

# **TOWN OF RICH CREEK, VIRGINIA**

## **CODE OF ORDINANCES**

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**TOWN OF RICH CREEK, VIRGINIA**

**ORDINANCE NO. 11-02**

AN ORDINANCE ENACTING A CODE OF ORDINANCES FOR THE TOWN OF RICH CREEK, VIRGINIA, REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE POLITICAL SUBDIVISION DEALING WITH THE SUBJECTS EMBRACED IN THE CODE OF ORDINANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the present general and permanent ordinances of the political subdivision are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

WHEREAS, the Acts of the Legislature of the State of Virginia empower and authorize the political subdivision to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

WHEREAS, the Legislative Authority of the Political Subdivision has authorized a general compilation, revision and codification of the ordinances of the Political Subdivision of a general and permanent nature and publication of such ordinance in book form; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE TOWN OF RICH CREEK.

Section 1. The general ordinances of the Political Subdivision as revised, amended, restated, codified, and compiled in book form are hereby adopted as and shall constitute the “Code of Ordinances of the Town of Rich Creek, Virginia”.

Section 2. Such Code of Ordinances as adopted in Section 1 shall consist of the following Titles:

**RICH CREEK, VIRGINIA  
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Chapter

**TITLE I: GENERAL PROVISIONS**

10. General Provisions

**Rich Creek - Adopting Ordinance**

**TITLE III: ADMINISTRATION**

- 30. General Provisions
- 31. Town Council
- 32. Town Organizations
- 33. Town Officials
- 34. Police and Fire Departments
- 35. Taxation

**TITLE V: PUBLIC WORKS**

- 50. Refuse
- 51. Sewers
- 52. Water

**TITLE VII: TRAFFIC CODE**

- 70. General Provisions
- 71. Stopping, Standing and Parking
- 72. Motor Vehicle Licenses

**TITLE IX: GENERAL REGULATIONS**

- 90. Animals
- 91. Explosives and Fireworks
- 92. Noise
- 93. Nuisances
- 94. Open Burning
- 95. Streets and Sidewalks

**TITLE XI: BUSINESS REGULATIONS**

- 110. General Licensing Provisions
- 111. Flea Markets

**TITLE XII: GENERAL OFFENSES**

- 130. Offenses Against Property
- 131. Offenses Against Persons
- 132. Weapons

**TITLE XV: LAND USAGE**

- 150. Buildings
- 151. Floodplain Regulations
- 152. Subdivisions
- 153. Schedule of Fees
- 154. Zoning

**TABLE OF SPECIAL ORDINANCES**

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- I. Conveyances of Property
- II. Vacations
- III. Zoning

**PARALLEL REFERENCES**

- References to Virginia Code
- References to Prior Code
- References to Ordinances

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- Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and reordained in whole or in part in such Code; provided, such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal affect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.
- Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Legislative Authority and the Clerk of the Political Subdivision is hereby authorized and ordered to file a copy of such Code of Ordinances in the Office of the Clerk.

**Rich Creek - Adopting Ordinance**

- Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded, and approved and that any public hearings and notices thereof as required by law have been given.
- Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of the people of this municipality, and shall take effect at the earliest date provided by law.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 8th day of August, 2011.

APPROVED:

Gary L. Eaton /s/  
Gary L. Eaton, Mayor

ATTEST:

Pamela J. Kantsios /s/  
Pamela J. Kantsios, Town Clerk

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- 52. Water

**TITLE VII: TRAFFIC CODE**

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**TITLE I: GENERAL PROVISIONS**

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**10. GENERAL PROVISIONS**





## CHAPTER 10: GENERAL PROVISIONS

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### § 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “The Code of the Town of Rich Creek, Virginia,” for which designation “code of ordinances,” “code” or “codified ordinances” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “Traffic Code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01.” Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

(Prior Code, § 1-1)

**§ 10.02 RULES OF INTERPRETATION.**

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(1) *Acts by assistants.* When a statute, code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(2) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(3) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

(Prior Code, § 1-2)

**§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

**§ 10.04 CAPTIONS.**

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

(Prior Code, § 1-6)

**§ 10.05 DEFINITIONS.**

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AND or OR.** *AND* may be read *OR* and *OR* may be read *AND*, if the sense requires it.

**BOND.** When a *BOND* is required, and undertaking in writing surety, if any, as the Council may direct, shall be sufficient.

**CODE, THIS CODE or THIS CODE OF ORDINANCES.** The Code of the Town of Rich Creek, as modified by amendment, revision and adoption of new titles, chapters or sections.

**COMPUTATION OF TIME.** The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Sunday or a legal holiday, that day shall be excluded.

**COUNCIL.** The Town Council of the Town of Rich Creek, Virginia.

**COUNTY.** The County of Giles, in the State of Virginia.

**FOLLOWING.** When used by way of reference to any section, shall be construed to mean next following that in which the reference is made.

**HEALTH DEPARTMENT.** The County Health Department.

**HEALTH OFFICER.** The Director of Public Health of the county, or his or her authorized representative.

**IN THE TOWN.** Any territory jurisdiction of which for the exercise of its regulatory power has been conferred on the town by public or private law.

**LOCAL GOVERNMENT.** The Town Council adopting this code of ordinances.

**LOCALITY.** The area within the boundaries of the locality as presently established or as amended by ordinance, annexation or other legal actions at a future time. The term *LOCALITY* when used in this code may also be used to refer to the Town Council and its authorized representatives.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**NUMBER.** A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing; and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

**Rich Creek - General Provisions**

**OATH.** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

**OCCUPANT** or **TENANT.** As applied to a building or land shall mean any person who holds a written or oral lease of or actually occupies the whole or part of the building or land, either alone or with others.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION** or **DEPARTMENT.** An officer, office, employee, commission or department of this local government unless the context clearly requires otherwise.

**OFFICIAL TIME STANDARD.** Whenever particular hours are specified in this code relating to the time within which any act shall or shall not be performed by any person, the time applicable shall be official standard time or daylight saving time, whichever may be current use in the town.

**OWNER.** As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of a building or land.

**PERSON.** Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PRECEDING** or **FOLLOWING.** Next before or next after, respectively.

**PROPERTY.** Real, personal or mixed property.

**PUBLIC PLACE.** Includes all the parks and all public lands owned by the town, and these parts of public places which do not form traveled parts of streets as defined in this section.

**SHALL.** The act referred to is mandatory.

**SIDEWALK.** Any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb and the adjacent property line intended for the use of pedestrians.

**SIGNATURE** or **SUBSCRIPTION.** Includes a mark when the person cannot write.

**STATE.** The Commonwealth of Virginia.

**STREET.** Include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the town, and shall mean the entire width thereof between abutting property lines. It shall be construed to include a sidewalk or footpath, unless

the contrary is expressed or unless the construction would be inconsistent with the manifest intent of the Council.

**SUBCHAPTER.** A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

**SWEAR** or **SWORN.** Shall be equivalent to the word **AFFIRM** or **AFFIRMED** in all cases in which by law an affirmation may be substituted for an oath.

**TOWN.** The Town of Rich Creek in the County of Giles and the State of Virginia.

**WRITTEN.** Any representation of words, letters or figures, whether by printing or otherwise.

**YEAR.** A calendar year, unless otherwise expressed.  
(Prior Code, § 1-2)

**§ 10.06 SEVERABILITY.**

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.  
(Prior Code, § 1-4)

**§ 10.07 REFERENCE TO OTHER SECTIONS.**

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

**§ 10.08 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this local government exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

**§ 10.09 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words

to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

#### **§ 10.10 ORDINANCES REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

#### **§ 10.11 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

(Prior Code, § 1-5)

#### **§ 10.12 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body requiring publication shall take effect upon adoption, unless otherwise expressly provided.

#### **§ 10.13 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(B) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

#### **§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

**§ 10.15 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.**

(A) All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws.

(B) This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code.

(C) The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted.

(D) In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

**§ 10.16 ADOPTION OF STATUTES AND RULES BY REFERENCE.**

(A) It is the intention of the Town Council that, when adopting this code of ordinances, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

(B) This section shall not apply to provisions of this code that impose criminal or traffic penalties.

***Statutory reference:***

*Authority, see VA Code § 1-220*

*Traffic laws; authority to adopt by reference, see VA Code § 46.2-1313*

**§ 10.17 APPLICATION OF STATUTORY RULES FOR CONSTRUCTION OF STATUTES.**

Except as otherwise provided, the rules as given in the Code of Virginia for the construction of statutes shall as far as applicable govern in the construction of this code and any other ordinances and resolutions as may be here after adopted.

(Prior Code, § 1-3)



**§ 10.99 GENERAL PENALTY.**

(A) Any person who violates any provision of this code or any other ordinance of the locality for which another penalty is not specifically provided, shall, upon conviction, be guilty of a Class 1 misdemeanor, and punished as set forth in division (B)(1) below of this section.

(B) Whenever in this code or any other ordinance of the locality or any rule or regulation promulgated by any officer or agency of the locality, under authority duly vested in that officer or agency, it is provided that a violation of any provision thereof shall constitute a Class 1, 2, 3 or 4 misdemeanor, the violation shall be punished as follows:

(1) *Class 1 misdemeanor*: By a fine of not more than \$2,500, and by confinement in jail for not more than 12 months, either or both;

(2) *Class 2 misdemeanor*: By a fine of not more than \$1,000, and by confinement in jail for not more than six months, either or both;

(3) *Class 3 misdemeanor*: By a fine of not more than \$500; and

(4) *Class 4 misdemeanor*: By a fine of not more than \$250.

(C) The imposition of any penalty, pursuant to this or any other provision of this code, shall not prohibit the locality from seeking equitable relief in any court of competent jurisdiction, to enjoin the violation of any provision of this code or other ordinance of the locality.

(D) Each day any violation of this code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

(E) The penalties imposed under this section shall not exceed those penalties prescribed by state law for like offenses.

(Prior Code, § 6-1)

***Statutory reference:***

*Penalties for misdemeanors, VA Code § 18.2-11*

*Penalties for violation of ordinances, VA Code, §§ 15.2-1429; 15.2-1432*

**TITLE III: ADMINISTRATION**

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- 33. TOWN OFFICIALS**
- 34. POLICE AND FIRE DEPARTMENTS**
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## **CHAPTER 30: GENERAL PROVISIONS**

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- 30.02 Deposit of funds
- 30.03 Execution of deeds and other instruments requiring seal
- 30.04 Orders to subordinates of the Town Manager
- 30.05 Fee schedule

### **§ 30.01 ANNUAL AUDIT.**

There shall be an annual audit of the financial and administrative affairs of the town, by a qualified and competent certified public accountant.

