainly designated.

(9) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.

(10) On the roadway side of any vehicle parked at the edge of the curb of a roadway.

(11) Upon any bridge or other elevated structure upon a roadway or highway, or within a tunnel.

(12) At any place where official signs prohibit parking.

(b) Police officers may move a vehicle out of a prohibited area or away from a curb or start or cause to be started the motor of any motor vehicle in order to move it when necessary in the performance of their duties.

(c) When any vehicle is stopped, standing or parked on any highway and constitutes a hazard to traffic or is in violation of any of the provisions of this article, it shall be lawful for a police officer to have it removed by towing the vehicle to a licensed garage for storage until called for by the owner or his agent. In the event of such removal and storage, the owner of the vehicle shall be chargeable with and such vehicle may be held for a reasonable charge for its removal and storage.

(d) This section shall not apply to police or fire vehicles temporarily parked due to an emergency.

(Code 1980, § 14-31; Code 1995, § 22-143)

State law reference—Parking in certain places, Code of Virginia, § 46.2-1239.

Sec. 22-154. Parking for certain purposes prohibited.

(a) It shall be unlawful for any commercial motor vehicle dealer to park any automobile, truck, trailer or other vehicle upon or in any highway, alley or publicly maintained parking lot for the purpose of selling or offering the vehicle for sale or rent. No sign or lettering shall be attached to or placed upon any automobile, truck, trailer or other vehicle parked in or upon any highway, alley or publicly maintained parking lot in the county indicating that such vehicle is offered for sale or rent by any commercial motor vehicle dealer, leasing or rental firm.

(b) It shall be unlawful to park any vehicle upon any highway, alley or publicly maintained parking lot in a district where the property contiguous to the abutting curb or edge of the roadway has been zoned for

business, commercial or industrial use for the purpose of offering for sale any merchandise to the public or displaying thereupon or therein advertisements for any article.

(Code 1980, § 14-33; Code 1995, § 22-145)

State law reference— Authority to prohibit parking of vehicles for commercial purposes, Code of Virginia, § 46.2-1224.

Sec. 22-155. Parking unlicensed vehicle.

It shall be unlawful to park any vehicle not having a current state license, and a current county license as required by the provisions of article VI of this chapter, on any highway, roadway or public alley in the county.

(Code 1980, § 14-34; Code 1995, § 22-146)

Sec. 22-156. Angle parking.

(a) Notwithstanding any of the provisions of this chapter, the county manager or his duly authorized representative may, when in his discretion the public interest so requires, provide for angle parking on any street or portion thereof, provided that such streets are marked so as to advise the public of the regulation.

(b) Unless the markings required in subsection (a) of this section are installed, it shall be unlawful for any person to park any motor vehicle or other automotive equipment other than parallel to the curb or edge of the roadway.

(c) The provisions of this section shall not apply to motorcycles when parked with the rear wheel next to the curb or edge of roadway in a manner that does not obstruct moving traffic.

(Code 1980, § 14-35; Code 1995, § 22-147)

Sec. 22-157. Parking on private property.

No person shall stand or park a vehicle on any private lot or lot area without the express or implied consent of the owner thereof. Whenever signs or markings have been erected on any lot or lot area contiguous or adjacent to a highway, street or alley stating no vehicles are permitted to stand or park thereon, it shall be unlawful for any person to drive a vehicle across any curb or lot line or over any driveway from a highway, street or alley into such lot or area for the purpose of standing or parking such vehicle, or for any person to stop, stand or park any vehicle in such lot or lot area.

(Code 1980, § 14-36; Code 1995, § 22-148)

Sec. 22-158. Use of loading zones.

Where a loading or unloading zone has been set apart by the county manager or his duly authorized representative in accordance with applicable provisions of this chapter, the following regulations shall apply with respect to the use of such areas:

(1) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zones are in effect. All delivery vehicles, other than regular delivery trucks using such loading zones, shall be identified by the owner's or company's name in letters at least three inches high on both sides of the vehicle.

(2) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of and while actively engaged in loading or unloading passengers or bundles when such stopping does not interfere with any vehicle used for the transportation of materials which is waiting to enter or is about to enter such loading space.

(Code 1980, § 14-42; Code 1995, § 22-149)

Sec. 22-159. Use of bus stops and taxicab stands.

When a bus stop or taxicab stand has been set apart by the county manager or his duly authorized representative in accordance with the applicable provisions of this chapter, no person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when such stop or stand has been officially designated and identified with approved signs; except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actively engaged in the expeditious loading or unloading of passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone. No taxicab shall be parked in a taxicab stand and no bus shall be parked in a bus stop without an operator in immediate attendance of the vehicle.

(Code 1980, § 14-43; Code 1995, § 22-150)

Cross reference— Taxicabs, ch. 21.

Sec. 22-160. Parking in alleys.

No person shall park a motor vehicle, trailer or semitrailer in such a manner as to leave available less than ten feet of the width of an alley for the free movement of vehicular traffic. No person shall stop, stand or park a vehicle within a public or private alley in such a position as to block the driveway, garage or any other type entrance to any abutting property where the owner of such abutting property has the right to use such alley as a means of access to and from a highway and cannot physically enter his property due to the parked vehicle.

(Code 1980, § 14-44; Code 1995, § 22-151)

Sec. 22-161. Removal and disposition of vehicles unlawfully parked on private property.

It shall be lawful for any owner, operator or lessee of any parking lot or parking area or space therein or part thereof or any lot or building, publicly owned, to have any motor vehicle or other vehicle occupying such lot, area, space or building or part thereof left unattended for more than ten days without the permission of such owner, operator, lessee or authorized agent of the one having the control of such premises removed, by towing or otherwise, to a licensed garage for storage until called for by the owner of the vehicle or his agent. Notice of such action shall be first or simultaneously given to the state department of motor vehicles and the division of police. In the event of such removal and storage, the owner of the vehicle involved shall be chargeable with and such vehicle may be held for a reasonable charge for its removal and storage. This section shall not apply to police or fire vehicles or where a vehicle shall, because of wreck or other emergency, be parked or left temporarily upon the property of another.

(Code 1980, § 14-45; Code 1995, § 22-152)

State law reference— Authority to remove unattended, etc., vehicles, Code of Virginia, §§ 46.2-1213, 46.2-1232.

Sec. 22-162. Citations and fines; issuance of summons.

(a) *Issuance of citation.* Whenever any motor vehicle, trailer or semitrailer without a driver is found parked or stopped in violation of any of the restrictions imposed by this article, the sworn officer having police powers finding such vehicle shall record the vehicle registration number and may take any other information displayed on the vehicle which may identify its user. The officer shall conspicuously affix to such vehicle a traffic citation provided by the chief of police and approved by the county manager. The affixing of the citation shall constitute prima facie evidence that the owner or operator received notice of the violation. The citation shall notify such person that he must either pay a fine for the violation in accordance with the schedule contained in subsection (d) of this section, or appear before the county general district court in

accordance with the time scheduled by the chief judge of such court. The citation shall further notify such person that the fine may be paid in cash, by money order or check to the county director of finance, in person or by mail, at his office within five calendar days from the date of the violation. The citation shall further notify such person that, if he pays such fine as provided in this section, no further action shall be taken against him for the violation set forth in the citation.

(b) *Notice before issuance of summons.* In response to a citation, if such person does not either pay the applicable fine or contest the citation as provided in this section, then the citation shall be considered delinquent. No summons shall be issued for the prosecution of a delinquent citation until the director of finance shall send to the owner of the motor vehicle, trailer or semitrailer to which the traffic citation was affixed a notification by certified mail to his last known address or to the address shown for such person on the records of the state department of motor vehicles. The notice to the violator shall be contained in an envelope bearing the words "Law Enforcement Notice" at least one-half inch in height on the face thereof. The notice sent by the director of finance to the violator pursuant to this subsection shall inform such violator that he must pay the fine plus penalty, as described in subsection (e) of this section, to the director of finance.

(c) *Issuance of summons.* If the notice is mailed and the fine plus penalty is not paid within ten calendar days from the date of such notice, then the director of finance shall cause a summons to be issued charging a violation of this article. The officer issuing the citation shall be notified by the director of finance that a summons has been issued.

(d) *Amount of fine when paid before notice.* Every person charged with violating a provision of this article shall pay to the director of finance a fine according to the following schedule; provided, however, that payment is received by the director before the notice described in subsection (b) of this section is mailed:

Exceeding the time limit	$20.00
Parking on an angle (parallel prescribed)	20.00
Parking away from the curb	20.00
Parking in a crosswalk area	20.00
Parking in a loading zone	20.00
Parking in a bus zone or cab stand	20.00
Parking within 15 feet of an intersection	20.00
Parking or stopping on the wrong side of the street	10.00
Blocking a driveway	20.00
Parking within 15 feet of a fire hydrant	20.00
Parking within 15 feet of an entrance to a fire station or rescue squad building	20.00
Parking in vicinity of an emergency in such a manner as to interfere	50.00
Creating a traffic hazard	20.00
Double parking	20.00
Parking on a public sidewalk	20.00
Stopping, standing or parking in a prohibited zone	50.00
Parking in a space reserved for the handicapped	100.00
Blocking an alley	20.00
Parking in a prohibited alley	20.00
Blocking a fire lane	50.00

(e) *Payment of fine after notice and before summons.* After a notice is mailed, but before a summons is issued, every person charged with violating a provision of this article shall pay to the director of finance the applicable fine listed in subsection (d) of this section plus a penalty according to the following schedule:

Fine	*Penalty*	*Total*
$10.00	$3.00	$13.00
20.00	6.00	26.00
50.00	15.00	65.00
100.00	30.00	130.00

(f) *Contest of citation.* Every person charged with a violation of any provision of this article may, before the citation is considered delinquent as defined in subsection (b) of this section, elect to contest the charge by filing a written protest with the director of finance. Such protest shall identify the charge by citation number and date of issuance. The protest shall be signed by the person charged and shall request that the citation be certified to the general district court. The director of finance shall certify to the general district court in writing, on an appropriate form, the fact that the citation is contested. In both contested and uncontested cases, the defendant, if found guilty, shall pay court costs in addition to any fine imposed upon him.
(Code 1980, § 14-47; Code 1995, § 22-153; Ord. No. 964, § 1, 10-22-1997)

Sec. 22-163. Presumption as to responsibility for violation.

In any prosecution charging a violation of this article, proof that the vehicle described in the complaint, citation, summons or warrant was parked in violation of this article, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Code of Virginia, title 46.2, ch. 6 (Code of Virginia, § 46.2-600 et seq.), shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who committed such violation.

(Code 1980, § 14-48; Code 1995, § 22-154)

State law reference—Similar provisions, Code of Virginia, § 46.2-1220.

Secs. 22-164—22-194. Reserved.

ARTICLE V. PEDESTRIANS

Sec. 22-195. Distributing handbills, soliciting contributions or selling merchandise or services in highway.

(a) It shall be unlawful for any person while in the highway to:
(1) Distribute handbills, leaflets, bulletins, literature, advertisements or similar material to the drivers of motor vehicles or passengers therein on highways located within the county.
(2) Solicit contributions of any nature from the drivers of motor vehicles or passengers therein on highways located within the county.
(3) Sell or attempt to sell merchandise or services to the drivers of motor vehicles or passengers therein on highways located within the county.
(b) For purposes of this section, the term "highway" means the entire width of a road or street that is improved, designed, or ordinarily used for vehicular travel and the shoulder, the median, and the area between the travel lane and the back of the curb.
(Code 1980, § 14-28; Code 1995, § 22-181; Ord. No. 1123, § 1, 8-12-2008)

State law reference—Authority to enact section, Code of Virginia, § 46.2-931(A).

Sec. 22-196. Obedience to traffic control devices and orders of police officers.

Pedestrians shall obey signs and signals erected on highways or streets for the direction and control of travel and traffic, and they shall obey the orders of police officers engaged in directing travel and traffic on the highways and streets.

(Code 1980, § 14-29; Code 1995, § 22-182)

State law reference— Authority to enact section, Code of Virginia, § 46.2-935.

Secs. 22-197—22-215. Reserved.

ARTICLE VI. VEHICLE LICENSES

*__Cross reference—__ Taxation, ch. 20; taxicabs, ch. 21.

*__State law reference—__ State registration and licensing, Code of Virginia, § 46.2-600 et seq.; authority to impose motor vehicle license taxes, Code of Virginia, § 46.2-752 et seq.

Sec. 22-216. Penalty; issuance of summons.

(a) Violations of the requirements of this article shall be punished as a class 4 misdemeanor.

(b) All fines shall be recoverable before the general district court upon a summons issued by sworn employees of the revenue division of the department of finance.

(Code 1980, § 14-65; Code 1995, § 22-211; Ord. No. 1097, § 1, 3-13-2007)

State law reference— Maximum penalty authorized, Code of Virginia, § 46.2-752(K); penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 22-217. Gross weight defined.

As used in this article, the term "gross weight" means the aggregate weight of a vehicle, or combination of vehicles and its load.

(Code 1980, § 14-49; Code 1995, § 22-212)

Sec. 22-218. Levy of tax; exceptions.

(a) Every motor vehicle, trailer and semitrailer operated on the streets, highways or roads within the county in business or for the private use or benefit of the owner shall be subject to a license tax as provided in this article.

(b) The tax for those vehicles issued a Virginia National Guard license plate by the state, pursuant to Code of Virginia, § 46.2-744, shall be one-half the tax prescribed in this article.

(c) Nothing in this article shall be construed to require the payment of a license tax on farm vehicles as defined in Code of Virginia, title 46.2, ch. 6, art. 6 (Code of Virginia, § 46.2-662 et seq.) and Code of Virginia, § 46.2-698.

(d) Nothing in this article shall be construed to require a license tax of a person exempted under the provisions of Code of Virginia, § 46.2-755.

(Code 1980, § 14-50; Code 1995, § 22-213)

Sec. 22-219. Situs requirements.

The license taxes imposed by this article shall apply to all vehicles normally garaged, stored or parked within the county.

(Code 1980, § 14-51; Code 1995, § 22-214)

Sec. 22-220. Amount of tax for passenger automobiles and motorcycles.

On each automobile weighing 4,000 pounds or less there shall be a tax under this article of $20.00. For each automobile exceeding 4,000 pounds in weight there shall be a tax of $25.00. On each motorcycle there shall be a tax of $15.00.

(Code 1980, § 14-52; Code 1995, § 22-215)

State law reference—Maximum tax Code of Virginia, § 46.2-694.

Sec. 22-221. Amount of tax for vehicles not designed for transportation of passengers.

(a) Every automobile, truck, trailer, semitrailer and auto wagon, not designed and used for the transportation of passengers, operated on the streets, highways and roads within the county shall be licensed, and the license tax therefor shall be determined by the gross weight of the vehicle, or combination of vehicles of which it is a part, when loaded to the maximum capacity for which it is registered. For each 1,000 pounds of gross weight, or major fraction thereof, for which any such vehicle is taxable, there shall be paid to the county for such license a license tax as indicated in the following schedule immediately opposite the weight group into which such vehicle, or any combination of vehicles of which it is a part, falls when loaded to the maximum capacity for which it is taxable under this article; provided that in no case shall the license tax be less than $20.00, except as provided in this article, or more than $64.00. The tax for a pickup or panel truck shall be $20.00 if the gross weight is 4,000 pounds or less and $25.00 if the gross weight is 4,001 pounds through 6,500 pounds, and the tax shall be $27.00 for a motor vehicle with a gross weight of 6,501 pounds through 10,000 pounds.

Gross Weight Groups (pounds)	*Tax per 1,000 Pounds of Gross Weight*
10,001—11,000	$1.30
11,001—12,000	1.40
12,001—13,000	1.50
13,001—14,000	1.60
14,001—15,000	1.70
15,001—16,000	1.80
16,001—17,000	2.00
17,001—18,000	2.20
18,001—19,000	2.40
19,001 and over	2.60

(b) For all such motor vehicles having a gross weight in excess of 10,000 pounds, an additional tax in the amount of $15.00 shall be imposed.

(Code 1980, § 14-53; Code 1995, § 22-216)

State law reference—Maximum tax Code of Virginia, § 46.2-697.

Sec. 22-222. Amount of tax for combination vehicles.

In case of a combination of a truck, tractor truck and trailer or semitrailer, each vehicle constituting a part of such combination shall be licensed as a separate vehicle but, for the purpose of determining the gross weight group into which any such vehicle falls pursuant to section 22-221, the combination of vehicles of which such vehicle constitutes a part shall be considered a unit and the aggregate gross weight of the entire combination shall determine such gross weight group. The tax for a truck or tractor truck shall be $64.00. The tax to be paid on account of any trailer or semitrailer which constitutes a part of any such combination of

vehicles shall be $22.00 on those with a gross weight of 4,001 pounds and over, and $17.00 for those with a gross weight in excess of 1,500 pounds and not over 4,000 pounds, and the tax for all trailers designed to transport boats and all trailers having a gross weight of 1,500 pounds or less shall be $6.50.

(Code 1980, § 14-54; Code 1995, § 22-217; Ord. No. 1097, § 2, 3-13-2007)

State law reference—Maximum tax, Code of Virginia, § 46.2-697.

Sec. 22-223. Amount of tax for vehicles carrying well-drilling machinery.

The county license tax to be paid by the owner of any motor vehicle, trailer or semitrailer, upon which well-drilling machinery is attached and which is permanently used solely for transporting such machinery, shall be $15.00.

(Code 1980, § 14-55; Code 1995, § 22-218; Ord. No. 1097, § 3, 3-13-2007)

State law reference—Maximum tax Code of Virginia, § 46.2-700.

Sec. 22-224. Tax year.