(Prior Code, § 2-1)

### **§ 30.02 DEPOSIT OF FUNDS.**

All money belonging to the town shall be deposited in an FDIC bank.

(Prior Code, § 2-2)

### **§ 30.03 EXECUTION OF DEEDS AND OTHER INSTRUMENTS REQUIRING SEAL.**

All deeds for the conveyance or exchange of the property of the town, and all agreements or other instruments, papers, documents and records requiring the seal of the town to be affixed thereto shall, when authorized by the Council, be authenticated in the name of the town by the Mayor or Town Manager and the seal of the town to be affixed thereto and attested by the Clerk.

(Prior Code, § 2-3)

### **§ 30.04 ORDERS TO SUBORDINATES OF THE TOWN MANAGER.**

Neither the Council, nor any of its members, nor the Mayor shall give orders to any of the subordinates of the Town Manager either publicly or privately.

(Prior Code, § 2-4)

**§ 30.05 FEE SCHEDULE.**

The fee schedule of the town is adopted by reference as if set forth in full in this section.

## CHAPTER 31: TOWN COUNCIL

### Section

- 31.01 When regular meetings held
- 31.02 Quorum for transaction of business
- 31.03 Order for business at regular meetings
- 31.04 Forms of petitions and the like
- 31.05 Voting generally
- 31.06 Recorded vote generally
- 31.07 Voting upon question of levy of taxes and the like

### **§ 31.01 WHEN REGULAR MEETINGS HELD.**

The Council shall meet regularly on the second Monday night of each month at 6:00 p.m.  
(Prior Code, § 2-5)

### **§ 31.02 QUORUM FOR TRANSACTION OF BUSINESS.**

A majority of the members elected to the Council shall constitute a quorum for the transaction of all business, except business as may require a larger vote as prescribed by law.  
(Prior Code, § 2-6)

### **§ 31.03 ORDER FOR BUSINESS AT REGULAR MEETINGS.**

The order of business at all regular meetings of the Council shall be as follows:

- (A) Reading the minutes of the previous meeting;
- (B) Allowance of claims;
- (C) Reports of standing committees;
- (D) Reports of special committees; and

(E) Introduction of new business, ordinances, petitions and the like.  
(Prior Code, § 2-7)

**§ 31.04 FORMS OF PETITIONS AND THE LIKE.**

All petitions, resolutions and reports shall be in writing and shall be in respectful language, and no one not a member of the Council shall orally address the Council without obtaining permission.  
(Prior Code, § 2-8)

**§ 31.05 VOTING GENERALLY.**

No member of the Council who has an immediate, personal or pecuniary interest in the result of any question before the Town Council shall vote thereon. Every member of the Council present at a Council meeting when a question is put or a ballot taken shall vote or ballot, as the case may be, unless personally interested or excused by the Council.  
(Prior Code, § 2-9)

**§ 31.06 RECORDED VOTE GENERALLY.**

A recorded vote shall be ordered upon the demand of any member on any question then before the Council.  
(Prior Code, § 2-10)

**§ 31.07 VOTING UPON QUESTION OF LEVY OF TAXES AND THE LIKE.**

Any question before the Council involving the levy of taxes, contracting a corporate debt on the expenditure of \$1,000 or more shall be determined by a recorded vote and must be by an affirmative vote of the majority of total members present of the Council.  
(Prior Code, § 2-11)

## CHAPTER 32: TOWN ORGANIZATIONS

Section

### *Planning Commission*

- 32.01 Creation
- 32.02 Composition; appointment and term of members
- 32.03 Functions, powers, duties and limitations

### *PLANNING COMMISSION*

#### **§ 32.01 CREATION.**

A Town Planning Commission is hereby created.  
(Ord. passed 8-01-1972)

#### **§ 32.02 COMPOSITION; APPOINTMENT AND TERM OF MEMBERS.**

The Planning Commission shall be composed of six members, who shall be appointed by the Town Council, all of whom shall be residents of the town and freeholders qualified by knowledge and experience to make decisions on questions of community growth and development. One member of the Commission may be a member of the Town Council and one member may be a member of the administrative branch of government of the town. The term of each of these two members shall be co-extensive with the term of office to which he or she has been elected or appointed unless the Town Council, at the first regular meeting each year, appoints others to serve as its representatives. The remaining members of the Commission first appointed shall serve respectively for terms of one year, two years, three years and four years, divided equally or as nearly equal as possible between the membership. Subsequent appointments shall be for terms of four years each.

(Ord. passed 8-01-1972)



**§ 32.03 FUNCTIONS, POWERS, DUTIES AND LIMITATIONS.**

The Planning Commission shall have the functions, powers and duties and be subject to the limitations, which are prescribed by law, particularly those provided for in the VA Code Title 15.2, Chapter 22.

(Ord. passed 8-01-1972)

## CHAPTER 33: TOWN OFFICIALS

### Section

#### *President Pro Tempore; Mayor*

- 33.001 Generally
- 33.002 Duties of Mayor
- 33.003 Certification for payment of claims, drawing of checks

#### *Town Manager*

- 33.015 Creating; designation
- 33.016 Appointment and term
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- 33.018 Responsibility for tools, machinery and the like
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- 33.020 Attendance at Council meetings

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#### *Treasurer*

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- 33.065 To be Clerk of the Council
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- 33.067 Additional books and records
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- 33.071 Ordinance book; notation of amending or repealing ordinances
- 33.072 Numbering of ordinances

***PRESIDENT PRO TEMPORE; MAYOR***

**§ 33.001 GENERALLY.**

In the temporary absence or disability of the Mayor, the Council may appoint one of its members as President Pro Tempore who shall act as Mayor and exercise all the powers of Mayor during the absence or disability.

(Prior Code, § 2-15) (Ord. 3-75, passed 12-3-1974)

**§ 33.002 DUTIES OF MAYOR.**

It shall be the duty of the Mayor to enforce the laws and ordinances of the town, and all orders and resolutions of the Council. He or she shall see that the duties of the various officers are faithfully performed and in the case of any delinquency to report the same to the Council. He or she shall have the power to appoint special police, when in his or her judgment it is necessary to do so.

(Prior Code, § 2-16)

**§ 33.003 CERTIFICATION FOR PAYMENT OF CLAIMS, DRAWING OF CHECKS.**

The Mayor shall duly certify for payment all claims in accordance with the provisions of the budget or special appropriation and shall draw the check of the town in favor of the owner or legal holder of the claim for the amount thereof. The check shall be signed by the Mayor or Town Manager and countersigned by the Town Treasurer.

(Prior Code, § 2-20)

***TOWN MANAGER***

**§ 33.015 CREATING; DESIGNATION.**

An administrative office, to be designated as Town Manager is hereby created.

(Prior Code, § 2-17)

**§ 33.016 APPOINTMENT AND TERM.**

The Council may appoint a Town Manager, who shall be the chief administrative officer of the town and shall be chosen solely on the basis of his executive and administrative qualifications, and shall have some knowledge of civil, mechanical and electrical engineering. The Town Manager shall serve without definite term.

(Prior Code, § 2-18)

**§ 33.017 POWERS AND DUTIES.**

Except as otherwise provided in the Charter, the Town Manager shall also have the general powers established by the Code of Virginia and with the consent of the Council, appoint or employee, and remove or discharge, such officers, employees and assistants as he deems necessary to carry on the work of such departments of the town as are committed to him by the Council, in all their respective details, in an economical and satisfactory manner. The salary or compensation, and the terms of office or employment of such officers, employees and assistants shall be fixed by the Town Manager, subject to approval by the Council; and his or her actions in all respects shall be subject to review by the Council, and he or she shall be accountable to the Council only.

(Prior Code, § 2-19)

**§ 33.018 RESPONSIBILITY FOR TOOLS, MACHINERY AND THE LIKE.**

The Town Manager shall at all times preserve and be responsible for the tools, machinery and materials belonging to the town and used in the various departments of the work being done by the town.

(Prior Code, § 2-22)

**§ 33.019 MONTHLY REPORT AS TO CONSUMPTION OF WATER AND THE LIKE.**

The Town Manager each month shall deliver or cause to be delivered to the appropriate officer of the town a report showing the names of all consumers of water, together with the quantity consumed by each and the rate, thereof for the amount of sewer rentals and garbage collection fees due, the total charge to be made against each person and other information as will enable the Treasurer or Clerk, as designates by the Town Manager, to prepare and send out monthly statement to all water users, sewer users and persons who are chargeable with garbage collection.

(Prior Code, § 2-24)

**§ 33.020 ATTENDANCE AT COUNCIL MEETINGS.**

The Town Manager shall attend all regular meetings of the Council and special meetings as may be necessary.

(Prior Code, § 2-25)

***TOWN ATTORNEY*****§ 33.035 ATTENDANCE AT COUNCIL MEETINGS; UPON REQUEST BY COUNCIL.**

The Town Attorney shall attend Council meetings upon request by Council.  
(Prior Code, § 2-26)

**§ 33.036 COMPENSATION GENERALLY.**

In addition to the annual retainer paid the Town Attorney by way of salary, he or she shall have additional compensation for all special services rendered the Council, in an amount as may be agreed upon by the Town Attorney and Council.  
(Prior Code, § 2-27)

**§ 33.037 REIMBURSEMENT FOR EXPENSES.**

From time to time, the Town Attorney shall present for payment any actual outlay or expenses which the performance of his or her duties has entailed.  
(Prior Code, § 2-28)

***TREASURER*****§ 33.050 TOWN MONEY IN HANDS OF TREASURER TO BE SAFELY KEPT.**

All money belonging to the town collected by the Treasurer or paid over to him or her shall be safely kept, as provided in § 30.02.  
(Prior Code, § 2-29)

**§ 33.051 BOOKS FOR RECEIPTS, DISBURSEMENTS AND ACCOUNTS.**

It shall be the duty of the Treasurer to keep financial records in which all receipts and disbursements shall be properly entered and in which the accounts of all persons accountable shall be kept. Each fund shall be separated. All accounts of the town shall be kept correctly and plainly.  
(Prior Code, § 2-30)

**§ 33.052 MONTHLY FINANCIAL STATEMENT.**

The Treasurer shall each month make out a full statement to the Council of all receipts, disbursements and expenditures for the month preceding, which shall also show the liabilities and resources of the town and the balance, if any, in his or her hands at that time as well as all other things necessary to show the true financial condition of the town.

(Prior Code, § 2-31)

**§ 33.053 COLLECTION OF DELINQUENT TAXES, WATER BILLS AND THE LIKE.**

(A) The Treasurer shall be responsible for the prompt collection of all the prompt collection of all delinquent taxes, license taxes, water bills and other accounts and charges due and owing to the town and shall cooperate with the appropriate officer of the town for this purpose.