The license tax year for license taxes imposed by this article shall commence on February 16 of each year and shall expire on February 15 of the following year.

(Code 1980, § 14-58.1; Code 1995, § 22-219; Ord. No. 953, § 1, 7-23-1997)

Sec. 22-225. Proration of tax.

(a) Only one-half of the license taxes prescribed by this article shall be assessed and collected whenever any such license tax first becomes assessable during the period beginning on July 1 in any year and ending on December 31 in the same license tax year. No license tax shall be assessed and collected whenever any such license tax first becomes assessable after December 31 in the same license tax year.

(b) Motor vehicles, trailers and semitrailers moving into the county from out-of-state or from a Virginia locality to which no license fee or tax has been paid or from which no license decal purchased shall first become assessable upon moving into the county.

(c) Motor vehicles, trailers and semitrailers moving into the county from a Virginia locality to which a license fee or tax has been paid or from which a license decal purchased shall first become assessable only after the fee, tax or decal expires, as follows:

(1) If the period covered by the license fee or tax paid to or vehicle decal purchased from the other Virginia locality expires during the period February 16 through June 30 of the county license tax year, the license tax shall become assessable on July 1 of that same county license tax year; or

(2) If the period covered by the license fee or tax paid to or vehicle decal purchased from the other Virginia locality expires during the period July 1 through February 15 of the county license tax year, then no license tax shall be assessable for that same license tax year and the license tax shall first become assessable on February 16 of the next county license tax year.

(Code 1980, § 14-56.1; Code 1995, § 22-220; Ord. No. 953, § 1, 7-23-1997; Ord. No. 1022, § 1, 1-22-2002; Ord. No. 1110, § 1, 8-14-2007)

Sec. 22-226. Refund of unused portion of tax on disposal of vehicle.

Every person having a currently licensed motor vehicle who, on or before July 1 of the then current license tax year, disposes of the vehicle and does not purchase another vehicle of same class for tax purposes shall be entitled to a refund of one-half of the license tax paid by him, upon the production of a certificate from the state motor vehicle commission or other proper state officer that the state license plates and registration certificate have been surrendered. Such a refund shall be made by the director of finance from

the treasury of the county.

(Code 1980, § 14-57.1; Code 1995, § 22-221; Ord. No. 953, § 1, 7-23-1997; Ord. No. 1022, § 2, 1-22-2002; Ord. No. 1097, § 4, 3-13-2007)

Sec. 22-227. Quarterly licensing.

(a) In lieu of registering and licensing a truck, tractor truck or trailer, not including trailers designed for use as living quarters or trailers with gross weights of 1,500 pounds or less, as provided in sections 22-221 and 22-222, for an entire licensing year, the owner thereof may elect to register and license such vehicle only for one or more quarters of a licensing year, provided the owner obtained state licenses for such vehicle for the same quarterly basis. The tax for quarterly licensing shall be 25 percent of the annual tax plus $1.00 for each quarter that the vehicle is registered and licensed.

(b) All registrations and licenses issued for less than a full year shall expire on the last day of the quarterly period for which licensed. The month of issue will be counted as the first month regardless of the date.

(Code 1980, § 14-59; Code 1995, § 22-222)

Sec. 22-228. Grace period for payment of tax by persons purchasing vehicle.

Purchasers of new or used motor vehicles shall be allowed a ten-day grace period, beginning with the date of purchase, during which to register with the county.

(Code 1995, § 22-223)

State law reference—Similar provisions, Code of Virginia, § 46.2-752(I).

Secs. 22-229—22-251. Reserved.

ARTICLE VII. ABANDONED MOTOR VEHICLES

***State law reference—**Authority to remove and dispose of abandoned vehicles, Code of Virginia, §§ 46.2-1201, 46.2-1217, 46.2-1233.

Sec. 22-252. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned motor vehicle means a motor vehicle, trailer or semitrailer that:

(1) Is left unattended on public property in violation of a state law or local ordinance, for more than 48 hours;

(2) Has remained for more than 48 hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property; or

(3) Is left unattended on the shoulder of a primary highway.

Commissioner means the commissioner of the state department of motor vehicles.

Department means the state department of motor vehicles.

Scrap metal processor means any person who is engaged in the business of processing motor vehicles into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

Vehicle removal certificate means a transferable document issued by the department for any abandoned motor vehicle that authorizes the removal and destruction of the vehicle.

(Code 1980, § 14-66; Code 1995, § 22-251)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 46.2-1200.

Sec. 22-253. Abandoning motor vehicles prohibited; civil penalty.

(a) No person shall cause any motor vehicle to become an abandoned motor vehicle as defined in section 22-252. In any prosecution for a violation of this section, proof that the defendant was, at the time that the vehicle was found abandoned, the owner of the vehicle shall constitute in evidence a rebuttable presumption that the owner was the person who committed the violation. Such presumption, however, shall not arise if the owner of the vehicle provided notice to the state department of motor vehicles as provided in Code of Virginia, § 46.2-604, as amended, that he had sold or otherwise transferred the ownership of the vehicle.

(b) Any person convicted of a violation of this section shall be subject to a civil penalty of no more than $500.00. If any person fails to pay any such penalty, his privilege to drive a motor vehicle on the highways of the state shall be suspended as provided in Code of Virginia, § 46.2-395, as amended.

(Code 1995, § 22-252)

State law reference—Similar provisions, Code of Virginia, § 46.2-1200.1.

Sec. 22-254. Authority to take vehicles into custody.

The chief of police may cause to be taken into custody any abandoned motor vehicle. In such connection, the county may employ its own personnel, equipment and facilities or hire persons, equipment and facilities or firms or corporations that may be independent contractors for the purpose of removing, preserving, storing and selling at public auction abandoned motor vehicles. For the purposes of this section, the term "public auction" shall include an Internet sale by auction.

(Code 1980, § 14-67; Code 1995, § 22-253; Ord. No. 952, § 1, 7-23-1997)

State law reference—Authority, Code of Virginia, § 46.2-1201.

Sec. 22-255. Responsibility to initiate search for owner and/or lienholder.

(a) Any person in possession of an abandoned motor vehicle shall initiate with the department, in a manner prescribed by the commissioner, a search for the owner and/or lienholder of record of the vehicle, requesting the name and address of the owner of record of the motor vehicle and all persons having security interests in the motor vehicle on record in the office of the department, describing, if ascertainable, the motor vehicle by year, make, model, and vehicle identification number.

(b) The department shall check its own records, the records of a nationally recognized crime database, and records of a nationally recognized motor vehicle title database for owner and lienholder information. If a vehicle has been reported as stolen, the department shall notify the appropriate law-enforcement agency of that fact. If a vehicle has been found to have been titled in another jurisdiction, the department shall notify the applicant of that jurisdiction. In cases of motor vehicles titled in other jurisdictions, the commissioner shall issue certificates of title on proof satisfactory to the commissioner that the persons required to be notified by registered or certified mail have received actual notice fully containing the information required by this section.

(c) If records of the department contain no address for the owner or no address of any person shown by the department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, the person in possession of the

abandoned motor vehicle shall obtain from the department in a manner prescribed by the commissioner, a vehicle removal certificate. The vehicle may be sold or transferred to a licensee or a scrap metal processor.

(d) Whenever a vehicle is shown by the department's records to be owned by a person who has indicated that he is on active military duty or service, the department shall notify the requestor of such information. Any person having an interest in such vehicle under the provisions of this article shall comply with the provisions of the federal Servicemembers Civil Relief Act (50 USC 501 et seq.).

(e) If records of the department contain no address for the owner or no address of any person shown by the department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, the person in possession of the abandoned motor vehicle shall obtain from the department in a manner prescribed by the commissioner, a vehicle removal certificate. The vehicle may be sold or transferred to a licensee or a scrap metal processor, as defined in section 22-252.

(Code 1980, § 14-68; Code 1995, § 22-254; Ord. No. 952, § 2, 7-23-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1202.

Sec. 22-256. Vehicle removal certificates.

(a) The person in possession of an abandoned motor vehicle shall obtain from the department in a manner prescribed by the commissioner, a vehicle removal certificate. The vehicle may be sold or transferred to a licensee or a scrap metal processor.

(b) If the person in possession of an abandoned motor vehicle desires to obtain title to the vehicle, that person shall post notice for at least 21 days of his intent to auction the motor vehicle. Postings of intent shall be in an electronic manner prescribed by the commissioner who shall also ensure that written notice of intent is provided in public locations throughout the commonwealth. If the department confirms a lien, the person proposing the sale of the motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale ten days prior thereto.

(c) A purchaser of the motor vehicle may apply for a title upon payment of the applicable fees and taxes, and by supplying the department with the completed vehicle removal certificate and the transcript from the department that indicates that the department has no record of the abandoned motor vehicle.

State law reference—Similar provisions, Code of Virginia, § 46.2-1202.1.

Sec. 22-257. Surrender of certificate of title by demolisher; records to be kept by demolishers.

(a) No demolisher or scrap metal processor who purchases or otherwise acquires a motor vehicle for wrecking, dismantling, or demolition shall be required to obtain a certificate of title for the motor vehicle in his own name. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher or scrap metal processor shall surrender to the department for cancellation the certificate of title, vehicle removal certificate, properly executed vehicle disposition history, or sales receipt from a foreign jurisdiction for the vehicle.

(b) Demolishers and scrap metal processors shall keep accurate and complete records, in accordance with Code of Virginia, § 46.2-1608, of all motor vehicles purchased or received by them in the course of their business. Demolishers and scrap metal processors shall also collect and verify:

(1) The towing company's name and, if applicable, the license number issued to the towing company by the Virginia Board for Towing and Recovery Operators,

(2) One of the ownership or possession documents set out in this section following verification of its accuracy; and

(3) The driver's license of the person delivering the motor vehicle.

(c) If the delivering vehicle does not possess a license number issued by the Virginia Board for Towing and Recovery Operators, the license plate number of the vehicle that delivered the motor vehicle or scrap shall also be collected and maintained.

(d) In addition, a photocopy or electronic copy of the appropriate ownership document or a vehicle removal certificate presented by the customer shall be maintained. Ownership documents shall consist of either a motor vehicle title or a sales receipt from a foreign jurisdiction or a vehicle disposition history. These records shall be maintained in a permanent ledger in a manner acceptable to the department at the place of business or at another readily accessible and secure location within the commonwealth for at least five years. The personal identifying information contained within these records shall be protected from unauthorized disclosure through the ultimate destruction of the information. Disclosure of personal identifying information by anyone other than the department is subject to the Driver's Privacy Protection Act (18 USC 2721 et seq.).

(e) If requested by a law enforcement officer, a licensee shall make available, during regular business hours, a report of all the purchases of motor vehicles. Each report shall include the information set out in this article and be available electronically or in an agreed-upon format. Any person who violates any provision of this chapter or who falsifies any of the information required to be maintained by this article shall be guilty of a class 3 misdemeanor for the first offense. Any licensee or scrap metal processor who is found guilty of second or subsequent violations shall be guilty of a class 1 misdemeanor.

(f) If the vehicle identification number has been altered, is missing, or appears to have been otherwise tampered with, the demolisher or scrap metal processor shall take no further action with regard to the vehicle except to safeguard it in its then-existing condition and shall promptly notify the department. In no event shall the motor vehicle be disassembled, demolished, processed, or otherwise modified or removed prior to authorization by the department. If the vehicle is a motorcycle, the demolisher or scrap metal processor shall cause to be noted on the title or salvage certificate, certifying on the face of the document, in addition to the above requirements, the frame number of the motorcycle and motor number, if available.
(Code 1980, § 14-71; Code 1995, § 22-257)

State law reference—Similar provisions, Code of Virginia, § 46.2-1206; penalty for misdemeanors, Code of Virginia, § 18.2-11.

Secs. 22-258—22-283. Reserved.

ARTICLE VIII. BICYCLES, MOTORCYCLES AND MOPEDS

*__State law reference—__Authority to regulate bicycles, Code of Virginia, § 15.2-1720; authority to regulate

motorcycle and moped noise, Code of Virginia, § 46.2-919.

DIVISION 1. GENERALLY

Sec. 22-284. Disposition of unclaimed bicycles and mopeds.

(a) Any bicycle or moped which has been in the possession of the division of police, unclaimed, for more than 30 days may be sold by the division at public sale or donated to a charitable organization, after compliance with the requirements of this section.

(b) Any bicycle or moped which has been in the possession of the division of police and unclaimed for a period of more than 60 days may be retained for use by the division of police pursuant to the provisions of chapter 15.

(c) Any bicycle or moped found and delivered to the division of police by a private person which thereafter remains unclaimed for 30 days after the final date of publication required by this section may be given to the finder.

(d) The chief of police, or his duly authorized agent, prior to the sale of an unclaimed bicycle or moped, shall cause to be inserted in a newspaper of general circulation in the county, once a week for two successive weeks, notice that there will be a public display and sale of bicycles or mopeds which have been in its possession, unclaimed, for more than 30 days. The notice shall contain the following: a general description of such bicycles or mopeds, the location of the public viewing, and the date, time and place of such sale.

(e) The proceeds from the sale of any bicycle or moped under this section shall, after payment of costs and expenses incurred by the division of police, be credited to the account of the general fund of the county.

(Code 1980, §§ 14-79—14-81; Code 1995, § 22-281; Ord. No. 947, § 1, 5-14-1997)

Cross reference— Unclaimed personal property, § 15-76 et seq.

State law reference— Disposition of unclaimed bicycles, Code of Virginia, § 15.2-1720.

Secs. 22-285—22-301. Reserved.

DIVISION 2. MOTORCYCLES

Sec. 22-302. Operation of unlicensed motorcycle.

(a) *Generally.* It shall be unlawful for any person to operate any motorcycle, as defined in Code of Virginia, § 46.2-100, which does not comply with the registration and licensing requirements of the Code of Virginia, on the public highways of the county, or upon the driveways or premises of a church, school, recreational facility or business property open to the public, unless authorized by the owner of the property or his agent. The owner of any privately owned property desiring enforcement upon his property of this section shall notify the chief of police in writing of his desire, and the owner shall post notices on his property adequate to inform the public that operation of such vehicles upon that property is unlawful.

(b) *Seizure of vehicle.* Where any officer charged with the enforcement of this chapter arrests any person and charges him with a violation of subsection (a) of this section, he shall seize the motorcycle, giving a receipt for the motorcycle, and deliver it to the chief of police or his designee. The vehicle shall be held by the chief of police or his designee until the charge is disposed of by the court having jurisdiction. Seizure shall not be made of any motorcycle operated on private property unless the owner complies with the requirements of subsection (a) of this section. In disposing of the charge, the court shall order the vehicle returned to its owner.

(c) *Holding of vehicle.* When any person has been convicted of a second or subsequent violation of this section, the judge may order such vehicle held by the chief of police for a period not to exceed 90 days.

(d) *Payment of towing and storage charges.* Should it become necessary for any officer charged with the enforcement of this section to utilize a commercial towing service to transport a motorcycle seized in accordance with the provisions of this section to the storage site designated by the chief of police, then upon conviction the owner shall be assessed the costs related to the towing and storage prior to the release of the seized motorcycle.

(e) *Procedure on failure to claim vehicle.* If any person fails to claim any motorcycle seized under the provisions of this section within 15 days of the date specified by the court, the chief of police or his designee shall notify the owner of record and all persons having security interests therein, if known, by registered or certified mail, return receipt requested, that the vehicle has been taken into custody. The notice shall describe the year, make, model and serial number of the seized motorcycle, set forth the location of the facility where the motorcycle is being held, and inform the owner and any persons having security interests of their right to claim the motorcycle within 15 days after the date of the notice, and state that failure of the owner or persons having security interests to exercise their right to reclaim the motorcycle within the time provided shall be deemed a waiver by the owner of all right, title and interest in the motorcycle, and consent to the sale of the motorcycle at a public auction, all in accordance with the provisions of Code of Virginia, § 46.2-1202. The motorcycle shall then be disposed of in accordance with the provisions of Code of Virginia, § 46.2-1203.

(Code 1980, § 14-14; Code 1995, § 22-301)

State law reference— Authority to regulate unlicensed motorcycles, Code of Virginia, § 46.2-916.

Secs. 22-303—22-322. Reserved.

DIVISION 3. MOPEDS

Sec. 22-323. Safety equipment.

(a) *Required equipment.* Every person operating a moped, as defined in Code of Virginia, § 46.2-100, on a public street or highway shall wear a face shield, safety glasses or goggles of a type approved by the superintendent of state police, or have his moped equipped with safety glass or a windshield at all times while operating such vehicle. Operators and passengers thereon, if any, shall wear protective helmets of a type approved by the superintendent.

(b) *Penalty.* Any person who knowingly violates the provisions of this section shall be guilty of a traffic infraction and be subject to a fine of not more than $50.00.

(Code 1980, § 14-2.2; Code 1995, § 22-321)

State law reference— Authority to so provide, Code of Virginia, § 46.2-915.2.

Secs. 22-324—22-349. Reserved.

DIVISION 4. BICYCLES

Sec. 22-350. Riding on sidewalk or crosswalk.

(a) No person shall ride a bicycle on designated sidewalks or crosswalks, including those of any church, school, recreational facility, or any business property open to the public where such activity is prohibited. Signs indicating such prohibition shall be conspicuously posted in general areas where bicycle riding is prohibited.

(b) In locations where the riding of bicycles on sidewalks or crosswalks is not prohibited:

(1) A person riding a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(2) A person shall not ride a bicycle upon and along a sidewalk, or across a roadway upon and along a sidewalk, where such use of bicycles is prohibited by official traffic control devices.

(3) A person riding a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall have all the rights and duties of a pedestrian under the same circumstances.

(Code 1980, § 14-21(b), (c); Code 1995, § 22-341)

Cross reference—Streets, sidewalks and other public property, ch. 18.

State law reference—Riding bicycles on sidewalks, etc., Code of Virginia, § 46.2-904.

Sec. 22-351. Certificate of registration required; display of registration number.

It shall be unlawful for any person to operate or use a bicycle propelled wholly or in part by muscular power upon any of the streets, roads or public highways of the county without first obtaining a certificate of registration from the chief of police and attaching to such bicycle a metallic registration number.

(Code 1980, § 14-73; Code 1995, § 22-342)

Sec. 22-352. Registration plate generally; records of registered bicycles.

The county shall provide metallic registration plates and seals, together with registration cards. The metallic registration plates and registration cards shall be numbered in numerical order, beginning with number 1, and the design, color and identification lettering thereon shall be approved by the chief of police. It shall be the duty of the chief of police to cause to be attached one of such metallic registration plates to the frame of each bicycle and to issue a corresponding registration card to the owner of such bicycle upon the payment of the registration fee required by section 22-356. Such metallic registration plate shall remain attached to the bicycle for which it was issued during the period such bicycle is operated within the county. The chief of police shall keep a permanent register in which shall be entered the name, address and age of the owner of each registered bicycle, the date of registration and sufficient information to identify such bicycle.

(Code 1980, § 14-74; Code 1995, § 22-343)

Sec. 22-353. Notification of police on transfer of ownership; transfer of registration.

It shall be unlawful for any person to sell or transfer ownership of any bicycle without reporting to the chief of police within 48 hours from the time thereof full and complete information relative to such transfer so that such bicycle may be registered in the name of the transferee. The purchaser or transferee of any such bicycle shall apply for a transfer of registration therefor within five days from the time it is acquired by him.

(Code 1980, § 14-75; Code 1995, § 22-344)

Sec. 22-354. Report of purchases by dealers of secondhand bicycles and parts.

It shall be unlawful for any person engaged in the business of buying secondhand bicycles, or any parts of secondhand bicycles, to fail to report to the chief of police within 48 hours after acquiring any secondhand bicycle, or part thereof. Such report shall include the registration number of such bicycle, a description of each bicycle acquired, and the frame number thereof, together with the name and address of the person from whom it was acquired. In case of the purchase of any parts of bicycles, the report shall describe each part and

give the name and address of the person from whom it was acquired.

(Code 1980, § 14-76; Code 1995, § 22-345)

Sec. 22-355. Removal, destruction or alteration of frame number, registration plate or registration card.

It shall be unlawful for any person willfully or maliciously to remove, destroy, mutilate or alter the number of any bicycle frame registered pursuant to this chapter. It shall also be unlawful for any person willfully or maliciously to remove, destroy, mutilate or alter any registration plate or registration card issued pursuant to the provisions of this chapter during the time in which such registration plate or card is operative. It shall also be unlawful for any person to possess a bicycle whose frame number has been removed, destroyed or altered; provided, however, that nothing in this chapter shall prohibit the chief of police from stamping a number on the frame of a bicycle on which no serial number can be found or on which such number is illegible or insufficient for identification purposes.

(Code 1980, § 14-77; Code 1995, § 22-346)

Sec. 22-356. Registration fee; transfer of plates; replacement of plates.

The registration fee to be paid for each bicycle registered shall be $1.00. Upon the sale or other transfer of a licensed bicycle the licensee shall remove the license plate and shall either surrender it to the chief of police or may upon proper application, but without payment of an additional fee, have such plate assigned to another bicycle owned by the applicant. Once a bicycle has been registered in a given name, the registration thereof may be transferred from one owner to another without the payment of an additional fee. The fee required in this section shall cover all charges incident to registration and issuance of registration plates and cards. All fees collected shall be paid into the county treasury. Should the metallic registration number attached to any bicycle become lost, altered or mutilated, the owner thereof shall apply to the chief of police for another such number, certifying by a writing under oath that the metallic registration number has been so lost, altered or mutilated, and the chief of police shall then issue to such person a metallic registration number identical with that theretofore issued and cause it to be attached to the bicycle upon the payment by such owner of a fee of $1.00.

(Code 1980, § 14-78; Code 1995, § 22-347)

Secs. 22-357—22-385. Reserved.

ARTICLE IX. PARKING PRIVILEGES FOR DISABLED PERSONS

Sec. 22-386. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commissioner and *department* mean the commissioner of the state department of motor vehicles and the state department of motor vehicles, respectively.

Disabled parking sign means any sign used to identify parking spaces for use by vehicles bearing valid organizational, permanent, or temporary removable windshield placards, disabled parking license plates, or disabled parking license plates issued under Code of Virginia, § 46.2-739. All disabled parking signs shall be erected and maintained in accordance with signage requirements specified in Code of Virginia, § 36-99.11.

Organizational removable windshield placard means a two-sided, hooked placard which includes on each

side:

(1) The international symbol of access at least three inches in height, centered on the placard, and shown in white on a green background;

(2) The name of the institution or organization;

(3) An identification number;

(4) An expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the department;

(5) A misuse hotline number designated by the department;

(6) A warning of the penalties for placard misuse; and

(7) The seal or identifying symbol of the issuing authority.

Permanent removable windshield placard means a two-sided, hooked placard which includes on each side:

(1) The international symbol of access at least three inches in height, centered on the placard, and shown in white on a blue background;

(2) The name, age, and sex of the person to whom issued;

(3) An identification number;

(4) An expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the department;

(5) A misuse hotline number designated by the department;

(6) A warning of the penalties for placard misuse; and

(7) The seal or other identifying symbol of the issuing authority.

However, the person to whom the placard is issued may cover his name and/or age, as shown on the placard, with opaque, removable tape, provided that no other data on the placard is covered or obscured by such tape.

Person with a disability that limits or impairs his ability to walk or that creates a concern for his safety while walking means a person who, as determined by a licensed physician, podiatrist, or chiropractor:

(1) Cannot walk 200 feet without stopping to rest;

(2) Cannot walk without the use of or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(3) Is restricted by lung disease to such an extent that his force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or when at rest, his arterial oxygen tension is less than 60 millimeters of mercury on room air;

(4) Uses portable oxygen;

(5) Has a cardiac condition to the extent that his functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association;

(6) Is severely limited in his ability to walk due to an arthritic, neurological, or orthopedic condition;

(7) Has some other debilitating condition that, in the view of a licensed physician, podiatrist, or chiropractor limits or impairs his ability to walk;

(8) Has been diagnosed with a mental or developmental amentia or delay that impairs judgment including, but not limited to, an autism spectrum disorder;

(9) Has been diagnosed with Alzheimer's disease or another form of dementia;

(10) Is legally blind or deaf; or

(11) Has some other condition that, in the view of a licensed physician creates a safety concern while walking because of impaired judgment or other physical, developmental, or mental limitation. For the purposes of

this definition, a determination of a disability by a podiatrist or chiropractor shall be limited to those conditions specified in subsections (1), (2), (6) or (7) of this definition.

Any licensed physician, nurse practitioner, physician assistant, podiatrist, or chiropractor who signs a certification that states that an applicant is disabled under subsection (7) of this definition shall specify, in a space provided on the certification form, the medical condition that limits or impairs the applicant's ability to walk. Any licensed physician, licensed nurse practitioner, or licensed physician assistant who signs a certification that states that an applicant is disabled under subsection (11) of this definition shall specify, in a space provided on the certification form, the physical, developmental, or mental condition that creates the safety concern.

Temporary removable windshield placard means a two-sided, hooked placard which includes on each side:

(1) The international symbol of access at least three inches in height, centered on the placard, and shown in white on a red background;

(2) The name, age, and sex of the person to whom issued;

(3) An identification number;

(4) An expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the department;

(5) A misuse hotline number;

(6) A warning of the penalties for placard misuse; and

(7) The seal or other identifying symbol of the issuing authority.

However, the person to whom the placard is issued may cover his name and/or age, as shown on the placard, with opaque, removable tape, provided that no other data on the placard is covered or obscured by such tape.

(Code 1995, § 22-348; Ord. No. 963, § 2, 10-22-1997)

Cross reference— Definitions and rules of construction, § 1-2.

State law reference— Similar provisions, Code of Virginia, § 46.2-1240.

Sec. 22-387. Parking by those not disabled prohibited.

It shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard or a temporary removable windshield placard issued under Code of Virginia, § 46.2-1241, or DV disabled parking license plates issued under Code of Virginia, § 46.2-739(B) to be parked in a parking space reserved for persons with disabilities that limit or impair their ability to walk or for a person who is not limited or impaired in his ability to walk to park a vehicle in a parking space so designated except when transporting a person with such a disability in the vehicle.

(Code 1995, § 22-349; Ord. No. 963, § 2, 10-22-1997)

State law reference— Authority to so provide, Code of Virginia, § 46.2-1242(B).

Sec. 22-388. Issuance of summons.

A summons or parking ticket for the violation of section 22-387 may be issued by law enforcement officers and other uniformed personnel employed by the county to enforce parking regulations without the necessity of a warrant being obtained by the owner of any private parking area.

(Code 1995, § 22-350; Ord. No. 963, § 2, 10-22-1997)

State law reference—Authority to so provide, Code of Virginia, § 46.2-1242(B)(2).

Sec. 22-389. Signage requirements.

No violation of section 22-387 shall be dismissed for a property owner's failure to comply strictly with the requirements for disabled parking signs set forth in Virginia Code, § 36-99.11, provided the space is clearly distinguishable as a parking space reserved for persons with disabilities that limit or impair their ability to walk.

(Code 1995, § 22-351; Ord. No. 963, § 2, 10-22-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1242(D).

Sec. 22-390. Display of disabled parking placards.

Organizational removable windshield placards, permanent removable windshield placards and temporary removable windshield placards shall be displayed in such a manner that they may be viewed from the front and rear of the vehicle and be hanging from the rearview mirror of a vehicle utilizing a parking space reserved for persons with disabilities that limit or impair their ability to walk. When there is no rearview mirror, the placard shall be displayed on the vehicle's dashboard. No placard shall be displayed from the rearview mirror while a vehicle is in motion.

(Code 1995, § 22-352; Ord. No. 963, § 2, 10-22-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1241(E).

Sec. 22-391. Reciprocity.

Disabled parking license plates, permanent removable windshield placards, temporary removable windshield placards and DV disabled parking license plates issued by other states and countries for the purpose of identifying vehicles permitted to use parking spaces reserved for persons with disabilities that limit or impair their ability to walk shall be accorded all rights and privileges accorded vehicles displaying such devices in the state.

(Code 1995, § 22-353; Ord. No. 963, § 2, 10-22-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1258.

Sec. 22-392. Towing of unauthorized vehicles.

The owner or duly authorized agent of the owner of a parking space properly designated and clearly marked as reserved for use by persons with disabilities that limit or impair their ability to walk may have any vehicle not displaying disabled parking license plates, organizational removable windshield placards, permanent removable windshield placards, temporary removable windshield placards or DV disabled parking license plates removed from the parking space and stored. The owner of a vehicle which has been removed and stored may regain possession of his vehicle on payment to the person who removed and stored the vehicle all reasonable costs incidental to the removal and storage. The owner of the vehicle, on notice to the owner or duly authorized agent of the owner of the parking space, may also petition the general district court having jurisdiction over the location where the parking occurred for an immediate determination as to whether the removal of the vehicle was lawful. If the court finds that the removal was unlawful, the court shall direct the owner of the parking space to pay the costs incidental to the removal and storage of the vehicle and return the vehicle to its owner.

(Code 1995, § 22-354; Ord. No. 963, § 2, 10-22-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1246.

Sec. 22-393. DMV registration to constitute prima facie evidence that registered owner committed violation.

In any prosecution charging a violation of section 22-387, proof that the vehicle described in the complaint, summons, parking ticket, citation or warrant was parked in violation of the ordinance, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Code of Virginia, title 46.2, ch. 6 (Code of Virginia, § 46.2-600 et seq.), as amended, shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.

(Code 1995, § 22-355; Ord. No. 963, § 2, 10-22-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1242(C).

Sec. 22-394. Penalty.

A violation of section 22-387 shall be punishable by a fine of not less than $100.00 nor more than $500.00. However, if there is a placard within a vehicle utilizing a parking space reserved for persons with disabilities, but that placard is not displayed as required by section 22 387, the fine shall be not less than $20.00 nor more than $50.00.

(Code 1995, § 22-356; Ord. No. 963, § 2, 10-22-1997; Ord. No. 1125, § 1, 9-8-2008)

State law reference—Authority to so provide, Code of Virginia, § 46.2-1242(B), (B)(1).

Secs. 22-395—22-416. Reserved.

ARTICLE X. PARADES

***Cross reference—**Authority to regulate assemblages, § 13-19.

Sec. 22-417. Purpose of article.

This article is enacted for the purpose of protecting the public health, safety and welfare of county citizens, ensuring the free and safe passage of pedestrians and vehicles on the streets and highways of the county and encouraging the exercise of the rights to free speech and assembly.

(Code 1995, § 22-361; Ord. No. 1102, § 2, 3-27-2007)

Sec. 22-418. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Parade means any march, procession, motorcade, marathon or race consisting of people, animals or vehicles, or a combination thereof, upon the streets, highways, sidewalks or other public rights-of-way within the county, which has a substantial likelihood of interfering with the normal flow or regulation of pedestrian or vehicular traffic.

Spontaneous event means an unplanned or unannounced coming together of persons, animals or vehicles

in a parade that is caused by, or in response to, unforeseen circumstances or events.

(Code 1995, § 22-362; Ord. No. 1102, § 2, 3-27-2007)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 22-419. Permit required; penalty.

(a) It shall be unlawful to conduct a parade within the county except in accordance with a permit issued by the chief of police and such other regulations in this article which may apply. Violation of this section shall constitute a class 3 misdemeanor.

(b) The provisions of this section shall not apply to:

(1) Spontaneous events;

(2) Funeral processions;

(3) Parades conducted by the United States armed forces, the military forces of the state, or the divisions of fire and police of the county;

(4) Any gathering that is not substantially likely to require closing a street, highway or other public right-of-way within the county.

(Code 1995, § 22-363; Ord. No. 1102, § 2, 3-27-2007)

State law reference— Penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 22-420. Permit application.

(a) Application for a permit under this article shall be made in writing on forms provided for this purpose and filed with the chief of police at least 30 days before the date of the parade. Applicants shall provide the following:

(1) The name, address and telephone numbers of the applicant.

(2) The name, address and telephone numbers of any organization sponsoring or organizing the parade, as well as a statement concerning the nature of any such organization.

(3) A statement specifying the nature, type and size of the parade, including: the purpose of the parade; whether pedestrians, vehicles or animals will participate; the types and approximate numbers of vehicles anticipated; and the approximate number of runners, foot units or other groups of persons anticipated.

(4) A statement specifying the proposed parade date and times for formation, starting and ending; parade route; and the locations for formation and disbanding.

(5) A map of the proposed parade route.

(6) If the proposed route traverses or crosses any part of the state's primary highway system, written permission from the resident engineer of the Virginia Department of Transportation must be attached to the application for the application to be deemed complete.

(7) Any other information that the chief of police deems necessary in order to grant a permit in accordance with the provisions of this article.

(b) The chief of police shall have the authority to consider and act upon an application filed less than 30 days before the proposed parade, if in his judgment time and resources permit such consideration in accordance with the provisions of this article.

(Code 1995, § 22-364; Ord. No. 1102, § 2, 3-27-2007)

Sec. 22-421. Issuance or denial of permit.

(a) The chief of police shall issue or deny a permit within 15 days of the filing of an application completed in

accordance with section 22-420. Nothing in this article shall permit the chief of police to base his decision on the content of any speech, message or viewpoint to be expressed in the proposed parade. A permit shall be issued if the chief of police determines that:

(1) All applicable provisions of this article have been met, including an agreement to pay the fee specified in section 22-422;

(2) Adequate traffic and crowd control can be provided for the parade to protect the public health, safety and welfare;

(3) The parade will not violate any applicable state laws or regulations; and

(4) The parade will not interfere with a previously scheduled parade or other event.

(b) The chief of police may issue a permit with restrictions or other modifications to the proposed parade as he deems advisable to protect the public health, safety and welfare.

(c) Should a permit be denied, the chief of police shall so notify the applicant and state the grounds for denial within 15 days of the filing of the application.

(Code 1995, § 22-365; Ord. No. 1102, § 2, 3-27-2007)

Sec. 22-422. Fee.

Prior to the issuance of a permit, an applicant shall agree to pay the reasonable cost of providing traffic and crowd control for the parade. The fee shall be based on the uniform schedule of fees maintained by the chief of police, the number of personnel providing services and the duration of the services. Nothing in this article shall permit the chief of police to assess a fee based upon the content of any speech, message or viewpoint to be expressed in the proposed parade.

(Code 1995, § 22-366; Ord. No. 1102, § 2, 3-27-2007)

Sec. 22-423. Revocation.

The chief of police shall have the authority to revoke any permit issued pursuant to this article if any information supplied by the applicant is discovered to be false or intentionally misleading, or if any term, condition or restriction of the permit has been substantially violated.

(Code 1995, § 22-367; Ord. No. 1102, § 2, 3-27-2007)

Chapter 23 - WATER AND SEWER

*__Cross reference—__Solid waste, ch. 17; obstruction of roads, ditches or drains prohibited, § 18-3; approval of installation of culvert pipes for walkways, driveways or other purposes required, § 18-4; use of streets for water and sewer systems, § 18-75 et seq.

*__State law reference—__State Water Control Law, Code of Virginia, § 62.1-44.2 et seq.; powers of localities concerning public utilities including waterworks, sewerage, and other services, Code of Virginia, § 15.2-2109; regulation by locality of stormwater, Code of Virginia, § 15.2-2114.