(B) The Clerk, shall from time to time make up a list of all delinquent taxes, license taxes and water bills and deliver the same to the Town Manager.

(Prior Code, § 2-21)

**§ 33.054 ANNUAL FINANCIAL REPORT.**

The Town Treasurer shall annually prepare and submit a report to the Town Manager, upon request, showing the receipts and disbursements, with all other information as may be necessary to show the true financial status of the towns financial affairs and relation to the budget during that period.

(Prior Code, § 2-23)

***CLERK***

**§ 33.065 TO BE CLERK OF THE COUNCIL.**

The Clerk shall be the Clerk of the Council.

(Prior Code, § 2-32)

**§ 33.066 JOURNAL OF COUNCIL PROCEEDINGS AND THE LIKE.**

The Clerk shall keep an accurate journal of the proceedings of the Council, which shall be indexed. He or she shall file and preserve all papers which may come into his or her hands as Clerk, and shall attest and publish, as Clerk, all ordinances or other papers or proceedings required by the Council to be published.

(Prior Code, § 2-33)

**§ 33.067 ADDITIONAL BOOKS AND RECORDS.**

In addition to the books of accounts and records provided for in this subchapter, the Clerk shall keep all other books and records as may be necessary to the discharge of the functions of this office.  
(Prior Code, § 2-34)

**§ 33.068 EXAMINATION OF BOOKS AND PAPERS.**

The books and papers of the Clerk shall, at all times, be subject to examination by the Mayor, Town Manager, any member of the Council or any committee of the Council.  
(Prior Code, § 2-35)

**§ 33.069 CUSTODY OF TOWN SEAL.**

The Clerk shall be the custodian of the corporate seal of the town.  
(Prior Code, § 2-36)

**§ 33.070 ORDINANCE BOOK; ENTERING ORDINANCES.**

The Clerk shall enter in a book copies of all ordinances passed by the Town Council. The book in which ordinances are thus entered shall be known as the "General Ordinance Book" and shall be indexed.  
(Prior Code, § 2-37)

**§ 33.071 ORDINANCE BOOK; NOTATION OF AMENDING OR REPEALING ORDINANCES.**

The Clerk shall write on the first page of every ordinance, entered in the book mentioned in the preceding section, if the same has been amended or repealed, as the case may be, the words, "amended" or "repealed," with a reference to the page of the ordinance book where the amending or repealing ordinance can be found.  
(Prior Code, § 2-38)

**§ 33.072 NUMBERING OF ORDINANCES.**

All ordinances of the town shall be consecutively numbered in annual series, the number of a particular ordinance to consist of the year in which passed and the consecutive number of the ordinance.  
(Prior Code, § 2-39)

## CHAPTER 34: POLICE AND FIRE DEPARTMENTS

Section

### *General Provisions*

34.01 Integral parts of the official safety program

### *Examination of Firefighters*

34.15 Examination of firefighters by a physician

34.16 Time within examination shall be made

34.17 Examination of new firefighters

### **GENERAL PROVISIONS**

#### **§ 34.01 INTEGRAL PARTS OF THE OFFICIAL SAFETY PROGRAM.**

The Town Volunteer Fire Department and the Town Police Department are designated as integral parts of the official safety program of the town, and as such shall be entitled to benefits as are set forth in the Line of Duty Act in the Code of Virginia, 1950, as amended.  
(Ord. 81-1, passed 2-3-1981)

### **EXAMINATION OF FIREFIGHTERS**

#### **§ 34.15 EXAMINATION OF FIREFIGHTERS BY A PHYSICIAN.**

The Council of the town shall enter into an agreement with a physician to provide for the examination of all firefighters of the Town Fire Department to determine if the firefighter is free from respiratory diseases, hypertension or heart disease so as to conform to VA Code §§ 27-40.1 and 27-41.1.  
(Ord. passed 3-4-1975)



**§ 34.16 TIME WITHIN EXAMINATION SHALL BE MADE.**

All members of the Town Fire Department shall submit themselves for an examination within 30 days from the date of this subchapter if to come within the purview of VA Code § 27-4.1 and any member joining the Fire Department shall so submit himself or herself for the examination within 30 days from the time he or she becomes a member of the Fire Department.

(Ord. passed 3-4-1975)

**§ 34.17 EXAMINATION OF NEW FIREFIGHTERS.**

The examination provided for in this subchapter shall be the same examination that the employed physician would use to determine freedom from respiratory disease, hypertension or heart disease if the person to be examined were applying for life insurance and had to submit to an examination to determine freedom from the conditions in order to obtain the life insurance.

(Ord. passed 3-4-1975)

## CHAPTER 35: TAXATION

### Section

#### *General Provisions*

- 35.001 Annual assessment; valuation of property
- 35.002 Tax tickets
- 35.003 When taxes due and payable
- 35.004 Interest

#### *Tax on Bank Stock*

- 35.015 When bank located in town

#### *Bank Franchise Tax*

- 35.030 Definitions
- 35.031 Imposition of town bank franchise tax
- 35.032 Filing of return and payment of tax
- 35.033 Effective date

#### *Transient Occupancy Tax*

- 35.045 Definitions
- 35.046 Tax imposed; amount
- 35.047 Collection from transients; when payable
- 35.048 Report of collection and remittance of tax
- 35.049 Discount
- 35.050 Failure to collect and report tax
- 35.051 Records; inspection by Treasurer
- 35.052 Cessation of business; tax due immediately
- 35.053 Exceptions for governmental employees on official business
- 35.054 Exceptions for transients at places of lodging at public institutions

#### *Meals Tax*

- 35.065 Definitions
- 35.066 Levy
- 35.067 Collection of tax by seller

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- 35.068 Collection in trust for town
- 35.069 Report of taxes collected; remittance; preservation of records
- 35.070 Advertising payment or absorption of tax prohibited
- 35.071 Exemptions; limits on application

***Tax on Consumers of Utility Services***

- 35.085 Definitions
- 35.086 Electric utility consumer tax
- 35.087 Local natural gas utility consumer tax

***Property Tax Relief***

- 35.100 Purpose; definitions; relation to other regulations
- 35.101 Method of computing and reflecting tax relief
- 35.102 Allocation of relief among taxpayers
- 35.103 Transitional provisions
- 35.104 Vehicles owned by disabled veterans

***Cigarette Tax***

- 35.115 Definitions
- 35.116 Levy; amount
- 35.117 Decals; duties of Treasurer generally
- 35.118 Inspection of records, premises, and the like
- 35.119 Seizure and disposition of untaxed cigarettes
- 35.120 Duties of dealers, agents and sellers generally
- 35.121 Disposition of revenue
- 35.122 Violations
  
- 35.999 Penalty

***GENERAL PROVISIONS*****§ 35.001 ANNUAL ASSESSMENT; VALUATION OF PROPERTY.**

The Council shall, annually, before August 31 fix the tax rates on all real and personal property subject to taxation within and by the town and shall assess taxes as may be required to provide for the needs and purposes of the town. In determining the valuation of property in the town, reference shall be had to the records of the Commissioner of Revenue of the county.

(Prior Code, § 19-1)

**§ 35.002 TAX TICKETS.**

As soon as practicable after taxes are assessed as provided in § 35.001, the Treasurer shall make or cause to be made for each taxpayer a tax ticket substantially in the form prescribed by the State Department of Taxation and shall send by mail to each taxpayer a bill for the taxes.

(Prior Code, § 19-2)



**§ 35.003 WHEN TAXES DUE AND PAYABLE.**

Except as otherwise provided, all taxes shall be due and payable as soon as the tax bills referred to in § 35.002 are sent. Any person failing to satisfy a tax bill on or before March 15 following the mailing thereof shall incur a penalty of 10% of the total taxes due.

(Prior Code, § 19-3) (Ord. 79-2, passed 7-10-1979; Ord. 10-01, passed 2-8-2010)

**§ 35.004 INTEREST.**

Interest at the rate 6% per annum shall be collected upon the principal and penalty from June 1 of the year next after taxes were assessed under § 35.001.

(Prior Code, § 19-4)

***TAX ON BANK STOCK*****§ 35.015 WHEN BANK LOCATED IN TOWN.**

There is hereby imposed a tax against the shares of stock of any bank located in the town. The tax shall be 80% of the state rate of taxation on each \$100 of the taxable value of the shares of stock in the bank located in the town; but, if any bank has any branch located outside the corporate limits of the town, the tax herein imposed by the town shall be upon only the proportion of the taxable value of the shares of stock in the bank as the total deposits of the bank, minus deposits through any branch located outside the corporate limits of the town bear to the total deposits of the bank as of the beginning of the taxable year.

(Prior Code, § 19-5)

***BANK FRANCHISE TAX*****§ 35.030 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BANK.*** As defined in VA Code Title 58.1.

***NET CAPITAL.*** A bank's net capital computed pursuant to VA Code Title 58.1.  
(Ord. 80-2, passed 4-1-1980)

**§ 35.031 IMPOSITION OF TOWN BANK FRANCHISE TAX.**

(A) Pursuant to the provisions of VA Code Title 58.1, there is hereby imposed upon each bank located within the boundaries of this town a tax on net capital equaling 80% of the state rate of franchise tax set forth in VA Code Title 58.1.

(B) In the event that any bank located within the boundaries of this town is not the principal office but is a branch extension or affiliate of the principal office located outside the corporate limits hereof, the tax upon the branch shall be apportioned as provided by VA Code Title 58.1.  
(Ord. 80-2, passed 4-1-1980)

**§ 35.032 FILING OF RETURN AND PAYMENT OF TAX.**

(A) (1) On or after January 1 of each year, but not later than March 1 of any year, all banks whose principal offices are located within this town shall prepare and file with the Commissioner of the Revenue (or comparable local assessing officer) a return as provided by VA Code Title 58.1, in duplicate which shall set forth the tax on net capital computed pursuant to VA Code Title 58.1.

(2) The Commissioner of the Revenue (or comparable assessing officer) shall certify a copy of the filing of the bank's return and schedule and shall forthwith transmit the certified copy to the State Department of Taxation.

(B) (1) In the event that the principal office of the bank is located outside the corporate boundaries of this town and the bank has branch offices located within this town, in addition to the filing requirements set forth in division (A) hereof, any bank conducting branch business shall file with the Commissioner of the Revenue or appropriate assessing officer of this county a copy of the real estate deduction schedule, apportionment and other items which are required by VA Code Title 58.1.

(2) Each bank, on or before June 1 of each year, shall pay into the Treasurer's office (or other appropriate official) of this town all taxes imposed pursuant to this subchapter.  
(Ord. 80-2, passed 4-1-1980) Penalty, see § 35.999

**§ 35.033 EFFECTIVE DATE.**

The provisions of this subchapter shall be effective for the year beginning January 1, 1980.  
(Ord. 80-2, passed 4-1-1980)

***TRANSIENT OCCUPANCY TAX*****§ 35.045 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***HOTEL.*** Any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house or other place within the town offering lodging, as defined in this section, for compensation to any transient, as defined in this section.