ARTICLE I. IN GENERAL

Sec. 23-1. Definitions.

The following words, terms, and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. § 1251 et seq., including implementing federal regulations.

Applicant means a person or business or industrial establishment which has requested utility services. An application of a husband or wife is to be considered as an application by both individually and jointly. The applicant is responsible for payment.

Assisted living facility means any congregate residential setting, as defined in Code of Virginia § 63.2-100, that provides or coordinates personal and health care services, 24-hour supervision, and assistance for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting.

Authorized representative of industrial user means:

(1) For corporations, a principal executive officer of at least the level of vice-president.

(2) For a partnership or proprietorship, a general partner or proprietor.

(3) An authorized representative of the industrial user who is responsible for discharges into the county's system.

Backup facilities means the components of the county's water and sewer systems which deliver water to or collect wastewater from local areas. The term includes the county's complete water and sewer systems except local facilities. Water system backup facilities include source of supply and treatment facilities, water transmission mains, pumping stations, storage facilities and general plant equipment items. Sewer system backup facilities include interceptor and trunk sewers, pumping stations and force mains, wastewater treatment and disposal facilities and general plant equipment.

Backup service connection means an additional water service connection to ensure continuous water service if the regular water service connection fails. The backup service connection shall be taken out of service when the regular service connection is restored to service.

Best management practices or *BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 9 VAC 25-31-770 and to prevent or reduce the pollution of surface waters. BMPs also include treatment requirements, operating

procedures, and practices to control plant site run-off, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Biochemical oxygen demand (BOD_5) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, expressed in terms of weight and concentration (milligrams per liter).

Categorical standards means national categorical pretreatment standards promulgated by the United States Environmental Protection Agency at 40 C.F.R. § 403.

Chesapeake Bay Preservation Areas means resource protection areas and resource management areas, as defined in section 24-5802.B and article 8, division 5, General Definitions, of chapter 24.

Connected but not metered means property served by the county sewer system which does not have water consumption or wastewater discharges measured by a meter approved by the director.

Connection fee means a charge for connecting to a county water or sewer system.

Connector means the person, firm or corporation connecting to the county water or sewer system.

Contract user means any user of the county water or sewer system located outside the county or with service requirements that the director has determined are so unique as to require a contractual agreement for service.

Department means the department of public utilities.

Director means the director of public utilities.

Discharge means any spilling, leaking, pumping, pouring, emitting, emptying or dumping of a substance into the county sewer system.

Dormitory means a building primarily providing sleeping and residential quarters for large numbers of persons such as students. The term shall also include a hostel for tourists and other transients but shall not include motels and hotels.

Elderly person means a person who is at least 62 years old.

Environmental Protection Agency (EPA) means the United States Environmental Protection Agency or, where appropriate, the administrator or other official of the EPA.

Fire service means a connection from the county water main to the property line to supply water to a private fire protection system.

Generator permit means written authorization to an originator of wastes, other than septic, grease trap or portable toilet wastes, that permits a waste hauler to discharge them at the county's wastewater treatment facility.

Handicapped person means a person with a physical or mental impairment that:

(1) Is expected to be of long or indefinite duration;
(2) Substantially impedes the person's ability to live independently; and
(3) Is such that the person's ability to live independently could be improved by more suitable housing

conditions.

Health officer and *health department* mean the county health director or his authorized representative, or the county health department.

Indirect discharge permit means written authorization by the director to discharge septic, grease trap or portable toilet wastes at the county's wastewater treatment facility.

Industrial sewage or wastes means sewage or waste from any facility engaged in the conversion or combining of materials into a new or different material or processing of materials or objects for use or reuse, generally not for sale at retail on the premises of the manufacturing or processing facility.

Install and *repair* mean installation and repair performed in accordance with the specifications and standards established in this chapter.

Interference means inhibition or disruption of POTW processes or operations that contributes to a violation of the county's VPDES permit. The term includes any inhibition or disruption preventing sewage sludge use or disposal in accordance with section 405 of the Act (33 U.S.C. § 1345), or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or any more stringent state standard, including those contained in any state sludge management plan prepared pursuant to title IV of the Clean Water Act, applicable to the method of disposal or use employed by the county.

Liquid waste means domestic septage, chemical toilet waste, grease and sand trap waste, non-hazardous commercial and industrial (categorical and non-categorical) waste, groundwater remediation site waste, and landfill leachate.

Local facilities means the components of the county's water and sewer systems which deliver water to or collect wastewater from individual users. Included are local water distribution mains and valves, local wastewater collection mains, water service lines, meter setters, meter boxes, wastewater lateral lines to the user's premises, and fire hydrants.

Monitoring manhole means a manhole with an opening at least 24 inches in diameter that is installed on the discharge line from a user in order to facilitate collection of wastewater from only that user.

Multifamily units means two or more single-family units in one structure, including condominiums and townhouses.

Multimeter installations means the installation of two or more meters in the same or adjoining vault and served by a single service connection.

National categorical pretreatment standard and *pretreatment standard* mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 U.S.C. § 1342 that applies to a specific category of industrial user.

Not connected means not physically connected to the county system after having paid connection fees.

Nursing facility means any facility or any identifiable component of any facility, as defined in Code of Virginia § 32.1-123, licensed by the Virginia Department of Health in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals.

Off-site extension means an extension to the existing county utility system off of the connector's property and not in a public right-of-way or easement adjacent to connector's property. Pump stations are included in this definition when built to serve others.

On-site extension means an extension to the existing county utility system, in accordance with plans approved by the department, on the connector's property or in a public right-of-way or easement adjacent to the connector's property.

Pass-through means discharge of pollutants through POTWs, as defined in the act.

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and any industrial, municipal and agricultural waste intended for or discharged into the sewer system.

POTW means publicly owned treatment works and includes wastewater treatment or reclamation facilities, sewage pumping stations, and sewer mains, laterals and other publicly-owned sewage conveyances.

Premises means the property to which utility services will be, are being or have been supplied.

Pretreatment and *treatment* mean, for wastewater, the elimination or reduction of pollutants or the alteration of pollutant properties to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means, except as prohibited by 40 C.F.R. § 403.6(d) and state law.

Septage means wastes removed from septic tanks, grease traps, portable toilets and the like.

Service charge means a charge based on the size of the water meter. Where water is not metered, the charge may be a flat rate as determined from special studies. Except for residential units, all water entering the sanitary sewer system must be metered, either as it enters or as it is discharged from the premises.

Service connection means a pipe and meter within a public right-of-way or easement conveying water to a premises or a pipe within a public right-of-way or easement from the building sewer or private sewer system to the collector sewer that conveys wastewater.

Sewer system means pipelines or conduits, pumping stations and force mains and all other components for transporting sewage, industrial wastes or other wastes to a point of ultimate disposal.

Significant industrial user means:

(1) All categorical industrial users; or

(2) Any noncategorical industrial user which:

a. Discharges 25,000 gallons per day or more of process wastewater. The term "process wastewater" excludes sanitary, noncontact cooling, and boiler blowdown wastewaters;

b. Contributes a process waste stream which makes up five percent or more of the average dry weather

hydraulic or organic (BOD_5, total suspended solids, etc.) capacity of the treatment plant; or

c. Has in the opinion of the director a reasonable potential to adversely affect the treatment plant, pass through pollutants, contaminate sludge or endanger treatment plant workers.

Significant violator means any person who fails to correct a violation for 45 days after notification of noncompliance, shows a pattern of noncompliance, fails to accurately report noncompliance, or causes the county to exercise its emergency authority.

Single-family residential unit means a group of rooms including cooking facilities occupied exclusively by one or more persons living as a single housekeeping unit.

Slug discharge means any discharge of a nonroutine, episodic nature, including an accidental spill or a noncustomary batch discharge which has a reasonable potential to cause interference or pass through, or in any other way violate this chapter, local limits or permit conditions.

Special discharge permit means written authorization by the director to discharge other than septic, grease trap or portable toilet wastes at the county's wastewater treatment facility.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget (1987) or its successor.

Strong waste means wastewater discharged to the sanitary sewer system that exceeds 275 milligrams per liter of suspended solids or a biochemical oxygen demand of 250 milligrams per liter.

Suspended solids means all solids that either float on the surface or are in suspension in water, sewage, wastewater or other liquids and which are removable by laboratory filtering.

Tenant means an occupant who does not own the premises.

Underground leak means a water leak in pipes that cannot be seen without digging, destroying or removing property on the premises of a user whose system is connected to the county system. Leaks due to faulty installation of private systems, even if underground, and leaks due to mechanical failure or malfunction are specifically excluded from this definition.

User means a person, business or industrial establishment which benefits from the use of utility services, or an applicant.

Virginia Pollution Discharge Elimination System permit (VPDES permit) means a permit issued by the Virginia Department of Environmental Quality pursuant to section 402 of the act (33 U.S.C. § 1342).

Volume charge means a charge in proportion to volume of water used or sewage contributed.

Wastewater means the liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(Code 1980, § 21-1; Code 1995, § 23-1; Ord. No. 1130, § 1, 12-9-2008; Ord. No. 1131, § 1, 12-9-2008)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 23-2. Management and records of water and sewer system.

The director shall be responsible for the construction, operation and maintenance of the water and sewer systems of the county. The director shall maintain the records and plans of the water and sewer systems, including the location of all service connections, pipes and equipment.

(Code 1980, §§ 21-6, 21-7, 21-39, 21-40; Code 1995, § 23-3)

Sec. 23-3. Right of entry by county.

Every person occupying premises to which water and sewer service is provided shall permit county employees to enter the premises at reasonable times to examine the service lines, meters or other equipment and to take up, repair or remove them so as to determine compliance with this Code or other county regulations. Examinations shall comply with all constitutional requirements.

(Code 1980, § 21-41; Code 1995, § 23-4)

Sec. 23-4. Extensions to existing lines.

No extensions shall be made to existing water or sewer mains without the director's written approval. Applicants for approval shall submit at least four copies of plans and specifications prepared by a registered engineer licensed to do business in the state. In the case of subdivisions, site plans and plans of development, the plans may also be prepared by a licensed land surveyor.

(Code 1980, §§ 21-12, 21-45; Code 1995, § 23-5)

Sec. 23-5. Approval of development not using public water and sewer.

(a) For any development which will not use public water and sewer, the health department must inspect the property and approve the water supply and sewage disposal plans before the building official may issue a building permit. The health department shall note any restrictions on its approval.
(b) It shall be unlawful to start any development designed for human use without the health department's approval of the plans for water supply and sewage disposal unless public water and sewer are to be provided.
(Code 1980, § 21-73; Code 1995, § 23-6)

Secs. 23-6—23-28. Reserved.

ARTICLE II. SANITARY SEWAGE DISPOSAL

*__Cross reference__—Sewage disposal in parks, § 14-40; sanitary sewer system in subdivisions, § 19-165.

*__State law reference__—Localities authorized to establish sewage disposal systems, Code of Virginia, § 15.2-2122 et seq.; sanitary sewers, Code of Virginia, § 32.1-163 et seq.; regulations concerning water, sewer and other facilities in subdivisions, Code of Virginia, § 15.2-2121.

DIVISION 1. GENERALLY

Sec. 23-29. Discharging sewage onto land or into water body.

It shall be unlawful to discharge untreated sewage or septage onto the land or into the waters of the state.

(Code 1980, § 21-77; Code 1995, § 23-31)

State law reference— Prohibition of discharges, Code of Virginia, § 62.1-44.5.

Sec. 23-30. Sewage disposal required.

It shall be unlawful for the owner of any house, warehouse, building or other structure where human beings congregate or are employed to use or occupy or to rent or lease the property for use or occupancy until the property is supplied with an approved method of disposal of human excrement that complies with state law and this chapter.

(Code 1980, § 21-3; Code 1995, § 23-32)

Sec. 23-31. Approved methods of sewage disposal.

For the purpose of this chapter, an approved method of disposal of human excrement shall be deemed to be:

(1) A properly installed and properly functioning flush toilet connected to one of the following:

a. An approved public or privately owned sewage disposal system; or

b. An approved properly installed septic tank system.

(2) A standard pit privy constructed in accordance with specifications established by the state department of health pamphlet entitled The Standard Pit Privy, dated 1973.

(Code 1980, § 21-4; Code 1995, § 23-33)

Sec. 23-32. Location and construction of sewage disposal system.

Any approved method of disposal of human excrement shall be located and constructed so that it will not endanger a source of drinking water or be accessible to flies, other insects or animals.

(Code 1980, § 21-5; Code 1995, § 23-34)

Sec. 23-33. Maintenance of sewage disposal system; pump-out requirement.

It is unlawful for any owner, tenant or lessee of premises supplied with a sanitary privy, flush toilet or other approved device for the disposal of human excrement to allow it or cause it to be unsanitary. In addition, owners of all private sewage disposal systems and septic tank systems in the Chesapeake Bay Preservation Areas (as defined in section 24-5802.B) shall, at least once every five years, either pump out their septic tanks and submit documentation thereof or submit documentation, certified by an operator or on-site soil evaluator licensed or certified under chapter 23 of Title 54.1 of the Code of Virginia as being qualified to operate, maintain, or design on-site sewage systems, that the septic system has been inspected within the last five years, is functioning properly, and the tank does not need to have the effluent pumped out of it. All documentation must be submitted to the director of public works.

(Code 1980, § 21-72; Code 1995, § 23-35; Ord. No. 968, § 1, 2-25-1998)

Sec. 23-34. Connection to sewer.

If a public or private sewer is within 300 feet of the building for which a septic tank or privy is to be installed, the owner shall connect to the sewer if the owner of the sewer consents. If a public or private sewer is within 300 feet of the building for which a septic tank or privy is to be repaired, the owner shall connect to the sewer if the sewer owner consents and if the health officer determines that correction of an unsanitary condition due to a malfunctioning sewage disposal device would necessitate major repairs.

(Code 1980, § 21-70; Code 1995, § 23-36)

State law reference—Water and sewer connections, exceptions, Code of Virginia, § 15.2-5137.

Secs. 23-35—23-56. Reserved.

DIVISION 2. PRIVATE SEWAGE DISPOSAL SYSTEMS

***State law reference—**Septic tank permit, Code of Virginia, § 32.1-164.

Sec. 23-57. Approval of plans.

Before construction is begun on any privately owned sewage disposal system or standard pit privy, plans shall be approved by the health director and, if required, by the state health department and the state water control board.

(Code 1980, § 21-2; Code 1995, § 23-61)

Sec. 23-58. Septic tank permit.

(a) *Required; application.* It shall be unlawful to install or repair, have installed or repaired, allow to be installed or repaired, or contract to install or repair a septic tank system without first obtaining a septic tank permit from the health department. The applicant shall provide the legal description, location and dimensions of the land on which the septic tank, distribution box and drain tile are to be installed, the proposed and existing structures and driveways, all underground utilities, the adjacent soil absorption systems, the bodies of water, drainageways, and wells and springs within 200 feet of the proposed building site, and the plans and specifications of the proposed septic tank system. The application shall also show the location of Chesapeake Bay Preservation Areas and the reserve drainfield required by section 23-60.

(b) *Determination by health officer.* Upon receipt of a permit application and a fee of $50.00, the health officer will determine whether the land is suitable for installation and use of a septic tank system. The health officer will follow the sewage handling and disposal regulations of the state board of health. In addition, the health officer will ensure that septic systems are not located within ten feet of any wetlands, resource protection areas as defined in section 24-5802.B and article 8, division 5, General Definitions, of chapter 24, reserve drainfields required by section 23-64, or buffers required by zoning proffers or chapter 24.

(c) *Issuance.* Upon approval of the application, the health officer shall issue a permit for the installation or repair of the septic tank system in accordance with the plans and specifications. If the plans are not approved but the size and topography of the land and the type of soil are suitable for a septic tank system, the health officer shall set out proper plans and issue the permit for such plans.

(Code 1980, § 21-74; Code 1995, § 23-62)

Sec. 23-59. Installation and location.

(a) *Size of excavation; removal of obstructions.* All excavations and trenches for a private sewage disposal system shall be of sufficient size to permit installation of sewers, tanks and other structures and to permit removal of any obstructing material within the purification field or trees located closer than ten feet to any part of the septic tank system. Where it is necessary to remove any trees, removal must be done prior to installation and final approval of the septic tank system.

(b) *Removal of trees.* If trees interfere with the proper functioning of a septic tank system, the owner must remove them or take other corrective actions. Correction shall be made according to health department directions, which may require that any or all trees within ten feet of any part of the septic tank system be removed. Where it is necessary to remove any trees, removal must be done prior to installation and final

approval of the septic tank system.

(c) *Criteria for installation and location.* Location and installation of the sewage disposal system shall ensure that it will function in a sanitary manner with reasonable maintenance and will not create a nuisance or endanger the safety of any domestic water supply. In determining a suitable location for the system, consideration shall be given to the nature of the soil, the size and shape of the lot, the slope of the natural and finished grade, the depth of the groundwater table, proximity to existing or future water supplies, proximity to Chesapeake Bay Preservation Areas, and possibilities for expansion of the system.

(d) *Location in relation to domestic water supplies.* No part of the system shall be located less than 50 feet from any water supply or where surface drainage from the system may reach any domestic water supply.

(e) *Minimum lot area.* The lot size shall be sufficient to permit proper location, installation and operation of the system and a replacement system. Any new lot with both a well and septic system shall not be less than one acre in area and 150 feet in lot width. The health officer shall verify that any lot not served by either public water or sewer meets the minimum requirements for lot area and width in accordance with the provisions of chapter 24.

(f) *Modification of requirements.* The health officer may modify the requirements of this section if he finds that modification will not adversely affect any other requirements of this chapter concerning water supply and disposal of sanitary wastes.