***LODGING.*** Room or space furnished any transient.

***TRANSIENT.*** Any person who, for a period of not more than 90 consecutive days, either at his or her own expense or at the expense of another, obtains lodging or the use of any space at any hotel, for which lodging or use of space a charge is made.

***TREASURER.*** The Treasurer of the town and any of his or her duly authorized agents.  
(Ord. 08-03, passed 11-10-2008; Ord. 09-02, passed 6-8-2009)

**§ 35.046 TAX IMPOSED; AMOUNT.**

There is hereby levied and imposed, in addition to all other taxes and fees of every kind imposed by law, on each transient obtaining lodging or the use of space at any hotel, a tax equal to 5% of the total amount paid for the lodging or the use of space by or for any transient of any hotel. The tax shall be collected from the transient at the time and in the manner provided by this subchapter.

(Ord. 08-03, passed 11-10-2008; Ord. 09-02, passed 6-8-2009)

***Statutory reference:***

*Excise tax on transient rooms, VA Code §§ 58.1-3819, 58.1-3840*

**§ 35.047 COLLECTION FROM TRANSIENTS; WHEN PAYABLE.**

Every person receiving any payment for lodging or the use of space with respect to which a tax is levied under this subchapter shall collect the amount of the tax so imposed from the transient on whom the tax is levied, or from the person paying for the lodging, at the time payment for lodging is made. The taxes required to be collected under this subchapter shall be deemed to be held in trust by the person required to collect the taxes until the same shall have been remitted to the Treasurer.

(Ord. 08-03, passed 11-10-2008; Ord. 09-02, passed 6-8-2009) Penalty, see § 35.999



**§ 35.048 REPORT OF COLLECTION AND REMITTANCE OF TAX.**

The person collecting any tax as provided in this subchapter shall make out a report thereof upon forms setting forth information as the Treasurer may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected and shall sign and deliver the reports with the remittance of the tax to the Treasurer. The reports and remittance shall be made on or before the twentieth day of each month covering the amount of tax due and collected during the preceding month.

(Ord. 08-03, passed 11-10-2008; Ord. 09-02, passed 6-8-2009)

**§ 35.049 DISCOUNT.**

For the purpose of compensation, the owner of any hotel collecting the tax imposed by this subchapter, the owner shall be allowed 3% of the amount of the tax due and accounted for in the form of a deduction on this monthly return, provided the amount due is not delinquent at the time of payment.

(Ord. 08-03, passed 11-10-2008; Ord. 09-02, passed 6-8-2009)

**§ 35.050 FAILURE TO COLLECT AND REPORT TAX.**

If any person shall fail to refuse to collect the tax imposed under this subchapter and to make within the time provided herein any report and remittance required, the Treasurer shall proceed in a manner as he or she may deem best to obtain facts and information on which to base the tax due. As soon as the Treasurer shall secure facts and information as he or she is able to obtain upon which to base the assessment of any tax due and payable by any person who has failed or refused to collect the tax and to make a report and remittance, he or she shall proceed to determine and assess against the person tax and penalty and interest as provided for in this subchapter and shall notify the person by registered mail, sent to his or her last place of known address, the amount of the tax and penalty and interest, and the total thereof shall be payable within ten days of mailing of the notice. The Treasurer shall have the power to examine records for the purpose of administering and enforcing the provisions of this subchapter as are provided by law.

(Ord. 08-03, passed 11-10-2008; Ord. 09-02, passed 6-8-2009) Penalty, see § 35.999

**§ 35.051 RECORDS; INSPECTION BY TREASURER.**

It shall be the duty of every person liable for the collection and payment to the town of any tax imposed by this subchapter to keep and preserve for a period of two years suitable records as may be necessary to determine the amount of the tax as he or she may have been responsible for collecting and paying to the town. The Treasurer shall have the right to inspect the records at all reasonable times.

(Ord. 08-03, passed 11-10-2008; Ord. 09-02, passed 6-8-2009)

**§ 35.052 CESSATION OF BUSINESS; TAX DUE IMMEDIATELY.**

Whenever any person required to collect and pay to the town a tax imposed by this subchapter shall cease to operate, go out of business or otherwise dispose of his or her business, any tax then payable to the town shall become immediately due and payable, and the person shall immediately make a report and pay the tax due to the Treasurer.

(Ord. 08-03, passed 11-10-2008; Ord. 09-02, passed 6-8-2009)

**§ 35.053 EXCEPTIONS FOR GOVERNMENTAL EMPLOYEES ON OFFICIAL BUSINESS.**

No tax shall be payable under this subchapter with respect to any payment for lodging or the use of space paid by or for any federal, state or local official or employee when on official business.

(Ord. 08-03, passed 11-10-2008; Ord. 09-02, passed 6-8-2009)

**§ 35.054 EXCEPTIONS FOR TRANSIENTS AT PLACES OF LODGING AT PUBLIC INSTITUTIONS.**

With respect to those places of lodging at public institutions whose operating costs are financed by legislative appropriations, no tax shall be payable hereunder with respect to any payment for lodging or the use of space paid by or for:

(A) Any person obtaining lodging at those places in connection with or as a part of any bona fide educational conference or program arranged by the public institution; or

(B) Any person who is an invited guest of the public institution where the payment was made by the public institution.

(Ord. 08-03, passed 11-10-2008; Ord. 09-02, passed 6-8-2009)

***MEALS TAX*****§ 35.065 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CATER.*** The furnishing of food, beverages or both on the premises of another, for compensation.

***COLLECTOR.*** The Treasurer and any duly designated deputies, assistants, inspector or other employee.

**FOOD.** All food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in a food establishment or not and whether consumed on the premises or not, and without regard to the manner, time or place of service.

**FOOD ESTABLISHMENT.** Any place in or from which food or food products are prepared, packaged, sold or distributed in the town, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, café, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

**MEAL.** Any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

**TREASURER.** The Treasurer and any duly designated deputies, assistants, inspectors or other employee.  
(Ord. 09-01, passed 6-8-2009)

### § 35.066 LEVY.

There is hereby imposed and levied by the town on each person a tax at the rate of 4% on the amount paid for meals purchased from any food establishment, whether prepared in a food establishment or not, and whether consumed on the premises or not. There shall be no tax if the total amount paid is \$0.50 or less; on larger amounts a fractional cent of tax due shall be rounded to the next higher cent.  
(Ord. 09-01, passed 6-8-2009)

### § 35.067 COLLECTION OF TAX BY SELLER.

Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this subchapter from the person on whom the same is levied or from the person paying for food at the time payment for the food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department of the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit these taxes.  
(Ord. 09-01, passed 6-8-2009) Penalty, see § 35.999

**§ 35.068 COLLECTION IN TRUST FOR TOWN.**

All tax collections shall be deemed to be held in trust for town.  
(Ord. 09-01, passed 6-8-2009)

**§ 35.069 REPORT OF TAXES COLLECTED; REMITTANCE; PRESERVATION OF RECORDS.**

It shall be the duty of every person required by this subchapter to pay to the town the taxes imposed by this subchapter to make a report thereof setting forth information as the Treasurer may prescribe and require. This information shall include all purchases taxable under this subchapter, the amount charged the purchaser for each purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this subchapter. The records shall be kept and preserved for a period of five years. The Treasurer or his or her duly authorized agents shall have the power to examine the records at reasonable times and without unreasonable interference with the business of the person, for the purpose of administering and enforcing the provisions of this subchapter, and to make transcripts of all or any parts thereof. Every seller shall make a report to the Town Treasurer for each calendar month, showing the amount of charges collected for meals and the amount of tax required to be collected. The monthly reports shall be made on forms prescribed by the Treasurer and shall be signed by the seller. They shall be delivered to the Treasurer on or before the twentieth day of the calendar month following the month being reported. Each report shall be accompanied by a remittance of the amount of tax due, made payable to the town.

(Ord. 09-01, passed 6-8-2009)

**§ 35.070 ADVERTISING PAYMENT OR ABSORPTION OF TAX PROHIBITED.**

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this subchapter will be paid or absorbed by the seller or by anyone else, or that the seller or anyone else will relieve any purchaser of the payment of all or any part of the tax.

(Ord. 09-01, passed 6-8-2009) Penalty, see § 35.999

**§ 35.071 EXEMPTIONS; LIMITS ON APPLICATION.**

(A) The tax imposed under this subchapter shall not be levied on factory-prepackaged candy, gum, nuts and other items of essentially the same nature served for on or off-premises consumption.

(B) The tax imposed under this subchapter shall not be levied on the following items when served exclusively for off-premises consumption:

(1) Donuts, ice cream, crackers, chips, cookies and factory-prepackaged items of essentially the same nature;

(2) Food sold in bulk. For the purpose of this division, a **BULK SALE** shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on premises consumption (e.g., a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption;

(3) Alcoholic and non-alcoholic beverages sold in factory sealed containers;

(4) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the food stamp program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants and Children; and

(5) Any food or food product purchased for home consumption as defined in the Federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purpose of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the definition of food in the Federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables and non-factory-sealed beverages. This division shall not affect provisions set forth in division (D)(3), (D)(4) and (D)(5) below of this section.

(C) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(D) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:

(1) Food and beverages furnished by food establishments to employees as part of the compensation when no charge is made to the employee;

(2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees;

(3) Food and beverages for use or consumption and which are paid for directly by the state, any political subdivision of the state or the United States;

(4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics or other extended care facility to patients or residents thereof and the spouses and children of those persons;

(5) Food and beverages furnished by a public or private non-profit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the state to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations;

(6) Food and beverages sold on an occasional basis, or by a non-profit educational, charitable or benevolent organization, church or religious body as a fundraising activity, the gross proceeds of which are to be used by those organizations exclusively for non-profit educational, charitable, benevolent or religious purposes; and

(7) Food and beverages sold through vending machines.  
(Ord. 09-01, passed 6-8-2009)

### ***TAX ON CONSUMERS OF UTILITY SERVICES***

#### **§ 35.085 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CCF.*** The volume of gas at standard pressure and temperature in units of 100 cubic feet.

***CONSUMER.*** Every person whom, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in this jurisdiction.

***GAS UTILITY.*** A public utility authorized to furnish natural gas service in the state.

***KILOWATT HOURS (kWh) DELIVERED.*** One thousand watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called co-generators) as defined in VA Code § 56-594, it means kWh supplied from the electric grid to those customer-generators, minus the kWh generated and fed back to the electric grid by the customer-generators.