(Code 1980, § 21-75; Code 1995, § 23-63)

Sec. 23-60. Reserve drainfield.

A reserve sewage disposal site with a capacity equal to or greater than the primary drainfield must be provided wholly on each lot or acre for new construction. This reserve sewage disposal site requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if the health department determines the lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal area. Building shall be prohibited on the area of all primary and reserve sewage disposal sites until the structure is served by public sewer or an on-site sewage treatment system which operates under a permit issued by the state water control board.

(Code 1980, § 21-76; Code 1995, § 23-64; Ord. No. 1059, § 1, 11-12-2003)

Secs. 23-61—23-78. Reserved.

DIVISION 3. – LIQUID WASTE HAULING AND DISPOSAL

Sec. 23-79. Approval of equipment.

No person shall engage in the business of hauling sewage, septage or other liquid industrial or commercial wastes in the county unless the person has provided the director with copies of all required equipment inspection permits issued by the health department, the United States Department of Transportation, or other agency.

(Code 1980, § 21-78; Code 1995, § 23-81)

Sec. 23-80. Display of identification on equipment.

The name and address of the person owning and operating septage hauling equipment shall be displayed on the vehicle in letters at least four inches high prior to inspection and operation of the vehicle.

(Code 1980, § 21-79; Code 1995, § 23-82)

Sec. 23-81. Records of liquid waste haulers.

(a) Every waste hauler discharging in the county shall maintain a manifest containing the following information on each load:

(1) The name and address of the customer.

(2) The address of the load's origin.

(3) The nature and volume of the waste.

(4) The kind of facility serviced, e.g., grease trap, septic tank, etc.

(5) The date of the servicing.

(6) The location of the discharge.

(b) A copy of the manifest must be presented to the department at the time of discharge.

(Code 1980, § 21-80; Code 1995, § 23-83)

Sec. 23-82. Disposal of wastewater.

(a) *Generally.*

(1) *Location for discharge of waste.* It shall be unlawful to dispose of any truck-hauled wastewater removed from septic tanks, grease traps and portable toilets or wastes from any other source anywhere in the county except by depositing it at the wastewater treatment facility, 2601 Kingsland Road.

(2) *Discharge permit required; issuance; renewal.* Disposal of such wastes shall require an indirect discharge permit or special discharge permit issued by the director. The indirect discharge permit or special discharge permit shall be issued for a period of one year and shall be renewed only upon written request 30 days prior to expiration of the permit. The permit shall specify the conditions under which a discharge may be made to the sewer system.

(3) *Maintenance of sanitary conditions.* The waste material shall be carefully deposited. The surface of the ground or area surrounding the receptacles into which the deposit is made shall be maintained in a sanitary condition. Any spillage of material on the surface of the ground shall be promptly and completely removed by the discharger.

(b) *Types of discharge permits.* An indirect discharge permit is required for persons engaged in the business of discharging truck-hauled septic tank, grease trap or portable toilet wastes into the wastewater treatment facility. A special discharge permit is required by persons engaged in the business of discharging truck hauled wastes other than septic tank, grease trap or portable toilet wastes into the wastewater treatment facility.

(c) *Use of wastewater facility.* Disposal into the wastewater facility shall be in accordance with the following provisions:

(1) No material shall be deposited into the sewer system in conflict with other provisions of this Code.

(2) No material shall be deposited into the sewer system at any location except at the wastewater treatment facility.

(3) Any person disposing of septic tank or grease trap wastes, portable toilet wastes or other approved wastes shall be liable for a volume charge of $0.05 per gallon.

(4) Any person disposing of wastes other than septic tank, grease trap or portable toilet wastes may be subject to an additional charge based upon the strength and volume of the waste.

(5) No material in excess of the local effluent limits set forth in section 23-117 shall be deposited in the sewer system.

(d) *Authority to establish additional rules and regulations.* The director may establish rules and regulations to ensure compliance with the provisions of this chapter.

(e) *Generator permit.* Any person generating a liquid waste other than septic tank, grease trap or portable

toilet wastes is required to obtain a generator permit issued by the director to dispose of the waste at the wastewater treatment facility. A separate generator permit must be secured for each separate discharge unless wastewater is routinely produced and is of a quantity and quality allowed by the permit.

(f) *Violations.* Discharge of truck-hauled waste without a permit or in violation of a permit shall be punishable as provided in section 1-13.

(Code 1980, § 21-81; Code 1995, § 23-84)

Sec. 23-83. Insertion of hoses into manhole, sewer or water body.

No hose from a truck-hauled waste vehicle may be inserted into any county manhole or sewer, nor may it be inserted into any water of the state.

(Code 1980, § 21-82; Code 1995, § 23-85)

Secs. 23-84—23-109. Reserved.

DIVISION 4. COUNTY SEWER SYSTEM

Sec. 23-110. Service to be provided to property line.

Upon the director's approval, sewer service will be provided from the existing main in the street, alley or easement to the property line of an applicant.

(Code 1980, § 21-44; Code 1995, § 23-101)

Sec. 23-111. Damaging system.

It shall be unlawful for any person to deface, injure or destroy any structure, pipe or other fixture connected with the sewer system. Violators shall be subject to criminal charges and the cost of repair or replacement.

(Code 1980, § 21-42; Code 1995, § 23-102)

Sec. 23-112. Claims for damages caused by sewer backups.

Owners may submit a written claim for damages caused by a backup of a county sewer to the director. Claims must state the basis and amount of the claim and include copies of invoices or estimates for repair or replacement. The claim may be paid if the county caused the damages by negligent maintenance or operation, faulty construction, or overloading of the sewer line.

(Code 1980, § 21-42.1; Code 1995, § 23-103)

Sec. 23-113. Removal of manhole covers.

It is unlawful for any person to remove a manhole cover without the permission of the director or his designee.

(Code 1980, § 21-43.1; Code 1995, § 23-104)

Sec. 23-114. Monitoring facilities.

(a) A monitoring manhole shall be provided for all new construction and for all renovations or modifications of existing facilities if the new, renovated or modified facility will have discharges which are or may be

nondomestic in nature.

(b) The director may require a monitoring manhole in other cases where the director deems it to be necessary. The facility shall install the manhole at its own expense to meet the director's requirements.

(c) The monitoring manhole shall have an opening at least 24 inches in diameter to allow inspection, sampling and flow measurement from the building and its internal drainage systems. The monitoring manhole shall be located on the premises, except when the director determines such location would be impractical or would cause undue hardship, in which case the director may allow the manhole to be constructed on county property or in county easements.

(d) The monitoring manhole shall be constructed to provide ample room for accurate sampling and preparation of samples for analysis. The facility must maintain the manhole in a safe, accessible and proper operating condition at all times.

(Code 1980, § 21-43.3; Code 1995, § 23-106)

Sec. 23-115. Removal of plug from service line.

It shall be unlawful for any person to remove any plug from the sanitary sewer service line for any purpose other than to make the house connection. Such person shall pump dry the trench in which the house sewer is laid and remove the plug in such a way as to prevent the entry of any groundwater, surface water, trench water, silt or any combination thereof into the sewer system.

(Code 1980, § 21-43(k); Code 1995, § 23-107)

Sec. 23-116. Prohibited wastes.

It shall be unlawful to discharge or place, or to cause to be discharged or placed, or to permit the discharge or placing of, any of the following materials in the county's sewer system:

(1) Any liquid or vapor with a temperature higher than 150 degrees Fahrenheit or any discharge that causes the temperature of the influent at the wastewater treatment plant providing treatment to exceed 104 degrees Fahrenheit;

(2) Any flammable or explosive liquid, solid or gas;

(3) Any raw garbage except from residential garbage grinders, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other materials that cause obstruction of sewer flow or interference with system operation;

(4) Any wastewater having a corrosive property that is likely to cause damage or injury to the system's structures, equipment or personnel;

(5) Any wastewater containing a substance that is likely to injure or interfere with any wastewater treatment process or which after treatment is likely to constitute or create a hazard to life or the environment;

(6) Any wastewater containing substances not susceptible to treatment by the wastewater treatment plant providing treatment;

(7) Any wastewater containing a pollutant that passes through as defined in section 23-1;

(8) Any wastewater containing a substance that would render the operation of the treatment system or plant through which it passes unlawful;

(9) Any noxious or malodorous gas or substance that creates a public nuisance;

(10) Any stormwater, surface water or subsurface water;

(11) Any gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates carbides, hydrides, sulfides, radioactive waste, steam condensate, and any other substance which the director, the state or the EPA has notified the user is a fire

hazard to the system;

(12) Solid or viscous substances which may cause flow obstructions or interference with the operation of wastewater treatment facilities;

(13) Any wastewater containing toxic pollutants which singularly or by interaction with other substances injure or interfere with any wastewater treatment process, constitute a hazard to humans or the environment, create a toxic effect in the receiving waters, or exceed the limitations set forth in a categorical pretreatment standard;

(14) Any wastewater with a color objectionable to the director which is not removed in the treatment process;

(15) Any pollutants, including oxygen-demanding pollutants (BOD_5, etc.) released at a flow rate or concentration which will cause interference with proper operation of the system;

(16) Any wastewater that causes a hazard to human life or that constitutes a public nuisance; or

(17) Any other material that the director deems to be inconsistent with the best management and operation of the POTW.

(Code 1980, § 21-43; Code 1995, § 23-108; Ord. No. 956, § 2, 8-13-1997)

Sec. 23-117. Restricted wastes.

(a) Unless permitted by a wastewater discharge permit or other document created pursuant to divisions 3, 4, or 5 of article II of this chapter, no user shall discharge wastewater to the POTW containing any of the following listed pollutants or characteristics in excess of the provided level or concentration:

Regulated Pollutant or Characteristic	*Maximum Daily Discharge**
Arsenic	4.9 mg/L
Cadmium	0.23 mg/L
Chromium	2.75 mg/L
Copper	1.16 mg/L
Cyanide	1.86 mg/L
Lead	0.44 mg/L
Mercury	0.0031 mg/L
Nickel	1.31 mg/L
Selenium	2.85 mg/L
Silver	1.58 mg/L
Zinc	4.27 mg/L
Oil and grease (petroleum-based)	100 mg/L
Oil and grease (animal- or vegetable-based)	300 mg/L
Total toxic organic compounds (TTO)	2.13 mg/L
pH	5—11 s.u.
Flashpoint less than 140 degrees F	

*All measurements shall be made in accordance with 40 CFR 136.

All concentrations for metallic substances are for total metal.

(b) The above limits apply at the point where the wastewater is discharged to the POTW. The director shall develop industrial user-specific local limits for appropriate pollutants of concern in accordance with state and federal Local Limits Guidance Criteria, and the director shall include the applicable limits in individual significant industrial user wastewater discharge permits.
(Code 1980, §§ 21-43.4, 21-64; Code 1995, § 23-109; Ord. No. 956, § 2, 8-13-1997; Ord. No. 1131, § 2, 12-9-2008)

Secs. 23-118—23-147. Reserved.

DIVISION 5. INDUSTRIAL PRETREATMENT

Sec. 23-148. State pretreatment standards.

Users must comply with all state pretreatment standards, as set out at 9 VAC § 25-31-730 through 9 VAC § 25-31-900, as they may be amended.

(Ord. No. 1131, § 3(23-127), 12-9-2008)

Sec. 23-149. Dilution.

No user shall attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limit unless expressly authorized by an applicable pretreatment standard or permit requirement.

(Ord. No. 1131, § 4(23-128), 12-9-2008)

Sec. 23-150. Violations.

(a) Users shall orally notify the director of any violation of a permit or of divisions 3, 4, and 5 of article II of this chapter within 24 hours after becoming aware of the violation. Within five days after the date of the violation, the user shall submit to the director a detailed written statement describing the cause of the violation and the measures that the user is taking to prevent future violations. The director may require a user to correct a violation by taking measures to prevent the discharge of prohibited materials or other wastes that are regulated by Section 23-116 and Section 23-117. Users shall correct all violations promptly and shall take reasonable actions to prevent damage to the POTW or the public from the violation.
(b) The director shall annually publish a list of significant industrial users who have been in significant noncompliance during the previous 12 months. This list shall be published in the largest daily newspaper of general circulation in the county. A significant industrial user is in significant noncompliance if one or more of the following criteria apply:
(1) Sixty-six percent or more of wastewater measurements taken during a six- month period exceed the daily maximum limit for the same pollutant parameter ("chronic violations of wastewater discharge limits");
(2) Thirty-three percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equal or exceed the product of the daily maximum limit multiplied by the applicable criteria (1.4 for BOD, total suspended solids, fats, oils, and grease, and 1.2 for all other pollutants, except pH) ("technical review criteria violations");
(3) Any other discharge violation that the director believes has caused, alone or in combination with other discharges, interference or pass through, or endangered the health of county personnel or the public;

(4) Any discharge of pollutants that has caused imminent danger to the environment or has required the director to exercise his emergency authority to halt or prevent such a discharge;

(5) Failure to meet a compliance schedule requirement contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance, within ninety (90) days of the scheduled date;

(6) Failure to provide any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules, within forty-five (45) days after the due date;

(7) Failure to accurately report noncompliance; or

(8) Any other violation, which may include a violation of Best Management Practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 1131, § 5(23-129), 12-9-2008)

Sec. 23-151. Administrative enforcement remedies.

(a) *Notice of violation.* When the director finds that a user has violated, or continues to violate, any provision of divisions 3, 4, or 5 of article II of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation.

(b) *Submission of plan.* Within five days of the receipt of such notice, the user shall provide the director a written explanation of the violation and a plan for the satisfactory correction and prevention of future violations, including specific required actions. Submission of a plan shall not relieve the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(c) *Show cause hearing.* The director may order a user who has violated, or continues to violate, any provision of divisions 3, 4, or 5 of article II this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place of the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. If a civil penalty is proposed, the notice shall also include the facts and legal requirements related to the alleged violation and the amount of the proposed penalty. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) on any authorized representative of the user at least thirty (30) days prior to the hearing date. At the hearing, the user may present evidence including witnesses regarding the occurrence of the alleged violation and the amount of the penalty, and the user may examine any witnesses for the locality. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(d) *Consent orders.* The director may enter into a consent order, an agreement with assurances of voluntary compliance, or a similar document with any noncompliant user. Such document shall state specific action the user must take to correct the noncompliance within a specified time period. Such documents shall have the same force and effect as administrative orders issued pursuant to section 23-151(e) and shall be judicially enforceable.

(e) *Compliance orders.* When the director finds that a user has violated, or continues to violate, any provision of divisions 3, 4, or 5 of article II of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user become compliant within a specified time. If the user does not become compliant within the time provided, the director may discontinue sewer service until the user installs and properly operates adequate treatment facilities, devices, or other related appurtenances. Compliance

orders also may contain other requirements to resolve the noncompliance, including additional self-monitoring and management actions designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, and a compliance order shall not relieve the user of liability for any violation, including a continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(f) *Right to review*. Any order issued by the director shall inform the user of his right under Code of Virginia § 15.2-2122(10)(c) to seek reconsideration by the director and of the user's right to judicial review of any final order by appeal to the circuit court on the record of the proceedings before the director.

(g) *Emergency suspensions.* After informal notice to the user, the director may immediately suspend a user's right to discharge whenever suspension is necessary to stop an actual or threatened discharge which appears, in the director's reasonable judgment, to present an imminent or substantial danger to the health or welfare of the public. After notice and opportunity to respond, the director may also suspend a user's right to discharge if the discharge threatens to interfere with the operation of the POTW or presents, or may present, a danger to the environment.

(1) Any user notified of a suspension of its right to discharge shall immediately stop or eliminate its discharge to the POTW. If a user fails to immediately comply voluntarily with the suspension order, the director may take any steps he deems necessary to prevent or minimize damage to the POTW, its receiving stream, or danger to any person, including immediate severance of the sewer connection. Unless termination proceedings pursuant to section 23-151(i) are initiated, or have been initiated, against the user, the director may allow the user to recommence its discharge when the user has demonstrated, to the satisfaction of the director, that the period of endangerment has passed.

(2) Prior to the date of any show cause or termination hearing under section 23-151(c) or (i), a user that is responsible, in whole or in part, for any discharge presenting imminent danger to the public, the environment or to the operation of the POTW shall submit to the director a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence. This section does not require a hearing prior to any emergency suspension.

(h) *Termination of right to discharge.* A user's right to discharge may be terminated if any of the following occur:

(1) User's violations of wastewater discharge permit conditions;

(2) User's failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) User's failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(4) User's refusal of reasonable access to its premises for inspection, monitoring, or sampling; or

(5) User's violation of any pretreatment standard or requirement.

(i) The director shall notify the user of the proposed termination of its right to discharge and offer an opportunity to show why its right to discharge should not be terminated. Exercise of this option by the director shall not be a bar to, or a prerequisite for, any other action against the user.

(Ord. No. 1131, § 6(23-130), 12-9-2008)

Sec. 23-152. Enforcement.

(a) *Injunctive relief.* When the director finds that a user has violated, or continues to violate, any provision of divisions 3, 4, or 5 of article II of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, the director may petition the circuit court for a temporary or permanent injunction which restrains or compels compliance with the user's wastewater discharge permit, an order issued pursuant to this chapter, or other requirement imposed by this chapter. The director may also seek legal or equitable relief, including remediation of any environmental damage caused by the user's

violation or noncompliance. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(b) *Civil penalties.*

(1) The director's assessment of civil penalties shall be made in accordance with Code of Virginia § 15.2-2122(10). The court's assessment of civil penalties shall be made in accordance with Code of Virginia § 62.1-44.32(a).