***PERSON.*** Any individual, corporation, company or other entity.

***PIPELINE DISTRIBUTION COMPANY.*** A person, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

***RESIDENTIAL CONSUMER.*** The owner or tenant of property used primarily for residential purposes, including, but not limited to, apartment houses and other multiple-family dwellings.

***SERVICE PROVIDER.*** A person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

**USED PRIMARILY.** Relates to the larger portion of the use for which electric or natural gas utility service is furnished.

(Ord. 00-01, passed 2-12-2001)

### **§ 35.086 ELECTRIC UTILITY CONSUMER TAX.**

(A) *Imposition of tax.* In accordance with VA Code § 58.1-3814, effective May 1, 2001, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by the provider, as follows.

(1) *Residential consumers.* The tax shall be the 20% of the minimum monthly charge imposed by the service provider plus the rate of \$.01510 on each kWh delivered monthly to residential customers by the service provider, not to exceed \$2.00 monthly.

(2) *Nonresidential consumers.* The tax on nonresidential consumers shall be at the rates per month for the classes of nonresidential consumers as set forth below.

(a) *Commercial consumers.* The tax shall be the 20% of the minimum monthly charge imposed by the service provider plus the rate of \$.01770 not to exceed \$6.00 monthly.

(b) *Industrial consumers.* The tax shall be the 20% of the minimum monthly charge imposed by the service provider plus the rate of \$.01450 on each kWh delivered monthly not to exceed \$6.00 monthly.

(3) *Conversion of tax.* The conversion of tax pursuant to this subchapter to monthly kWh delivered shall not be effective before the first meter reading after April 15, 2001, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

(B) *Exemptions.* The following consumers of electricity are exempt from the tax imposed by this section:

- (1) The United States of America;
- (2) The state; and
- (3) The political subdivisions thereof, including this jurisdiction.

(C) *Billing, collection and remittance of tax.*

(1) The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the same to this jurisdiction on a monthly basis. The taxes shall be paid by the service provider to this jurisdiction in accordance with VA Code §§ 58.1-3814F. and G. and 58.1-2901. If any consumer receives and pays for electricity but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and

address of the consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction.

(2) Any tax paid by the consumer to the service provider shall be deemed to be held in trust by the provider until remitted to this jurisdiction.

(D) *Computation of bills not on monthly basis.*

(1) Bills shall be considered as monthly bills for the purposes of this subchapter if submitted 12 times per year of approximately one month each.

(2) Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:

(a) The kWh will be divided by two;

(b) A monthly tax will be calculated using the rates set forth above;

(c) The tax determined by division (D)(2)(b) shall be multiplied by two; and

(d) The tax in division (D)(2)(c) may not exceed twice the monthly “maximum tax.”  
(Ord. 00-01, passed 2-12-2001)

**§ 35.087 LOCAL NATURAL GAS UTILITY CONSUMER TAX.**

(A) *Imposition of tax.* In accordance with VA Code § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by “class of consumers” as that term is defined in VA Code § 58.1-3814J., as follows.

(1) *Residential consumers.* The tax shall be the 20% of the minimum monthly charge imposed by the service provider plus the rate of \$0.1863 on each CCF or fraction thereof delivered monthly to the consumer by a pipeline distribution company or a gas utility, not to exceed \$2.00 monthly.

(2) *Nonresidential consumers.*

(a) *Rates.* The tax on nonresidential consumers shall be at the rates per month shown for each CCF delivered by a pipeline distribution company or a gas utility for the classes as set forth below.

(b) *Commercial and industrial consumers.* The tax shall be the 20% of the minimum monthly charge imposed by the service provider plus the rate of \$0.15566 on each CCF or fraction



thereof delivered monthly to the consumer by a pipeline distribution company or a gas utility, not to exceed \$6.00 monthly.

(3) *Conversion of tax.* The conversion of tax pursuant to this subchapter to monthly CCF delivered shall not be effective before the first meter reading after May 1, 2001, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

(B) *Exemptions.* The following consumers of natural gas shall be exempt from the tax imposed by this section.

- (1) The United States of America;
- (2) The state; and
- (3) The political subdivisions thereof, including this jurisdiction.

(C) *Billing, collection and remittance of tax.*

(1) The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the same to this jurisdiction on a monthly basis. These taxes shall be paid by the service provider to this jurisdiction in accordance with VA Code §§ 58.1-3814H. and I. and 58.1-2901. If any consumer receives and pays for natural gas billed but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of the consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction.

(2) Any tax paid by the consumer to the service provider shall be deemed to be held in trust by the provider until remitted to this jurisdiction.

(D) *Computation of bills not on monthly basis.*

(1) Bills shall be considered as monthly bills for the purposes of this subchapter if submitted 12 times per year of approximately one month each.

(2) Accordingly, the tax for a bimonthly bill (approximately 60 days) shall be determined as follows:

- (a) The CCF will be divided by two;
- (b) A monthly tax will be calculated using the rates set forth above;
- (c) The tax determined by division (D)(2)(b) shall be multiplied by two; and

(d) The tax in division (D)(2)(c) may not exceed twice the monthly “maximum tax.”  
(Ord. 00-01, passed 2-12-2001)

### ***PROPERTY TAX RELIEF***

#### **§ 35.100 PURPOSE; DEFINITIONS; RELATION TO OTHER REGULATIONS.**

(A) *Purpose.* The purpose of this subchapter is to provide for the implementation of the changes to the Personal Property Tax Relief Act (PPTRA) effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

(B) *Definitions.* Terms used in this subchapter that have defined meanings set forth in PPTRA shall have the same meanings as set forth in VA Code § 58.1-3523, as amended.

(C) *Relation to other regulations.* To the extent that the provisions of this subchapter conflict with any prior ordinance or provision of the town code, this subchapter shall control.  
(Ord. passed 12-12-2005)

#### **§ 35.101 METHOD OF COMPUTING AND REFLECTING TAX RELIEF.**

(A) For tax years commencing in 2006, the town adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of specific dollar relief on the tax bill.

(B) The Council shall, by resolution set the percentage of tax relief at a level that it is anticipated fully to exhaust PPTRA relief funds provided to the town by the state.

(C) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.  
(Ord. passed 12-12-2005)

#### **§ 35.102 ALLOCATION OF RELIEF AMONG TAXPAYERS.**

(A) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the town’s annual budget relating to PPTRA relief.

(B) Relief shall be allocated in as manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000 or less.

(C) Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a percentage, annually fixed and applied to the first \$20,000 in value of each qualifying vehicle, that is estimated fully to use all available state PPTRA relief. The percentage shall be established annually as a part of the adopted budget for the town.

(Ord. passed 12-12-2005)

### **§ 35.103 TRANSITIONAL PROVISIONS.**

(A) Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the Town Treasurer is authorized to issue a supplemental personal property tax bill, in the amount of 100% of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006 or the date as state funds for reimbursement of the state share of the bill have become unavailable, whichever earlier occurs.

(B) Penalty and interest with respect to bills issued pursuant to division (A) above of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in the tax assessment ordinance adopted by the town from the original due date of the tax.

(Ord. passed 12-12-2005)

### **§ 35.104 VEHICLES OWNED BY DISABLED VETERANS.**

(A) One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services is set forth as a separate classification of personal property. In order to qualify, the veteran shall provide a written statement to the Town Treasurer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his or her disability is service connected. For purposes of this section, a person is blind if he or she the provision of VA Code § 46.2-100.

(B) The rate of tax for fiscal year 2012 on a qualifying vehicle as set forth in division (A) of this section shall be \$0.00 per \$100 of assessed value.

(C) The owner of any qualifying vehicle who has paid the tax at a higher rate than established by this section shall be entitled to a refund of any overpayment made for fiscal year 2012 taxes which are due on March 15, 2013.

(Ord. passed 3-11-2013)

**CIGARETTE TAX****§ 35.115 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AGENT.** Every local dealer and other person who shall be authorized by the Treasurer to purchase and affix decals to packages of cigarettes under the provisions of this subchapter.

**CIGARETTE.** Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with any other ingredient, if the wrapper cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette by any other name.

**DEALER.** Every manufacturer, jobber, wholesale dealer or other person who supplies a seller with cigarettes.

**DECAL.** The small gummed piece of paper or decalomania to be sold by the Treasurer and to be affixed by an agent to every package of cigarettes sold at retail in the town. **DECAL** also denotes any insignia or symbol printed by a meter machine upon any such package under the authorization of the Treasurer.

**PACKAGE.** Every package, box, can or other container of any cigarettes, irrespective of the material from which such container is made, to which the internal revenue decal of the United States government is required to be affixed by and under federal statutes and regulations and in which retail sales of such cigarettes are normally made or intended to be made.

**PURCHASER.** Every person to whom the title to any cigarettes is transferred by a seller within the town.

**SALE.** Every act or transaction, irrespective of the method or means employed, including the use of vending machines and other mechanical devices, whereby title to any cigarettes shall be transferred from the seller to any other person within the town.

**SELLER.** Every person engaged in the business of selling cigarettes who transfers title or in whose place of business title to any such cigarettes is transferred within the town for any purpose other than resale.

**TREASURER.** The Treasurer of the town and every person duly authorized by him or her to serve as his or her representative.  
(Ord. 14-01, passed 7-14-2014)

**§ 35.116 LEVY; AMOUNT.**

There is levied and imposed by the town, in addition to any and all other taxes which may be or have been imposed, a tax to be paid and collected as provided in this subchapter on each and every sale made in the town of cigarettes in the kind and manner required in this subchapter; and the rate or amount of tax levied or imposed on cigarettes shall be at the rate of \$0.05 per pack of cigarettes.  
(Ord. 14-01, passed 7-14-2014)

**§ 35.117 DECALS; DUTIES OF TREASURER GENERALLY.**

(A) The Treasurer shall acquire, keep and sell necessary decals to local dealers and other agents, the decals to be of such denominations and quantities as may be necessary for the payment of the tax imposed in this subchapter.

(B) The Treasurer may from time to time and as often as he deems advisable provide for the issuance and exclusive use of decals of a new design and forbid the use of decals of any other design. The Treasurer is empowered to make and carry into effect such reasonable rules and regulations relating to the preparation, furnishing, sale and redemption of decals as he may deem necessary. In redeeming decals or making refund for destroyed decals, he or she shall not in any case refund more than 90% of the face value of such redeemed or destroyed decals. He is further authorized and empowered to prescribe the method to be employed, the conditions to be observed, and any other necessary requirements not contrary to this subchapter in the use of meter machines for printing upon packages of cigarettes insignia to represent the payment of the tax and in lieu of decals.