(2) A user who has violated, or continues to violate, any provision of divisions 3, 4, or 5 of article II of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement shall be liable to the county for a civil penalty of $1,000 up to $32,500.00 per violation, not to exceed $100,000 per order. In the case of violations of monthly or other average discharge limits, the director may assess penalties for each day of violation.

(3) In addition to a civil penalty, the director may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement actions under divisions 3, 4, or 5 of article II of this chapter, including sampling and monitoring expenses and the cost of any actual damages to sewers, treatment works and appurtenances incurred by the county.

(4) In determining the amount of a civil penalty, the director shall consider the severity of the violation, the extent of any potential or actual environmental harm or facility damage, the compliance history of the user, any economic benefit realized from the noncompliance, and the ability of the user to pay the penalty.

(5) Filing suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(c) *Criminal prosecution.*

(1) A user who willfully or negligently violates any provision of divisions 3, 4, or 5 of article II of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, or who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage, shall, upon conviction, be guilty of a class 1 misdemeanor, punishable by a fine of not more than $2,500.00, imprisonment for not more than 12 months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(2) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or maintained pursuant to divisions 3, 4, or 5 of article II of this chapter or a wastewater discharge permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be guilty of a class 1 misdemeanor punishable by a fine of not more than $2,500.00, imprisonment for not more than 12 months, or both.

(d) *Remedies nonexclusive.* The remedies provided for in division 5 of article II of this chapter are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the county's enforcement response plan. However, the director may take other action against any user when the circumstances warrant.

(Ord. No. 1131, § 7(23-131), 12-9-2008)

Sec. 23-153. Liability for damage caused by discharged substance.

If any discharged substance results in damage to the county sewer system, the wastewater treatment plant providing treatment or other real or personal property, or if it alters the nature or quality of the sludge generated by the wastewater treatment plant so as to increase the cost of either safe sludge removal or sludge disposal, the discharger shall be liable to the county for all damage.

(Code 1980, § 21-66; Code 1995, § 23-132)

Sec. 23-154. Applicability of categorical standards.

All discharges subject to categorical standards shall comply with the requirements of any applicable federal categorical standard, including the general pretreatment regulations set forth in the Code of Federal Regulations, and with the local limits contained in section 23-117. More stringent limits shall be imposed by the director where appropriate. In case of conflict, the more stringent limit shall apply.

(Code 1980, § 21-54; Code 1995, § 23-133; Ord. No. 1131, § 8(27-133), 12-9-2008)

Sec. 23-155. Industrial wastewater discharge permit requirements.

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the director, except that a significant industrial user that has filed a timely application pursuant to subsection (d) of this section may continue to discharge for the time period specified therein.

(b) The director may require users other than significant industrial users to obtain wastewater discharge permits when necessary to carry out the purpose of this chapter. Such users must obtain a discharge permit prior to discharging to the POTW.

(c) Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal, state, and local laws, including the standards in this chapter, categorical pretreatment standards, and local discharge limits.

(d) Wastewater discharge permit application requirements.

(1) To apply for a wastewater discharge permit, the applicant shall submit a complete industrial waste survey form to the director.

(2) An application for a wastewater discharge permit must be filed at least 60 days before discharging to the POTW.

(3) Any user sent an industrial waste survey form by the director must complete and return the form to the director within 60 days of receipt.

(4) The director will not process incomplete or inaccurate industrial waste survey forms and will return them to the user for revision.

(e) Duty to reapply. All users shall reapply for authorization and reissuance of a permit to discharge at least 90 days before the expiration of the existing permit unless the director grants permission for a later date.

(Code 1980, § 21-55; Code 1995, § 23-134; Ord. No. 1131, § 9(23-134), 12-9-2008)

Sec. 23-156. Wastewater discharge permit conditions.

Wastewater discharge permits must contain, at a minimum, the following conditions:

(1) The permit's issuance date, the permit's effective date, the permit's duration (up to five years), and the permit's expiration date.

(2) Statement of nontransferability without prior notification to the director and certification that the existing permit and any orders issued under divisions 3, 4, or 5 of article II of this chapter have been provided to the new owner or operator.

(3) Effluent limits or best management practices, based on the applicable general pretreatment standards in division 5 of article II of this chapter, categorical pretreatment standards, and local limits.

(4) Self-monitoring and sampling provisions, and reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and

sample type.

(5) Statement of applicable civil and criminal penalties for violation of pretreatment standards and other requirements; and any applicable compliance schedules, which may not extend beyond applicable federal and state deadlines.

(6) Any requirements to control slug discharges determined by the director.

(Code 1980, § 21-56; Code 1995, § 23-135; Ord. No. 1131, § 10(23-135), 12-9-2008)

Sec. 23-157. Amendments to discharge permit; renewal of permit.

(a) Discharge permits may be amended by the director in the following situations:

(1) To incorporate changes in federal, state or local requirements;

(2) When the director determines existing permit conditions are inadequate to ensure compliance with the requirements of the act, state law, or the requirements of this article; or

(3) To impose the terms of a compliance schedule.

(b) Permits shall continue in effect for the term specified therein, which may not exceed five years. Applicants desiring to continue to discharge substances after the expiration of the permit shall submit a reapplication to the director not less than 90 days prior to the permit expiration date. Reapplications shall be processed in the same way as initial applications.

(c) The permit holder shall notify the county of any changes in its operations that may change the regulated substances, the permit or the wastewater discharged.

(Code 1980, § 21-57; Code 1995, § 23-136)

Sec. 23-158. Suspension or revocation of discharge permit.

(a) The director is authorized to make rules for the suspension or revocation of discharge permits. Such rules shall provide for reasonable notice to the permit holder of a possible revocation or suspension and give an opportunity for a hearing. The rules may provide for suspension or revocation when:

(1) The permit holder is no longer in compliance with either the applicable effluent standards or the permit requirements;

(2) The substance discharged by the permit holder reasonably threatens the health, safety or welfare of the public;

(3) The substance discharged by the permit holder presents a danger to the environment; or

(4) The substance discharged by the permit holder interferes with or threatens the lawful operation of the county sewer system or the wastewater treatment plant.

(b) Upon suspension of a permit, the permit holder shall cease all discharges until all violations are corrected to the satisfaction of the director.

(c) Upon revocation of a permit, the permit holder shall cease all discharges until a new permit is issued.

(Code 1980, § 21-58; Code 1995, § 23-137)

Sec. 23-159. Correction of violations.

(a) Each permittee shall prevent accidental discharges and slug discharges of prohibited materials or other substances regulated by Section 23-116 and Section 23-117 at the permittee's expense. If an accidental discharge or slug discharge is released into the POTW, the permittee must immediately notify the director.

(b) The director shall evaluate whether each significant industrial user requires an accidental discharge/slug discharge control plan or other action to control accidental or slug discharges. The director may require any user to develop, submit for approval, and implement such a plan or take other action necessary to control accidental and slug discharges. Alternatively, the director may develop a control plan for any user. An

accidental discharge/slug discharge control plan shall address the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the director of accidental or slug discharges, including any discharge that would violate a prohibition under section 23-116, and procedures for written notification to the director within five days; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures should include inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and measures and equipment for emergency response.

(Code 1980, § 21-59; Code 1995, § 23-138; Ord. No. 1131, § 11(23-138), 12-9-2008)

Sec. 23-160. Transfer of discharge permit.

A discharge permit is not transferable. It is issued for a specific operation, based upon the information submitted. Any new dischargers shall apply for a new permit.

(Code 1980, § 21-61; Code 1995, § 23-139)

Sec. 23-161. Inspection and sampling.

The county shall inspect the facilities of any discharger to determine compliance with this Code. Persons or occupants of premises where wastewater is created or discharged or monitored shall give the director and his agents ready access to the premises at reasonable times for the purpose of inspection, sampling, record examination or monitoring.

(Code 1980, § 21-62; Code 1995, § 23-140)

Sec. 23-162. Confidentiality of information.

All reports and information submitted to the department under this subdivision are subject to disclosure under the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.), except as confidential information under 40 C.F.R. § 403.14 is protected from disclosure under Code of Virginia, § 62.1-44.21.

(Code 1980, § 21-63; Code 1995, § 23-141)

Sec. 23-163. Notice to employees; employee education program.

(a) A notice to employees of a discharge permit holder advising them who to call in the event of an accidental or unlawful discharge shall be permanently posted on the permit holder's bulletin board and near each location where wastes may be discharged into the county sewer system.

(b) Each permit holder shall have an employee education program to instruct employees involved in waste management about the requirements of the permit holder's permit. A copy of the education program shall be submitted with each permit application.

(Code 1980, § 21-60; Code 1995, § 23-142)

Secs. 23-164—23-194. Reserved.

ARTICLE III. WATER SYSTEM

*__Cross reference—__Water supply systems in subdivisions, § 19-164.

*__State law reference—__Public water supplies, Code of Virginia, § 32.1-167 et seq.; water supplies and facilities, Code of Virginia, § 15.2-2143.

DIVISION 1. GENERALLY

Sec. 23-195. Water service generally.

The director shall oversee the delivery of public water in the county, including setting, resetting, taking out and changing meters, turning water service off and on, installing and protecting water system equipment, billing and collecting for water service, and all other necessary activities.

(Code 1980, §§ 21-8, 21-18; Code 1995, § 23-171)

Sec. 23-196. Connection to existing mains.

If a county-owned water supply and distribution system is within 300 feet of a structure for which a well is to be constructed to provide potable water, the owner must connect to the county water system.

(Code 1980, § 21-13; Code 1995, § 23-172)

Sec. 23-197. Interruption of service.

The county shall not be responsible for damages or payment refunds if water service is interrupted because of choking or accident to the water meter or service pipe, failure of the water supply, or stoppages for repairs and additions. The director is authorized to interrupt water service to make repairs or additions to pipes and meters.

(Code 1980, § 21-33; Code 1995, § 23-173)

Sec. 23-198. Application for service.

Application for water service should be made to the director at least three days prior to occupancy. If the occupant did not apply for service, he shall be secondarily liable for all water consumed since the previous regular reading, and the supply of water shall be shut off until he has made proper application.

(Code 1980, § 21-28; Code 1995, § 23-174)

Sec. 23-199. Exemption from disconnection in case of contagious or infectious diseases.

Notwithstanding any other provision of this chapter, water service shall not be stopped or shut off to any premises where the health officer finds there is contagious or infectious disease which could be spread to others by stopping or shutting off service. Service shall not be stopped or shut off unless the occupant remains in default on his water bill for a period of 30 days after the end of the contagious or infectious disease.

(Code 1980, § 21-25; Code 1995, § 23-175)

State law reference—Liens for unpaid charges, Code of Virginia, § 15.2-2120.

Sec. 23-200. Obstructing valves or other fixtures; wasting water; unlawful use of water; liability for damages.

(a) No person shall place any building material, rubbish or other matter on the stopcock or valve of a water main or service pipe, obstruct access to any system fixture, or open any pipe, fire hydrant, meter, meter box or valve so as to wastewater.

(b) The owner of the premises shall be responsible for the cost of all water obtained illegally from the service connection for the premises.

(c) Any person who damages water system property shall be responsible for the cost of repairs or replacement in addition to any criminal penalties.

(d) No person shall use water for which he has not made proper application unless authorized by the director or the provisions of this Code.

(Code 1980, § 21-10; Code 1995, § 23-176)

Sec. 23-201. Exceptions to use restrictions.

Notwithstanding any other provisions of this chapter, the occupant of premises supplied with county water whose hydrant or pipe is out of order may use water from the hydrant or pipe on another property with the owner's permission. Any person may use county water to put out a fire, and fire companies may use county water to practice and to examine, clean and put their engines and hoses in good condition.

(Code 1980, § 21-11; Code 1995, § 23-177)

Sec. 23-202. Notification of director on moving from premises; new service for delinquent users.

A water customer shall give the director at least three days notice before moving or the customer shall be charged for any water that passes through the meter before water service is cut off. Any water customer with an outstanding bill may not obtain service at a different address until the bill is paid unless:

(1) The health officer finds that water service is necessary to protect the health of the occupants or to prevent the risk of spreading a contagious or infectious disease; or

(2) The customer's water bills were being paid by a landlord and the customer was not in default on payments to the landlord.

(Code 1980, § 21-29; Code 1995, § 23-178)

State law reference— Charges, fees, rents, Code of Virginia, § 15.2-2111.

Secs. 23-203—23-227. Reserved.

DIVISION 2. WATER METERS AND BILLING

Sec. 23-228. Connection generally.

Upon approval of service, the department shall provide a suitable service line to deliver water from the main in the street easement or alley to the property line of the applicant and shall place a stopcock and a water meter on the service pipe near the property line. All meters shall be the property of the county. The applicant shall be responsible for all charges after the meter has been set.

(Code 1980, §§ 21-31, 21-36; Code 1995, § 23-201)

Sec. 23-229. Location of meter.

Water meters on the premises shall be set in places approved by the director and accessible to department employees. The owner shall be responsible for the cost of relocating a meter at his request.

(Code 1980, § 21-32; Code 1995, § 23-202)

Sec. 23-230. Damage to meter.

After a water meter has been set, the owner shall be responsible for the amount of any damage caused by hot water or steam settling back from a boiler. If the amount is not paid within five days of billing, the director shall turn off the water to the premises until the amount is paid. The director shall be responsible for investigating and determining responsibility for such damage and the cost of repairs.

(Code 1980, § 21-35; Code 1995, § 23-203)

Sec. 23-231. Disconnection of meter.

No water meter shall be disconnected, moved or disturbed without the director's permission, and the director shall be responsible for making any needed changes. The director shall charge a $35.00 reconnection fee for restoring service after a customer's water service is turned off.

(Code 1980, § 21-34; Code 1995, § 23-204; Ord. No. 1130, § 2, 12-9-2008)

Sec. 23-232. Reading meters.

The department shall read all water meters at least once every two months to ensure proper billing. No more than two consecutive bills may be for estimated usage except in emergencies. The water customer or owner shall be responsible for keeping the meter box free from debris and any obstacle or animal which hinders reading the meter.

(Code 1980, § 21-17; Code 1995, § 23-205)

Sec. 23-233. Billing; adjustment of bills.

Unless the director chooses to send monthly bills, the department shall bill on a bimonthly basis for all water passing through a meter, whether used or wasted, after installation of the water meter. If underground leaks occur in water pipes or metered services and the owner, tenant or customer has promptly made all necessary repairs, the director may rebate any charges in excess of double the amount of the average bimonthly bills for the premises. The director may give the same rebate where an unexplained problem causes metered water consumption to exceed double the average bimonthly bills and the director believes the water was not beneficially used. Adjustments for an unexplained problem may only be made once every three years except in cases of extreme hardship. Average bimonthly bills are to be determined by averaging bimonthly water consumption for three previous equivalent billing periods.

(Code 1980, §§ 21-20, 21-21; Code 1995, § 23-206; Ord. No. 1130, § 3, 12-9-2008)

Cross reference— Adjustment of sewer charge, § 23-363.

Sec. 23-234. Payment of charges by county departments.

County departments shall pay for their water consumption except for water used to extinguish fires.

(Code 1980, § 21-26; Code 1995, § 23-207)

Sec. 23-235. Determination of charges when meter is not operating.

If a customer has received the usual supply of water during a period when his water meter is not

operating for any reason, the director shall bill the customer for the average bimonthly amount of water used during the preceding six months, or longer period if deemed proper by the director. In the alternative, the director may bill for the percentage of average consumption shown by a test of the meter.

(Code 1980, § 21-27; Code 1995, § 23-208)

Secs. 23-236—23-263. Reserved.

DIVISION 3. WATER SHORTAGES

*__Cross reference—__Open burning prohibited during drought conditions, § 11-19.

*__State law reference—__Local water-saving ordinances, Code of Virginia, § 15.2-923; water supply emergency ordinances, Code of Virginia, § 15.2-924.

Sec. 23-264. Definitions.

The following words and phrases, when used in this division, shall have the meanings ascribed to them below, except in those instances when the context clearly indicates a different meaning:

Assessment date means the date of the water bill on which a fine for violation of this article is imposed.

Established landscaping means landscaping plantings including, but not limited to, gardens, flowers, trees and shrubs existing in an area after such period of time as to accomplish an establishment and maintenance of growth.

Established lawns means lawns existing in an area after such period of time as to accomplish an establishment and maintenance of growth.

Fountain means a water display where water is sprayed strictly for ornamental purposes.

Golf course means an irrigated and landscaped playing area made up of greens, tees, fairways, roughs and related areas used for the playing of golf.

New landscaping means any landscaping planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth.

New lawns means lawns made up of sod or seeds planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth. This does not include refurbishment of established lawns by means of aeration and seeding, dethatching and seeding, or power overseeding.

Swimming pool means any structure, basin, chamber, or tank including hot tubs, containing an artificial body of water for swimming, diving or recreational bathing and having a depth of two feet or more at any point.

(Code 1995, § 23-231; Ord. No. 1119, § 1, 1-8-2008)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 23-265. Mandatory public water use restrictions.

The use of the public water system shall be limited as follows:

(1) *Fountains.* Water use is prohibited.

(2) *Paved areas.* Washing is prohibited except for health and safety requirements.

(3) *Swimming pools.* Filling and replenishing to maintain health and safety is permitted. New or repaired pools may be filled as needed to maintain their structural integrity. All other uses are prohibited.

(4) *Vehicle washing.* Noncommercial washing of vehicles is prohibited, except that construction, emergency or public transportation vehicles may be washed as needed to preserve their proper functioning and safe operation. Commercial vehicle washing businesses are permitted to operate under normal conditions.