(C) The Treasurer is further authorized and empowered to:

(1) Prescribe, adopt, promulgate and enforce rules and regulations relating to the method and means to be used in the cancellation of decals and any other matters pertaining to the administration and enforcement of the provisions of this subchapter; and

(2) Delegate his powers to agents or others, including the police officers of the town.  
(Ord. 14-01, passed 7-14-2014)

**§ 35.118 INSPECTION OF RECORDS, PREMISES, AND THE LIKE.**

The Treasurer is empowered to examine books, records, invoices and papers related to purchases, sales, and the like, of cigarettes, and to examine all cigarettes in and upon any premises where they are placed, stored, sold, offered for sale or displayed for sale by a seller.  
(Ord. 14-01, passed 7-14-2014)

**§ 35.119 SEIZURE AND DISPOSITION OF UNTAXED CIGARETTES.**

(A) If the Treasurer discovers any cigarettes subject to the tax imposed under this subchapter, but upon which such tax has not been paid and upon which decals have not been affixed or evidence or payment shown by printed markings of a meter machine in compliance with the provisions of this subchapter, the Treasurer or duly authorized agents or officers, or any of them, are authorized and empowered to seize and take possession forthwith of such cigarettes, which shall thereupon be deemed to be forfeited to the town. Such cigarettes forfeited may, within a reasonable time thereafter, and after written notice is posted at the front door of the municipal building at least five days before the date given in the notice for sale, shall sell such cigarettes in the place designated in such notice. No credit from any sale or other disposition shall be allowed toward any tax or penalties owed. The Treasurer shall collect the tax due together with a penalty in the amount of 50% and the cost incurred in such proceedings. The seizure and sale of any cigarettes shall not be deemed to relieve any person of any other penalties provided in this subchapter.

(B) Cigarettes found in quantities of more than six cartons within the town shall be conclusively presumed for sale or use within the town and may be seized and confiscated if:

(1) They are in transit, and are not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and of the consignee or purchaser, and the brands and quantity of cigarettes so transported, or are in transit and accompanied by a bill of lading or other document which is false or fraudulent, in whole or in part;

(2) They are in transit and are accompanied by a bill of lading or other document indicating:

(a) A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such cigarettes on which the taxes imposed by such other jurisdiction have not been paid, unless the tax of the state or District of Columbia destination has been paid and the cigarettes bear the tax decals of that state or District of Columbia; or

(b) A consignee or purchaser in the Commonwealth but outside the town who does not possess a state sales and use tax certificate, a state retail cigarette license and, where applicable, both a business license and retail cigarette license issued by the local jurisdiction of destination; or

(3) They are not in transit and the tax has not been paid, nor have approved arrangements for payment been made; however, this subsection shall not apply to cigarettes in the possession of distributors or public warehouses which have filed notice and appropriate proof with the town that those cigarettes are temporarily within the town and will be sent to consignees or purchasers outside the jurisdiction in the normal course of business.

(Ord. 14-01, passed 7-14-2014)

**§ 35.120 DUTIES OF DEALERS, AGENTS AND SELLERS GENERALLY.**

(A) Every local dealer in cigarettes and every agent appointed under this section shall purchase necessary decals from the Treasurer to pay the tax imposed under this subchapter and shall affix or cause to be affixed a decal of the monetary value provided by this subchapter to each package of cigarettes prior to delivering or furnishing such cigarettes to any seller who is not also an agent.

(B) Nothing contained in this section shall be deemed to preclude any dealer from authorizing and employing any agent to purchase and affix such decals in his behalf or to have a decal meter machine used in lieu of decals to effectuate the provisions of this subchapter.

(C) Decals or printed markings of a meter machine shall be placed upon each package of cigarettes in such manner as to be readily visible to the purchaser.

(D) It shall be the responsibility of every seller to determine that each package of cigarettes offered for sale shall have a proper decal affixed in compliance with the provisions of this subchapter.

(E) If inspection by the agents of the town discloses packages of cigarettes with no decal or decals improperly placed, the seller, when such cigarettes were obtained from a local dealer, shall immediately notify such dealer; and upon such notification, such dealer shall forthwith either affix to such package or container or item with no decal or decals improperly placed the proper amount of decals or shall replace such package, and the like, with others to which decals have been properly affixed. If a seller, who is not also an agent, acquires or has in his possession cigarettes with no decal or decals improperly placed from any person other than a local dealer, the seller shall forthwith notify the Treasurer of such fact. The Treasurer shall thereupon affix or cause to be affixed the proper decals to such cigarettes. The cost of such decals at face value shall be advanced by such seller. The Treasurer shall thereupon affix the appropriate decal at such agent's place of business.

(F) If any packages of cigarettes are found in the possession of a seller without proper decals or authorized printed markings on the package, and the seller is unable to submit evidence establishing that he received such packages, containers, and the like, within the immediately preceding 48 hours, and that he has not offered the packages for sale, it shall be presumed that such packages, containers, and the like, are being kept in violation of the provisions of this subchapter; and the seller shall be subject to the penalties provided for in this subchapter, even though such seller is also an agent.

(G) The Treasurer, by proper rules and regulations, may require every local dealer, agent or seller to cancel decals upon all packages of cigarettes in his or her possession.

(H) Every local dealer and seller shall maintain and keep for a period of at least two years such records of cigarettes received and sold by him or her as may be required by the Treasurer. Such records shall be made available for examination in the town by the Treasurer upon demand, and to make available the means, facilities and opportunities for making any such examinations at all reasonable times.

(Ord. 14-01, passed 7-14-2014)

**§ 35.121 DISPOSITION OF REVENUE.**

Revenues derived from the tax imposed in this subchapter shall be deposited by the Treasurer to the credit of the general fund of the town for utilization for such legal purposes as the council may determine. (Ord. 14-01, passed 7-14-2014)

**§ 35.122 VIOLATIONS.**

(A) *Forging, altering decals and markings of meter machine.* It shall be unlawful for any person falsely or fraudulently to make, forge, alter or counterfeit any decal or the printed marking of a meter machine; to procure or cause to be made, forged, altered or counterfeited decals or printed markings of a meter machine; or to knowingly and willfully alter, publish, pass or tender as true any false, altered, forged or counterfeited decal or printed marking of a meter machine.

(B) *Selling of untaxed products through vending machines.* It shall be unlawful for any person to sell and dispense through a vending machine or other mechanical device any cigarettes upon which the tax imposed by this subchapter has not been paid and upon which evidence of the payment is not shown on each package of such cigarettes.

(Ord. 14-01, passed 7-14-2014) Penalty, see § 35.999

**§ 35.999 PENALTY.**

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Bank franchise tax.* Any bank which shall fail or neglect to comply with any provision of §§ 35.030 through 35.033 shall be fined not less than \$100 nor more than \$500, which fine shall be recovered upon motion, after five days' notice in the Circuit Court of this locality. The motion shall be in the name of the state and shall be presented by the attorney for the state of this locality.

(C) *Transient occupancy tax.*

(1) If any person shall fail or refuse to report and remit to the Treasurer the tax required to be collected and paid under §§ 35.045 through 35.054 within the time and in the amount as provided for in §§ 35.045 through 35.054, there shall be added to the tax by the Treasurer a penalty in the amount of 10% thereof and interest thereon at the rate of 10% per annum, which shall be computed upon the tax and penalty from the date the taxes were due and payable.

(2) Failure to timely file and pay the transient lodging tax when due shall constitute a Class 1 misdemeanor.



(3) Any person willfully failing or refusing to file a return as required under §§ 35.045 through 35.054 shall, upon conviction thereof, be guilty of a Class 1 misdemeanor except that any person failing to file a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000 or less. Any person violating or failing to comply with any other provision of §§ 35.045 through 35.054 shall be guilty of a Class 1 misdemeanor.

(4) Except as provided in division (C)(3) above of this section, any corporate or partnership officer, as defined in VA Code § 58.1-3906, or any other person required to collect, account for or pay over the transient occupancy tax imposed under §§ 35.045 through 35.054, who willfully fails to collect or truthfully account for or pay over the tax, or who willfully evades or attempts to evade the tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.

(5) Each violation of or failure to comply with §§ 35.045 through 35.054 shall constitute a separate offense. Conviction of any violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this §§ 35.045 through 35.054.

(D) *Meals tax.*

(1) If any person whose duty it is to do so shall fail or refuse to make the report or remit the tax required by §§ 35.065 through 35.071 within the time and in the amount required, there shall be added to the tax by the Treasurer a penalty in the amount of 10% of the tax, and interest thereon at the rate of 10% per annum, which shall be computed upon the tax and penalty from the date they were due and payable.

(2) Any person willfully failing or refusing to file a return as required under §§ 35.065 through 35.071 shall, upon conviction thereof, be guilty of a Class 1 misdemeanor except that any person failing to file a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000 or less. Any person violating or failing to comply with any other provision of §§ 35.065 through 35.071 shall be guilty of a Class 1 misdemeanor, except as provided in this section, any corporate or partnership officer, as defined in VA Code § 58.1-3906, or any other person required to collect.

(E) *Tax on consumers of utility services.* Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax imposed and levied under §§ 35.085 through 35.087, and any officer, agent or employee of any service provider violating the provisions of §§ 35.085 through 35.087 shall, upon conviction thereof, be punished by a fine of not less than \$100 nor more than \$2,500, or by imprisonment in jail for not more than 60 days, or by both a fine and imprisonment. Each failure, refusal, neglect or violation shall constitute a separate offense. A conviction shall not relieve any person from the payment, collection and remittance of the tax as provided.

(F) *Cigarette tax.* It shall constitute a class 1 misdemeanor for any person to violate or fail to comply with any provision of §§ 35.115 through 35.122 or to forget, alter, steal, or use without paying

for any stamped or metered insignia described in §§ 35.115 through 35.122. Conviction shall not relieve any person from payment of the tax as provided in §§ 35.115 through 35.122. Each violation or failure shall be a separate offense.

(Ord. 80-2, passed 4-1-1980; Ord. 00-01, passed 2-12-2001; Ord. 08-03, passed 11-10-2008; Ord. 09-01, passed 6-8-2009; Ord. 09-02, passed 6-8-2009; Ord. 14-01, passed 7-14-2014)



## **TITLE V: PUBLIC WORKS**

Chapter

**50. REFUSE**

**51. SEWERS**

**52. WATER**



## CHAPTER 50: REFUSE

Section

### *Refuse and Condition of Premises*

- 50.01 Definitions
- 50.02 When refuse to be collected by town
- 50.03 Preparation of wastepaper, rags and the like for collection
- 50.04 Interfering with contents of containers set out for collection; interfering with town employees and the like
- 50.05 Throwing refuse on street and the like
- 50.06 Dumping cinders and the like on street
- 50.07 Dumping garbage and the like for filling and the like
- 50.08 Accumulation of refuse as a public nuisance
- 50.09 Correction by town of certain conditions
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### *Collection from Householders*

- 50.25 Containers for refuse to be provided; requirements as to containers
- 50.26 Setting out refuse containers for collection and the like
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### *Collection from Business Houses*

- 50.40 Bins and the like for trash to be provided
- 50.41 Restaurants and the like to provide containers for garbage
- 50.42 Preparation by department stores and the like of cartons and the like
- 50.43 Preparation by grocery store having bins of spoiled vegetables for collection
- 50.44 Containers for the collection of cinders
- 50.45 Repair of bins and the like and replacement of containers

***REFUSE AND CONDITION OF PREMISES*****§ 50.01 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BUSINESS HOUSES.*** Includes operators of restaurants, cafés, hotels, department stores, furnishing stores, business offices, shops, garages, service stations and any other establishment that may cater to the general public.