(5) *Established landscaping.* Watering is limited to three days per week by address. Addresses ending in an odd number may water only on Tuesday, Thursday and Saturday. Addresses ending with an even number, or with no number, may water only on Wednesday, Friday and Sunday. No watering is allowed on Mondays. Bucket watering (five-gallon maximum size) is permitted any time.

(6) *Established lawns.* Watering is prohibited except as follows:

a. Bucket watering (five-gallon maximum size) is permitted any time.

b. Watering is permitted for one day before and 30 days after refurbishment of established lawns by means of motorized core aeration and seeding, motorized thatching and seeding, or motorized light tilling and seeding, provided such refurbishment takes place between September 1 and October 31.

(7) *New landscaping.* Watering is permitted for the first 30 days after planting. Thereafter, the restriction for established landscaping shall apply.

(8) *New lawns.* Watering is permitted for the first 30 days after sodding or seeding. Thereafter, the restriction for established lawns shall apply. New lawns do not include refurbishment of established lawns by means of aeration and seeding, dethatching and seeding, or power overseeding.

(9) *Restaurants.* Water shall be served to customers only upon request.

(10) *Golf courses.* Watering is prohibited from 10:00 a.m. to 8:00 p.m., except for the watering of greens or watering by hand-held hoses that are one inch or smaller in diameter.

(11) *All other businesses.* Water use is limited to uses essential for business use and human hygiene.

(12) *Athletic fields.* Athletic fields may be watered only between 8:00 p.m. and 10:00 a.m. and only at a rate not exceeding a total of one inch during any ten-day period.

(Code 1995, § 23-232; Ord. No. 1119, § 2, 1-8-2008; Ord. No. 1134, § 1, 8-11-2009)

Sec. 23-266. When restrictions go into effect; notice.

(a) The water use restrictions set forth in this division shall take effect when any one or more of the following conditions occurs:

(1) The director of public utilities for the city or his designee advises the director of public utilities for the county in writing that the city is invoking mandatory water use restrictions;

(2) The director of public utilities for the county or his designee advises the county manager in writing that the James River flow levels meet the water treatment plant's DEQ intake permit requirements for mandatory water conservation; or

(3) The county manager declares in writing the need for mandatory water conservation for the county.

(b) The water use restrictions shall end when the notice that triggered them is superseded by a notice indicating the reason for the restrictions no longer exists.

(c) Notice of these public water use restrictions shall be published in the Richmond Times-Dispatch for a period of one day per week each week during which the restrictions are in effect.

(Code 1995, § 23-233; Ord. No. 1119, § 3, 1-8-2008)

Sec. 23-267. Violation and penalties.

(a) Any person who uses water, or allows or causes the use of water, in violation of any provision of this division after publication of notice pursuant to section 23-233(c) shall be subject to the following penalties:

(1) For the first offense, violators shall receive a written warning delivered in person or posted by a representative of the county department of public utilities.

(2) For the second offense, violators shall be fined $50.00, the fine to be imposed on the violator's next water bill.

(3) For the third and each subsequent offense, violators shall be fined $100.00 for each offense, the fine to be imposed on the violator's next water bill.

(4) Each violation by a person shall be counted as a separate violation by that person, irrespective of the location at which the violation occurs.

(b) Persons who have been assessed a penalty shall have the right to challenge the assessment by providing a written notice to the director of public utilities within ten days of the assessment date. The director shall determine whether the penalty was properly assessed and notify the complaining person in writing of his determination. Should the director determine that the penalty was properly assessed, the person may appeal that determination by providing written notice to the county manager within ten days of receiving the notice of determination. The county manager or his designee shall determine whether the penalty was properly assessed and notify the complaining person in writing of his determination.

(c) The director of public utilities may waive the penalty if he determines that the violation occurred due to no fault of the person.

(Code 1995, § 23-234; Ord. No. 1119, § 4, 1-8-2008)

Secs. 23-268—23-297. Reserved.

ARTICLE IV. FEES, CHARGES AND ASSESSMENTS FOR WATER AND SEWER SERVICE

***State law reference—** Fees and charges for sewer services, Code of Virginia, § 15.2-2119 et seq.

DIVISION 1. GENERALLY

Secs. 23-298—23-327. Reserved.

DIVISION 2. DEPOSITS AND PAYMENTS

Sec. 23-328. Service deposit.

(a) *Deposit required.* Persons applying for available water and sewer service to property they do not own shall pay a deposit to ensure payment for each type of service of $100.00 or another amount deemed necessary by the director to cover anticipated usage for one billing period. The deposit shall be billed to the customer's account. The county shall hold the deposit as surety without interest. A security deposit shall not be required if the customer is a lessee or tenant who has provided the director with a letter from the owner of the property where service is to be provided attaching documentation that such lessee or tenant receives need-based local, state or federal rental assistance.

(b) *Return of deposit.* The deposit shall be credited to the customer's account under the following circumstances:

(1) When service is discontinued; or

(2) If the customer has not been turned off for nonpayment and has not had more than one late payment on the account over the last 365 days.

In addition, the director shall have the right to return the deposit under other circumstances in his discretion.

(c) *Waiver of deposit.* A service deposit may be waived for a customer that has had a water or sewer account

with the county for at least 12 months during the 24 months preceding the application for service, if service under that account was not turned off for nonpayment and the customer had no more than one late payment during the 12-month period of service preceding the application date. A service deposit may be waived for a new customer to the county who provides a letter from the customer's previous water or sewer provider that states the customer had a satisfactory payment record for the 12 months prior to the application date.
(Code 1980, §§ 21-19, 21-46; Code 1995, § 23-281; Ord. No. 918, § 1, 4-24-1996; Ord. No. 943, § 1, 4-23-1997; Ord. No. 1130, § 4, 12-9-2008)

Sec. 23-329. Payments generally.

All fees, charges, assessments and deposits for water and sewer service shall be paid to the director of finance or authorized payment agents.

(Code 1980, § 21-19; Code 1995, § 23-282)

Sec. 23-330. Installment payments.

Upon written request, any owner may pay basic connection fees and local facilities fees in installments subject to the following provisions:

(1) Basic connection fees may be paid in up to 36 monthly installments and local facilities fees may be paid in up to 120 monthly installments. Interest based upon the Wall Street Journal Prime Rate in effect on the date of the contract plus one percent shall be charged on a per annum basis on the unpaid balance.
(2) The owner shall execute a contract and a note in a form approved by the county attorney to evidence and secure the obligation to make the installment payments. The contract and note shall state the amount and number of payments and other terms deemed necessary by the director. A memorandum of lien shall be recorded in the circuit court of the county.
(3) The county shall have the right to collect overdue amounts as provided by law or the contract between the parties.
(4) The note shall be paid in full prior to the owner's transfer of title to the property. If it is not, the county may, in addition to its other rights and remedies, remove all of its facilities and discontinue service if there is no danger to public health or safety. If service is subsequently reestablished, the county may require payment of the fees in effect at the time of reestablishment as if service had never been installed.
(Code 1980, §§ 21-38, 21-48; Code 1995, § 23-283; Ord. No. 1132, § 1, 1-13-2009)

Sec. 23-331. Overdue bills; discontinuance of service.

(a) All charges for water, sewer, and refuse service are due within 30 days of billing, and a $1.00 service charge will be added to all delinquent bills. If a due date falls on a weekend or holiday, the due date is the next business day. The director must notify the owner or tenant in writing that the bill is delinquent, that the owner or tenant may contest the bill by contacting the director and that all utility service may be discontinued if the delinquent bill is not paid within 45 days of the notice. If the delinquent bill is not paid by the delinquent due date, refuse service may be discontinued, and water service, sewer service, or both may be disconnected unless (1) the health officer certifies that shutting off the water will endanger the health of the occupants of the premises or the health of others or (ii) in the case of residential customers, the forecasted temperature is at or above 92 degrees within the 24 hours following the scheduled disconnection. The forecasted temperature will be determined by reference to the forecasted local temperature provided by the National Weather Service for the residential customer's location. Water and sewer service to residential customers will not be disconnected for nonpayment on Fridays, weekends, state holidays, or the day immediately preceding a state holiday.

(b) Once disconnected and discontinued, the supply of water will not be restored untilthe outstanding balance and a charge of $35.00 for reconnecting water service is paid in full or until the director has approved other payment arrangements. Sewer service will not be restored until the outstanding balance and the cost of disconnecting and reconnecting sewer service have been paid in full or until the director has approved other payment arrangements. Refuse service will not be restored until the outstanding balance and all applicable water and sewer disconnection and reconnection charges for the property have been paid or until the director has approved other payment arrangements. If the owner or tenant vacates property with a delinquent utility bill, the outstanding balance may be transferred to any other property within the county

where the owner or tenant has utility service if the owner or tenant has been notified as provided in this section. If the outstanding balance is not paid within the time specified, water and refuse service at the property to which the balance has been transferred may be discontinued.

(c) In the case of any state of emergency declared by the Governor in response to a communicable disease of public health threat and notwithstanding any other provision of this chapter, neither water nor sewer service to residential customers will be stopped or shut off for nonpayment for 30 days upon the declaration of such emergency.

(Code 1980, §§ 21-22, 21-51; Code 1995, § 23-284; Ord. No. 1130, § 5, 12-9-2008)

Cross reference— Bill for refuse collection, etc., § 17-60.

Sec. 23-332. Charges to constitute lien.

All fees, charges and assessments for water and sewer service shall be a lien on the real estate served by the water and sewer systems. Where residential real estate is involved, no lien shall attach unless the user of the water or sewer service is also the owner of the real estate or unless the owner negotiated or executed the agreement by which water or sewer service is provided to the property.

(Code 1980, §§ 21-23, 21-52; Code 1995, § 23-285)

State law reference— Lien, Code of Virginia, § 15.2-2118.

Sec. 23-333. Enforcement of lien.

Any lien for water and sewer service fees, charges or assessments docketed in the circuit court may be enforced in the same manner as other county taxes.

(Code 1980, §§ 21-24, 21-53; Code 1995, § 23-286)

State law reference— Enforcement of lien, Code of Virginia, § 15.2-2120.

Sec. 23-334. Customer setup charges.

A customer setup charge of $14.00 shall be charged on the first bill of every new water or sewer account, whether established by a new customer or an existing customer.

(Code 1995, § 23-287; Ord. No. 944, § 1, 4-23-1997; Ord. No. 1120, § 2, 4-22-2008)

Sec. 23-335. Costs and fees for collecting delinquent utility charges.

If a person fails to timely pay a utility charge due the county, such person shall be liable for costs incurred by the county and attorney's or collection agency's fees equal to 20 percent of the delinquent utility bill associated with the collection of delinquent utility charges. Costs, attorney's and collection agency's fees may be recovered by an action at law or suit in equity.

(Code 1995, § 23-288; Ord. No. 951, § 1, 7-9-1997)

Secs. 23-336—23-358. Reserved.

DIVISION 3. CONNECTION FEES AND SERVICE CHARGES

Sec. 23-359. Water connection fees.

(a) *Components of fee.* The total water connection fee shall consist of costs for basic connection, local facilities, off-site extensions, and off-site and oversized main credits.

(b) *Basic connection fee.*

(1) The basic connection fee covers installation of the water meter and partial payment for backup facilities. The basic connection fee shall be assessed on all connectors except for fire service and payment shall accompanythe application for connection as follows:

Single-family dwellings, including semi-detached dwellings	$5,110.00/dwelling unit
Multifamily dwellings	4,710.00/dwelling unit
Motel and hotel	2,595.00/room
Hospital	5,985.00/bed
Nursing facility	3,995.00/bed
Assisted living facility	1,995.00/bed
Dormitory	1,500.00/bed
Facilities providing permanent housing for elderly or handicapped persons and operated by charitable, nonstock, nonprofit organizations which are exempted by section 501(c)(3) of the Internal Revenue Code	1,995.00/dwelling unit

(2) The basic connection fee for an existing single-family dwelling served by an individual private well shall be $2,550.00.

(3) The fee for all other business, industrial and public buildings will be based on meter size as follows:

Meter Size (inches)	*Basic Connection Fee*
⅝	$5,110.00
1	18,270.00
1½	36,450.00
2	72,340.00
3	144,685.00
4	226,070.00
6	452,140.00
8	723,105.00
10	1,039,800.00

The connection fee for a permanent connection which will be used at special events for no more than 12 days

per calendar year shall be ten percent of the basic connection fee above. If usage exceeds 12 days per year, the balance of the fees above shall be due within 30 days.

(4) There shall be no connection fee for a backup service connection as long as it is used only when the regular water service connection fails. If both the regular and the backup water connection are ever used simultaneously, the owner shall pay the basic connection fee in subsection (3) for the backup service connection.

(c) *Local facilities fee.* The connector shall pay for all local facilities subject to the off-site and oversized mains credit policy.

(1) Where local facilities are not available to the connector's property, the connector shall pay the full cost of the local facilities installed to serve the connector's property. Developers of new subdivisions shall install local water facilities in accordance with chapter 19 and water agreements approved by the board of supervisors. Along any public right-of-way or easement where the property owner desires service for his own personal use (i.e., a single-family residential unit in which the owner intends to reside), the county will extend the local facilities at the owner's expense. The cost of such extension shall be $30 per linear foot of water main extension, except that the cost for such extension to serve an existing single-family dwelling served by an individual private well shall be $15 per linear foot, plus the cost of installing the connection from the main to the property line as follows:

Water Meter Size (inches)	*Service Size (inches)*	*Installation Charge*	*Water Meter Charge*
⅝	1	$2,895.00	$148
⅝	1½	3,705.00	148
1	1	3,060.00	188
1	1½	3,705.00	188
1	2	3,705.00	188
1½	1½	6,020.00	386
1½	2	6,020.00	386
2	2	6,020.00	510

The cost of a five-eighths-inch domestic meter is included in the basic connection fee for single-family residential connections.

(2) Where local facilities are available to the connector's property and where costs of the local facilities have not been previously assessed against the property being connected, a local facilities fee shall be required. The local facilities fee shall be as follows:

Meter Size (inches)	*Local Facilities Fee*
⅝	$2,895
1	3,705
1½	6,020
2	6,020

(d) *Off-site extensions.* The connector shall pay for all off-site extensions required to provide service to the

connector's property, subject to the off-site and oversized mains credit policy.

(e) *Off-site line credit policy.* The director shall give a credit against the basic water connection fee for any off-site waterline extension in excess of 300 feet required to provide water service to the property. No credit shall be given for off-site extensions of less than 300 feet, and the amount of the credit shall be based upon the length of the extension greater than 300 feet. Credits for construction of the waterline extension will be computed based on unit prices taken from recent bids received by the county or arms' length bids received by the applicant, whichever are less.

(f) *Oversized line credit.* The director shall give a credit against the basic water connection fee for any waterline larger than necessary to adequately serve the property. The amount of the credit shall be the difference in the estimated cost between the oversized waterline provided and the waterline size necessary to adequately serve the property.

(g) *Off-site and oversized line credit.* When the waterline provided is both off-site and oversized as specified in subsections (e) and (f) of this section, the amount of the credit shall be the sum of:

(1) For the on-site extension and the first 300 feet of the off-site extension, the difference in cost between the waterline provided and the waterline necessary to adequately serve the property; and

(2) 100 percent of the cost of the off-site extension in excess of 300 feet.

(h) *Credit transfer.* If an applicant becomes entitled to credits for a waterline extension approved by the director after May 11, 2004, and such credits exceed the water connection fees required for the project, the applicant may submit written authorization for a transfer of credits to other properties that are under contract with the county for service. Each transferred credit shall be applied to the property specified by the applicant and may not be applied to another property.

(i) *Bonus credit.* If the county requests off-site extension of a waterline for a distance greater than that required to provide water service to the property, and if the applicant provides the additional extension for the benefit of the county, the director shall give a bonus credit for the extension that exceeds the required distance. The amount of the bonus credit shall be 1.5 times the credit computed under subsections (e) through (g) of this section for the portion that exceeds the required distance and shall be added to the credit given under subsections (e) through (g) of this section for the required distance.

(j) *Credits for other facilities.* The director shall give a 100 percent credit for the cost of water facilities other than waterlines or their appurtenances provided by the applicant.

(k) *Credits generated on or after July 1, 2023.* Credits generated pursuant to this section on or after July 1, 2023, will be known as "utility credits" and may be used to offset connection fees incurred under this section or section 23-360.

(Code 1980, § 21-37; Code 1995, § 23-311; Ord. No. 913, § 2, 1-10-1996; Ord. No. 918, § 2, 4-24-1996; Ord. No. 944, § 2, 4-23-1997; Ord. No. 974, § 1, 4-22-1998; Ord. No. 984, § 1, 4-27-1999; Ord. No. 1044, § 1, 5-27-2003; Ord. No. 1066, § 1, 5-11-2004; Ord. No. 1075, § 1, 4-26-2005; Ord. No. 1085, § 1, 4-25-2006; Ord. No. 1105, § 1, 4-24-2007; Ord. No. 1120, § 3, 4-22-2008)

Sec. 23-360. Sewer connection fees.

(a) *Components of fee.* The total sewer connection fee shall consist of costs for basic connection, local facilities, off-site extensions, and off-site and oversized main credits.

(b) *Basic connection fee.*

(1) The basic connection fee for all applicants is a partial payment for backup facilities. The basic connection fee shall be assessed to all connectors and the payment shall accompany the application as follows:

Single-family dwellings (including semi-detached dwellings)	$6,180/dwelling unit
Multifamily dwelling	5,700/dwelling unit
Motels and hotels	3,145/room

Hospitals	7,250/bed
Nursing facilities	4,830/bed
Assisted living facilities	2,415/bed
Dormitory	1,810/bed
Facilities providing permanent housing for elderly or handicapped persons and operated by charitable, nonstock, nonprofit organizations which are exempted by section 501(c)(3) of the Internal Revenue Code	2,415/dwelling unit

(2) The basic connection fee for an existing single-family dwelling served by an individual septic system shall be $3,095. For purposes of computing connection costs and fees under this section, a privy shall be treated as an individual septic system.

(3) Fees for all other business, industrial and public buildings will be based on meter size as follows:

Meter Size (inches)	*Basic Connection Fee*
⅝	$6,180
1	22,105
1½	44,115
2	87,555
3	175,110
4	273,615
6	547,215
8	875,545
10	1,258,600

The connection fee for a permanent connection which will be used at special events for no more than 12 days per calendar year shall be ten percent of the basic connection fee above. If usage exceeds 12 days per year, the balance of the fees above shall be due within 30 days.

(c) *Local facilities fee.* The connector shall pay for all local facilities subject to the off-site and oversized mains credit policy.

(1) Where local facilities are not available to the connector's property, the connector shall pay the full cost of the local facilities installed to serve the connector's property. Developers of new subdivisions shall install local sewer facilities in accordance with chapter 19 and sewer agreements approved by the board of supervisors. Along any public right-of-way or easement where the property owner desires service for his own personal use (i.e., a single-family residential unit in which the owner intends to reside), the county will extend the local facilities at the owner's expense. The cost of such extension shall be $50 per linear foot of sewer main extension, except that the cost for such extension to serve an existing single-family dwelling served by an individual septic system shall be $25 per linear foot, plus a cost of $3,475 for installing the connection from the main to the property line.

(2) Where local facilities are available to the connector's property and where the costs of such local facilities have not been previously assessed against the property being connected, a local facilities fee shall be required. The local facilities fee shall be $3,475.

(d) *Off-site extensions.* A connector shall pay for all off-site extensions required to provide service to the connector's property, subject to the off-site and oversized mains credit policy.

(e) *Off-site line credit policy.* The director shall give a credit against the basic sewer connection fee for any off-site sewer line extension in excess of 300 feet required to provide sewer service to the property. No credit shall be given for off-site extensions of less than 300 feet, and the amount of the credit shall be based upon the length of the extension greater than 300 feet. Credits for construction of the sewer line extension will be

computed based on unit prices taken from recent bids received by the county or arms' length bids received by the applicant, whichever are less.

(f) *Oversized line credit.* The director shall give a credit against the basic sewer connection fee for any sewer line larger than necessary to adequately serve the property. The amount of the credit shall be the difference in the estimated cost between the oversized sewer line provided and the sewer line necessary to adequately serve the property.

(g) *Off-site and oversized line credit.* When the sewer line provided is both offsite and oversized as specified in subsections (e) and (f) of this section, the amount of the credit shall be the sum of: (1) for the on-site extension and the first 300 feet of the off-site extension, the difference in cost between the sewer line size provided and the sewer line necessary to adequately serve the property; and (2) 100 percent of the cost of the off-site extension in excess of 300 feet.

(h) *Credit transfer.* If an applicant becomes entitled to credits for a sewer line extension approved by the director after May 11, 2004, and such credits exceed the sewer connection fees required for the project, the applicant may submit written authorization for a transfer of credits to other properties that are under contract with the county for service. Each transferred credit shall be applied to the property specified by the applicant and may not be applied to another property.

(i) *Bonus credit.* If the county requests off-site extension of a sewer line for a distance greater than that required to provide sewer service to the property, and if the applicant provides the additional extension for the benefit of the county, the director shall give a bonus credit for the extension that exceeds the required distance. The amount of the bonus credit shall be 1.5 times the credit computed under subsections (e) through (g) of this section for the portion that exceeds the required distance and shall be added to the credit given under subsections (e) through (g) of this section for the required distance.

(j) *Credits for other facilities.* The director shall give a 100 percent credit for the cost of sewer facilities other than sewer lines or their appurtenances provided by the applicant.

(k) *Credits generated on or after July 1, 2023.* Credits generated pursuant to this section on or after July 1, 2023, will be known as "utility credits" and may be used to offset connection fees incurred under this section or section 23-359.

(Code 1980, §§ 21-47, 21-71; Code 1995, § 23-312; Ord. No. 913, § 2, 1-10-1996; Ord. No. 918, § 3, 4-24-1996; Ord. No. 944, § 3, 4-23-1997; Ord. No. 974, § 2, 4-22-1998; Ord. No. 984, § 2, 4-27-1999; Ord. No. 1044, § 2, 5-27-2003; Ord. No. 1066, § 2, 5-11-2004; Ord. No. 1075, § 2, 4-26-2005; Ord. No. 1085, § 2, 4-25-2006; Ord. No. 1105, § 2, 4-24-2007; Ord. No. 1120, § 4, 4-22-2008)

Sec. 23-361. Water service and volume charges.

(a) *Amount of charges.* The charges for water service consist of a service charge and a volume charge, as follows:

(1) *Service charge.* All users billed bimonthly must pay the following charge. Users billed monthly must pay one-half of this charge.

a. Connected users:

Meter Size (inches)	*Bimonthly Charge*
⅝ or ¾	$19.95
1	47.20
1½	86.80
2	133.25
3	219.70
4	352.95
6	682.25

8	1,365.45
10	1,365.45

b. Single-family residential users with fire sprinkler system, five-eighths-inch, three-fourths-inch or one-inch meter: $19.95.

c. Not connected, single-family and multifamily residential users, per single-family residential unit: $19.95.

d. When there is a backup service connection, the owner must pay the amount of the service charge in subsection (a) for both the regular service connection and the backup service connection.

(2) *Volume charge.* In addition to the service charges, the following volume charges apply to all water delivered:

Consumption Block 100 Cubic Feet			
	Monthly	*Bimonthly*	*Volume Charge per 100 Cubic Feet*
First	5,000	10,000	$4.59
Next	35,000	70,000	3.13
Over	40,000	80,000	2.25

For single-family residential customers using six CCF or less bimonthly, the volume charge is $2.86 per CCF.

(b) *General provisions.*

(1) The service charge shall not apply to meters devoted exclusively to fire service.

(2) Any bills rendered for less than a full billing period shall have the service charge prorated according to days of use, plus the actual volume charge.

(3) Charges shall begin as required by contract or when the meter is set and shall continue until water service is abandoned.

(4) Rates for service provided to contract users shall be established by the contract.

(5) The volume charge on multimeter installations shall be applied to the sum of the volume.

(Code 1980, § 21-30; Code 1995, § 23-313; Ord. No. 918, § 4, 4-24-1996; Ord. No. 928, § 1, 7-24-1996; Ord. No. 944, § 4, 4-23-1997; Ord. No. 974, § 3, 4-22-1998; Ord. No. 984, § 3, 4-27-1999; Ord. No. 1044, § 3, 5-27-2003; Ord. No. 1065, § 1, 4-27-2004; Ord. No. 1075, § 3, 4-26-2005; Ord. No. 1085, § 3, 4-25-2006; Ord. No. 1105, § 3, 4-24-2007; Ord. No. 1120, § 5, 4-22-2008; Ord. No. 1130, § 6, 12-9-2008; Ord. No. 1142, § 1, 5-11-2010)

Sec. 23-362. Sewer service charges and rates.

(a) *Amount of charges.* The charges for sewer service consist of a service charge and a volume charge, as follows:

(1) *Service charge.* All users billed bimonthly for water service must pay the following charge based on the size of the water meter which serves or the size of the water meter which would serve the premises if one were installed. Users billed monthly must pay one-half of this charge.

a. Connected users:

Meter Size (inches)	Bimonthly Charge
⅝ or ¾	$40.30

1	66.60
1½	97.65
2	140.95
3	238.50
4	377.15
6	750.90
8	1,285.45
10	1,285.45

b. Single-family residential users with fire sprinkler system, five-eighths-inch, three-fourths-inch or one-inch meter: $40.30.

c. Not connected, single-family and multifamily residential users, per single-family residential unit: $40.30.

d. Connected and not metered single-family and multifamily residential users, per single-family residential unit: $105.80.

(2) *Volume charge.*

a. In addition to the service charges, the following volume charges apply to all water delivered:

Consumption Block Hundred Cubic Feet			
	Monthly	*Bimonthly*	*Volume Charge per Hundred Cubic Feet*
First	5,000	10,000	$4.86
Next	35,000	70,000	3.48
Over	40,000	80,000	3.13

b. For single-family residential customers using six CCF or less bimonthly, the volume charge is $2.97 per CCF.

c. For residential units receiving water service from the county, other than multifamily, bimonthly sewer volume charges are based on the lesser of actual usage or usage determined from the first meter reading cycle of the calendar year. For residential units receiving water service from the City of Richmond, other than multifamily, bimonthly sewer volume charges are based on usage determined from the first meter reading cycle of the calendar year. For the purpose of this subsection, if the first reading is estimated as provided in section 23-205 or if the user joins the system after the first reading cycle, or an allowance is made for an underground leak during the first billing cycle, billing will not exceed charges for 10 CCF.

(3) *Industrial and commercial strong waste charge.* In addition to the charges set out in subsections (a)(1) and (2) of this section, there will be charged to individual users a strong waste charge as applicable:

a. Suspended solids, when the concentrations of suspended solids exceed 275 milligrams per liter: $32.60 per CWT for suspended solids in excess of 275 mg/l.

b. BOD, when concentrations of BOD exceed 250 milligrams per liter: $45.15 per CWT for BOD in excess of 250 mg/l.

(b) *General provisions.*

(1) Any bills rendered for less than a full billing period shall have the service charge prorated according to days' use, plus the actual volume charge; except that the minimum prorated bill shall be $4.00 for all services (water, sewer and refuse collection) combined. Credit balances on final bills of less than $4.00 shall not be refunded unless requested by the user.

(2) Charges shall begin as required by contract or when the meter is set and shall continue until sewer service is abandoned. When there is no contract for service and no water or sewer meter, the service charge

shall begin upon completion of the sewer lateral from the main sewer line to the property line or payment of the connection fee if the sewer lateral does not need to be extended.

(3) Rates for service provided to contract users shall be established by the contract with the users.

(4) The volume charge on multimeter installations shall be applied to the sum of the volume.

(5) Whenever any user obtains all or part of the water supply from sources other than the water distribution system of the county, the quantities of wastewater may be determined either from the total metered water consumption from both county and private supplies, or from the metered quantities of wastewater discharged into the wastewater system. All meters on private water supplies and all wastewater meters shall be provided and maintained to produce an accurate record of the true quantities of water and wastewater discharged into the wastewater system. All costs of meter installation, calibration and maintenance shall be borne by the user. The type of meter shall be approved by the director, and the meter shall be accessible at all times for inspection.

(Code 1980, § 21-49; Code 1995, § 23-314; Ord. No. 918, § 5, 4-24-1996; Ord. No. 928, § 2, 7-24-1996; Ord. No. 944, § 5, 4-23-1997; Ord. No. 974, § 4, 4-22-1998; Ord. No. 984, § 4, 4-27-1999; Ord. No. 1044, § 4, 5-27-2003; Ord. No. 1065, § 2, 4-27-2004; Ord. No. 1075, § 4, 4-26-2005; Ord. No. 1085, § 4, 4-25-2006; Ord. No. 1105, § 4, 4-24-2007; Ord. No. 1120, § 6, 4-22-2008; Ord. No. 1130, § 7, 12-9-2008; Ord. No. 1131, § 12, 12-9-2008; Ord. No. 1142, § 2, 5-11-2010)

Sec. 23-363. Adjustment of sewer charge.

Where the sewer charge is based on the amount of sewage entering the system and if an allowance is made for an underground water leak, then an allowance may be made against the sewer charge for the same quantity of sewage as the quantity of water allowed.

(Code 1980, § 21-50; Code 1995, § 23-315)

Cross reference— Adjustment of water charges, § 23-233.

Secs. 23-364—23-384. Reserved.

DIVISION 4. ASSESSMENTS FOR EXTENSIONS OF SERVICE LINES

***State law reference—** Authority to impose assessments for local improvements, Code of Virginia, § 15.2-2404 et seq.

Sec. 23-385. General procedure.

The board of supervisors may order the construction of water lines or sanitary sewers, collectively referred to as "improvements" in this division. The cost of construction shall be paid pursuant to agreements between the county and the abutting landowners or by tax assessments for all or part of the cost. The board of supervisors may order tax assessments by a two-thirds vote of all members elected to the board or on a petition from not less than 60 percent of the affected landowners. Petitions shall be submitted to the director for processing.

(Code 1980, § 21-95; Code 1995, § 23-331)

State law reference— Similar provisions, Code of Virginia, § 15.2-2405.

Sec. 23-386. Payment of costs by county.

If less than all of the cost of construction of improvements is to be paid by assessment, the board of

supervisors shall apportion the cost between the county and abutting landowners. The board of supervisors may use state or federal funds received for such construction to pay for costs not apportioned to the abutting landowners.

(Code 1980, § 21-96; Code 1995, § 23-332)

State law reference—Similar provisions, Code of Virginia, § 15.2-2406.

Sec. 23-387. Docketing of resolution or ordinance authorizing improvement.

(a) When the board of supervisors authorizes any improvement for which assessments may be made against the abutting landowners, it may cause the recording of an abstract of the resolution or ordinance authorizing the improvement in the deed book of the circuit court clerk's office of the county before the amount to be finally assessed or apportioned to each landowner or fixed by agreement is determined. The abstract shall show the ownership and location of the property to be affected by the proposed improvement and the estimated amount to be fixed by agreement or assessed or apportioned to each owner. The abstract shall be indexed in the name of each owner of the affected property.

(b) After completion of the improvement, the estimated amount shall be amended to show the amount finally fixed by agreement or assessed or apportioned against the owner, which shall in no case exceed the estimated amount. The amount finally assessed or apportioned to the owner may be greater than the initially assessed amount if the excess is for additional work requested by the owner and performed under a separate agreement between the county and the owner.

(c) From the time of the docketing of such abstract, any purchaser of, or creditor acquiring a lien on, any of the property described in the abstract shall be deemed to have had notice of the proposed assessment.

(Code 1980, § 21-102; Code 1995, § 23-333; Ord. No. 924, § 1, 7-10-1996)

State law reference—Similar provisions, Code of Virginia, § 15.2-2412.

Sec. 23-388. Notice to property owners.

(a) When the assessment or apportionment under this division is not fixed by agreement, the director shall notify each of the abutting landowners of the amount assessed or apportioned and of the opportunity to appear in person or by counsel before the board of supervisors to present reasons and objections against the assessment or apportionment. The meeting of the board of supervisors to receive reasons and objections shall not be held less than ten days after the date of the notice.

(b) Notice may be given by personal service on all persons entitled to notice. Notice to an infant or insane person may be served on his guardian or committee. Notice to a nonresident may be mailed to him at his place of residence or served on any agent of his having the property in charge or on the tenant of the freehold. In addition, when the owner is a nonresident or the owner's residence is not known, notice may be given by publication in a newspaper of general circulation once a week for four successive weeks.

(c) In the alternative, notice to all parties may be published in a newspaper of general circulation once a week for two successive weeks, the second publication to be made at least seven days before the meeting to receive reasons and objections is held.

(Code 1980, §§ 21-98, 21-99; Code 1995, § 23-334)

State law reference—Similar provisions, Code of Virginia, §§ 15.2-2408, 15.2-2409.

Sec. 23-389. Appeals.

If the board of supervisors overrules a landowner's reasons and objections regarding an assessment

under this division, the landowner shall have 30 days to file an appeal of right to the circuit court of the county. If any appeal is filed, the clerk of the board of supervisors shall send the original notice relating to the assessment and the decision of the board to the clerk of the circuit court for docketing.

(Code 1980, § 21-100; Code 1995, § 23-335)

State law reference—Similar provisions, Code of Virginia, § 15.2-2410.

Sec. 23-390. Report of assessments to director of finance; collection of assessments; postponement of payment for elderly or disabled persons.

The director shall promptly notify the director of finance of the amount owed by each landowner because of an agreement or assessment, and the director of finance shall handle such amounts as provided for other taxes. Elderly or permanently and totally disabled persons may postpone the payment of such amount until the sale of the property or the death of the last eligible owner if they meet the criteria for exemption in section 20-78(d) and (e). The director of finance shall enter amounts postponed under this section as provided for other taxes, and the eligible owner shall have the option of payment or postponement.

(Code 1980, § 21-97; Code 1995, § 23-336)

State law reference—Collection and payment of assessments, Code of Virginia, § 15.2-2407.

Sec. 23-391. Lien for amount of assessment or agreement.

The amount fixed by agreement or finally assessed or apportioned to each landowner shall be a lien enforceable in equity from the time the improvements have been completed, subject to the landowner's right to present reasons and objections and to appeal the decision of the board of supervisors. The lien shall be enforceable against any person having notice of the proposed assessment under section 23-387. If no abstract of the resolution or ordinance authorizing the improvement is docketed as provided in section 23-387, the lien shall be void as to all purchasers for valuable consideration without notice and lien creditors until it is admitted to record in the county.

(Code 1980, § 21-101; Code 1995, § 23-337)

State law reference—Lien, Code of Virginia, § 15.2-104.

Sec. 23-392. Installment payments.

Persons may pay assessment or agreement amounts in equal semiannual installments over a period not exceeding ten years. The director shall charge interest on unpaid balances at an annual interest rate not to exceed the rate of one-year United States treasury bills at the time the assessment resolution or ordinance was adopted. Such installments shall become due at the same time as real estate taxes, and the amount of each installment, including principal and interest, shall be shown on a bill mailed not later than 14 days before the installment due date. The director shall add the revenues collected for such assessments to the water and sewer fund.

(Code 1980, § 21-103; Code 1995, § 23-338)

State law reference—Installment payments of assessments, Code of Virginia, § 15.2-2413.