***CINDERS.*** Includes ashes, clinkers and any other incombustible residue from heaters or furnaces.

***GARBAGE.*** Includes all kitchen waste, such as discarded vegetables, fruits, peelings, oysters and clam shells, bones, table scraps and any other wet or damp items that may be rejected as kitchen waste.

***HOUSEHOLDER.*** Includes occupants of dwelling houses, apartment houses, cabins and house trailers.

***REFUSE.*** Includes trash and garbage.

***TRASH.*** Includes paper, cardboard floor sweepings, bottles, broken glass, drugs, discarded clothing and any other dry items that may be rejected.  
(Prior Code, § 15-1)

**§ 50.02 WHEN REFUSE TO BE COLLECTED BY TOWN.**

The town will cause to be collected weekly all refuse from all residents and from all business houses daily or on a schedule as to be required to make effective collection.  
(Prior Code, § 15-2)

**§ 50.03 PREPARATION OF WASTEPAPER, RAGS AND THE LIKE FOR COLLECTION.**

Except as otherwise provided in this subchapter, all wastepaper, rags, old shoes or clothing and material that is liable to be blown or scattered about the streets shall be securely tied in bundles and deposited in the required receptacle, with cover.  
(Prior Code, § 15-3) Penalty, see § 10.99

**§ 50.04 INTERFERING WITH CONTENTS OF CONTAINERS SET OUT FOR COLLECTION; INTERFERING WITH TOWN EMPLOYEES AND THE LIKE.**

(A) No unauthorized person, except employees, agents or contractors of the town, shall overhaul, molest or interfere with the contents of any container or receptacle set out for collection or removal by the town under this subchapter.

(B) No person shall interfere with, hinder or obstruct the employees, agents or contractors of the town in the collection or removal of any materials set out for collection or removal under this subchapter. (Prior Code, § 15-4) Penalty, see § 10.99

**§ 50.05 THROWING REFUSE ON STREET AND THE LIKE.**

It shall be unlawful for any person to throw upon the sidewalk, streets, roads, alleys or in any catch basin or drain any refuse. Nor shall any householder, storekeeper or any other person, by himself or herself of his or her agent, sweep from any house, yard, store or building any refuse in or upon any sidewalk, street, road or alley.

(Prior Code, § 15-5) Penalty, see § 10.99

**§ 50.06 DUMPING CINDERS AND THE LIKE ON STREET.**

It shall be unlawful for any person to dump cinders or other materials in any street or alley with the town.

(Prior Code, § 15-6) Penalty, see § 10.99

**§ 50.07 DUMPING GARBAGE AND THE LIKE FOR FILLING AND THE LIKE.**

No garbage or offensive or disease-producing material shall be dumped in any lot or space within the town for the purpose of filling or otherwise.

(Prior Code, § 15-7) Penalty, see § 10.99

**§ 50.08 ACCUMULATION OF REFUSE AS A PUBLIC NUISANCE.**

It shall constitute a public nuisance for any person to allow in a manner that would become offensive or unsanitary.

(Prior Code, § 15-8) Penalty, see § 10.99



**§ 50.09 CORRECTION BY TOWN OF CERTAIN CONDITIONS.**

(A) When any person is in violation of §§ 50.05 to 50.08 and has received proper notice of the violation, the town may remove the offending material and the violator shall pay the town the cost of removing it.

(B) The cost of removal shall have no bearing on or connection with any punishment that may be imposed for the violation.  
(Prior Code, § 15-9)

**§ 50.10 ENFORCEMENT OF CHAPTER; RIGHT OF ENTRY.**

Except as otherwise provided in this subchapter, the Town Manager shall enforce this subchapter, and, for that purpose, may visit the premises of building of any resident, householder, hotel, restaurant, storekeeper or business house in the town at any time and to make inspection thereof.  
(Prior Code, § 15-10)

***COLLECTION FROM HOUSEHOLDERS*****§ 50.25 CONTAINERS FOR REFUSE TO BE PROVIDED; REQUIREMENTS AS TO CONTAINERS.**

All householders with refuse to be collected by the town shall provide one or more metal or plastic containers with a capacity of not more than 30 gallons and with tight fitting lids that shall be kept thereon at all times, except when the container is being filled or emptied.  
(Prior Code, § 15-11)

**§ 50.26 SETTING OUT REFUSE CONTAINERS FOR COLLECTION AND THE LIKE.**

(A) Householders shall place all refuse containers outside at one location and at ground level, so as to be readily assessable to the collection crew.

(B) Containers shall be clear and away from any object or property that may sustain damage during collection.

(C) Town employees will not be permitted to enter homes or garages for the purpose of collecting refuse.  
(Prior Code, § 15-12)

**§ 50.27 CONTAINERS FOR CINDERS TO BE PROVIDED.**

(A) Householders shall provide separate containers for the collection of cinders with a capacity of not more than 21 gallons and with tight fitting covers that shall be kept thereon at all times except when being filled or emptied.

(B) Cinders will not be collected while they are warm or hot.  
(Prior Code, § 15-13)

**§ 50.28 REPLACEMENT OF WORN CONTAINERS.**

Householders shall replace worn and battered refuse and cinder containers when notified by the Town Manager or his or her duly authorized agent.  
(Prior Code, § 15-14)

***COLLECTION FROM BUSINESS HOUSES*****§ 50.40 BINS AND THE LIKE FOR TRASH TO BE PROVIDED.**

Business houses shall provide trash storage room or bins with sloping covers or other approved containers for the purpose of storing trash until their trash collection day.  
(Prior Code, § 15-16)

**§ 50.41 RESTAURANTS AND THE LIKE TO PROVIDE CONTAINERS FOR GARBAGE.**

Business houses, such as restaurants, cafés and other eating establishments where perishable items are served to the public shall provide metal or plastic containers for garbage with covers and with a capacity of not more than 30 gallons.  
(Prior Code, § 15-17)

**§ 50.42 PREPARATION BY DEPARTMENT STORES AND THE LIKE OF CARTONS AND THE LIKE.**

Business houses, such as furnishing stores, department stores and other establishments that may have large cartons and boxes and large quantities of loose paper for collection by the town shall put all loose paper and boxes into large boxes or cartons and place into storage rooms or bins, so as to be readily accessible to the collection crew.  
(Prior Code, § 15-18)

**§ 50.43 PREPARATION BY GROCERY STORE HAVING BINS OF SPOILED VEGETABLES FOR COLLECTION.**

Business houses, such as grocery stores, dairy bars, produce markets and other establishments with a quantity of refuse to warrant the use of trash storage rooms or bins shall not throw spoiled vegetables, fruits, meats and any other rejected perishable items loosely into those rooms or bins, but shall provide other approved containers for those items.

(Prior Code, § 15-19) Penalty, see § 10.99

**§ 50.44 CONTAINERS FOR THE COLLECTION OF CINDERS.**

Business houses shall provide for the collection of cinders, metal containers with lids and with a capacity of not more than 21 gallons.

(Prior Code, § 15-20)

**§ 50.45 REPAIR OF BINS AND THE LIKE AND REPLACEMENT OF CONTAINERS.**

Business houses shall repair trash storage rooms or bins or replace refuse containers when notified by the Town Manager or his or her agents.

(Prior Code, § 15-21)

## CHAPTER 51: SEWERS

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## **GENERAL PROVISIONS**

### **§ 51.001 PURPOSE.**

The purpose of this chapter is to provide for the maximum possible beneficial public use of the town treatment works through regulation of sewer construction, sewer use and wastewater discharges; to provide for equitable distribution of the costs of the treatment works; and to provide procedures for complying with the requirements contained herein. This chapter shall replace all existing sewer use ordinances and regulations as amended dated before.

(Ord. passed 6-12-2006)

### **§ 51.002 SCOPE.**

(A) The definitions of various terms used in this chapter are found in §§ 51.020 and 51.021. The provisions of this chapter shall apply to the discharge of all wastewater to treatment works of the town. This chapter provides for use of the town's treatment works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing customers' capacity will not be preempted, approval of sewer construction plans, issuance of user permits, minimum sewer connection standards and conditions and penalties and other procedures in case of violation of this chapter.

(B) This chapter shall apply to the town and to persons outside the town who are, by contract, permit or agreement with the town, of the town's treatment works.

(Ord. passed 6-12-2006)

**§ 51.003 ADMINISTRATION.**

Except as otherwise provided herein, the Manager of the town shall administer, implement and enforce the provisions of this chapter.

(Ord. passed 6-12-2006)

**§ 51.004 FEES AND CHARGES.**

(A) All fees and charges payable under the provisions of this chapter shall be paid to the town. The fees and charges shall be as set forth herein or as established by the Town Council.

(B) All connection and user fees, penalties and charges collected under this chapter shall be used for the purpose of operating and maintaining the sewage collection and treatment works of the town, or the retirement of debt incurred for same.

(C) All fees and charges payable under the provisions of this chapter are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges.

(Ord. passed 6-12-2006)

**§ 51.005 INSPECTIONS.**

(A) The Manager or authorized state or federal officials, bearing the proper credentials and identification, shall be permitted to enter all premises where an effluent source or treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling and/or copying records of the wastewater discharge to ensure that discharge to the treatment works is in accordance with the provisions of this chapter.

(B) The Manager, bearing proper credentials and identification, shall be permitted to enter all private property through which the town holds an easement for the purposes of inspection, observation, measurement, sampling, repair and maintenance of any of the town's treatment works lying within the easement. All entry, and any subsequent work on the easement, shall be done in final accordance with the terms of the easement pertaining to the private property involved.

(C) While performing any necessary work on private properties referred to in divisions (A) and (B) above, the Manager shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

(Ord. passed 6-12-2006)



**§ 51.006 VANDALISM.**

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the town's treatment works. (Ord. passed 6-12-2006) Penalty, see § 51.999

**§ 51.007 AMENDMENTS TO THE CHAPTER.**

Public notice shall be given in accordance with applicable provisions of the Town Charter, other town ordinances, state and federal law, prior to adoption of any amendments of this chapter. (Ord. passed 6-12-2006)

***DEFINITIONS*****§ 51.020 SPECIFIC DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ACT.*** The Federal Clean Water Act, 33 U.S.C. §§ 1251 et seq.

***APARTMENT BUILDING.*** Any building used for multi-family residence and which the building is not owned entirely by a person or persons who reside in and occupy the entire building. This definition shall not include duplex apartments.

***APPROVAL AUTHORITY.*** The Executive Director or Director of the Department of Environmental Quality.

***ASTM.*** The American Society for Testing and Materials.

***AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER.***

(1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or

(3) A duly authorized representative of the individual designated in division (1) or (2) above, if the representative is responsible for the overall operation of the facility from which the discharge to

the POTW originates. The authorization must be submitted to the Manager prior to or together with any reports to be signed by the ***AUTHORIZED REPRESENTATIVE***.

***BOD (DENOTING BIOCHEMICAL OXYGEN DEMAND)***. The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20°C, expressed in milligrams per liter.

***BUILDING SEWER***. The extension from a building wastewater plumbing facility to the treatment works.

***CATEGORICAL PRETREATMENT STANDARD*** or ***CATEGORICAL STANDARD***. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with §§ 307(a) and 307(c) of the Act, which apply to specific categories of industrial users which appear in 40 C.F.R. Chapter 1, Subchapter N, Parts 405 through 471.

***DAY***. The 24-hour period beginning at 12:01 a.m.

***DISCHARGER***. Person or persons, firm, company, industry or other similar sources of wastewater who introduce such into the POTW.

***EASEMENT***. An acquired legal right for the specific use of land owned by others.

***EPA***. The United States Environmental Protection Agency.

***ESTABLISHMENT***. Any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel and each and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical or biological properties of any state waters.

***EXISTING SOURCE***. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to the source if the standard is thereafter promulgated in accordance with § 307 of the Act.

***GARBAGE***. The solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking and serving of foods.

***GROUNDWATER***. Any water beneath the land surface in the zone of saturation.

***INDIRECT DISCHARGE***. The introduction of nondomestic pollutants into the POTW from any nondomestic source regulated under § 307(b), (c) or (d) of the Act.

***INDUSTRIAL USER*** or ***SIGNIFICANT DISCHARGER***. A source of indirect discharge, or a nondomestic discharge to a treatment works.

**INDUSTRIAL WASTES.** Liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

**INTERFERENCE.** An inhibition or disruption of the POTW, its treatment processes or operations or its sludge processes, which clearly causes, in whole or in part, a violation of any requirement of the POTW's VPDES permit, including those discharges that prevent the use or disposal of sludge by the POTW in accordance with any federal or state laws, regulations, permits or sludge management plans.

**MANAGER.** The Manager of the town or an authorized designee.

**MAY.** Is permissible; **SHALL** is mandatory.

**MUNICIPALITY.** A city, county, town, district association, authority or other public body created under the law and having jurisdiction over disposal of sewage, industrial or other wastes.

**NATURAL OUTLET.** Any outlet into a watercourse, pond, ditch, lake or any other body of surface or groundwater.

**NEW SOURCE.** The same meaning as provided in 40 C.F.R. Part 403.3(k).

**OWNER.** The state or any of its political subdivisions, including, but not limited to, sanitation districts commissions and authorities, and public or private institutions, corporations, associations, firms or companies organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group.

**PASS-THROUGH.** The discharge of pollutants through a POTW into state waters in quantities or concentrations which are a cause in whole or in part of a violation of any requirement of the POTW's VPDES permit, including an increase in the magnitude or duration of a violation.

**PERSON.** Any individual, firm, company, association, society, partnership, corporation, municipality or other similar organization, agency or group.

**pH.** The logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by *Standard Methods*.

**POLLUTANT.** Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radioactive material, heat wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste and certain characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

**POTW, PUBLICLY OWNED TREATMENT WORKS.** Any sewage treatment works that is owned by a state or municipality. Sewers, pipes or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

**PRETREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to discharge to the town's treatment works.

**PRETREATMENT REQUIREMENTS.** Any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

**PRETREATMENT STANDARD.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with §§ 307(b) and (c) of the Act, which applies to industrial users.

**PROPERLY SHREDDED GARBAGES.** Garbage that has been shredded to a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than one-half inch in any dimension.

**RESIDENTIAL USER (CLASS I).** All premises used only for human residency and which is connected to the treatment works.

**SANITARY WASTEWATER.** Wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants or institutions.

**SIGNIFICANT INDUSTRIAL USER.**

(1) Has a process wastewater\* flow of 25,000 gallons or more per average work day (\*Excludes sanitary, non-contact cooling and boiler blowdown wastewater);

(2) Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW;

(3) Is subject to categorical pretreatment standards; or

(4) Has significant impact, either singularly or in combination with other significant dischargers, on the treatment works.

**SLUG LOAD.** Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standard in § 51.077 of this chapter or any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge.

**STANDARD METHODS.** The latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, Water Pollution Control Federation and American Water Works Association.

**STATE.** The Commonwealth of Virginia.

**STORM SEWER.** A sewer for conveying storm, surface, and other waters, which is not intended to be transported to a treatment works.

***SURFACE WATER.***

- (1) All waters which are currently used, were used in the past or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
- (2) All interstate waters, including interstate “wetlands;”
- (3) All other waters, such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes or natural ponds, the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any waters:
  - (a) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - (b) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - (c) Which are used or could be used for industrial purposes by industries in interstate commerce.
- (4) All impoundments of waters otherwise defined as surface waters under this definition;
- (5) Tributaries of waters identified in divisions (1) through (4) above of this definition;
- (6) The territorial sea; and
- (7) “Wetlands” adjacent to waters other than waters that are themselves wetlands, identified in divisions (1) through (6) above of this definition.

***SUSPENDED SOLIDS.*** The total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by *Standard Methods*.

***TREATMENT FACILITY.*** Only those mechanical power-driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).

***TREATMENT WORKS.*** Any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances, extensions, improvements, remodeling, additions or alterations and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from the treatment, or any other method or system used for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste in combined sewer water and sanitary sewer systems.

**TOXICS.** Any of the pollutants designated by federal regulations pursuant to § 307(a)(1) of the Act.

**USER.** A source of wastewater discharge into a POTW.

**USER PERMIT.** A document issued by the POTW to the user that permits the connection and/or introduction of wastes into the treatment works under the provisions of this chapter.

**VPDES.** The state pollutant discharge elimination system permit program, as administered by the state.

**WASTEWATER.** A combination of liquid and water-carried wastes from residences, commercial buildings, industries and institutions, together with any groundwater, surface water or stormwater that may be present.

**WPCF.** The Water Pollution Control Federation.  
(Ord. passed 6-12-2006)

#### **§ 51.021 GENERAL DEFINITIONS.**

Unless the context of usage indicates otherwise, the meaning of terms in this chapter and not defined in § 51.020 shall be as defined in the *Glossary: Water and Wastewater Control Engineering* prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association and Water Pollution Control Federation, copyright 1969.  
(Ord. passed 6-12-2006)

### ***USE OF TOWN'S TREATMENT WORKS AND TREATMENT FACILITY***

#### **§ 51.035 WASTE DISPOSAL.**

It shall be unlawful for any person to place, deposit or permit to be deposited in any condition that may be considered as an unsanitary or unhygienic manner on public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage or other objectionable waste.

(Ord. passed 6-12-2006) Penalty, see § 51.999

#### **§ 51.036 WASTEWATER DISCHARGES.**

It shall be unlawful under state and federal law to discharge without a VPDES permit to any natural outlet within the town or in any area under its jurisdiction. Wastewater discharges to the town's

treatment works are not authorized unless permitted by Manager in accordance with provisions of this chapter.

(Ord. passed 6-12-2006) Penalty, see § 51.999

### **§ 51.037 WASTEWATER DISPOSAL.**

Except as provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(Ord. passed 6-12-2006) Penalty, see § 51.999

### **§ 51.038 CONNECTION TO TREATMENT WORKS REQUIRED.**

The owner of any house, building or property which is used for commercial, industrial and/or residential purposes, abutting on any street, alley or rights-of-way in which there is or may be located a sewer connected to the treatment works of the town, is required at the owner's expense to install suitable toilet facilities therein, and to connect the facilities directly to the proper sewer in accordance with the provisions of this chapter, within 30 days after notice that sewer is available within 300 feet of the property line. This section shall not apply to any person served by a privately constructed, owned, operated and maintained sewer and treatment facility which discharges directly to a natural outlet in accordance with the provisions of this subchapter and applicable state and federal laws.

(Ord. passed 6-12-2006)

## ***BUILDING SEWERS AND CONNECTIONS***

### **§ 51.050 CONNECTION PERMIT.**

(A) No person shall uncover, make any connections with, use, alter or disturb and wastewater sewer or storm sewer without first obtaining a written permit from the Manager.

(B) (1) There shall be three classes of permits for connections to the town's treatment works and treatment facilities.

Class I	Residential
Class II	Commercial
Class III	Industrial

(2) (a) In all cases, the owner shall make application for a permit to connect to the town's treatment works on a form furnished by the town.

(b) The permit application shall be supplemented by wastewater information required to administer this chapter. A permit and inspection fee set by the Town Council shall be paid to the town at the time the application is filed.

(Ord. passed 6-12-2006) Penalty, see § 51.999

#### **§ 51.051 CONNECTION COSTS.**

The costs and expenses incidental to the building sewer installation and connection to the town's treatment works shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. passed 6-12-2006)

#### **§ 51.052 MASTER CONNECTIONS REQUIRED.**

One master sewer connection shall be provided for every building, house, mobile home park or apartment building, or appurtenances thereof, regardless of the number of dwelling units contained therein. The town assumes no obligation or responsibility for damage caused by or resulting from any master sewer connection.

(Ord. passed 6-12-2006)

#### **§ 51.053 EXISTING BUILDING SEWERS.**

Existing building sewers may be used for connection of new buildings only when they are found, on examination and testing by the Manager, to meet the requirements of this chapter.

(Ord. passed 6-12-2006)

#### **§ 51.054 BUILDING SEWER DESIGN.**

The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the Building and Plumbing Code or other applicable requirements of the town. In the absence of Code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply.

(Ord. passed 6-12-2006)

#### **§ 51.055 BUILDING SEWER ELEVATION.**

(A) Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor.



(B) In buildings in which any building drain is too low to permit gravity flow to the town's treatment works, wastewater carried by the building drain shall be lifted by an approved means and discharged to a building sewer draining to the town sewer.

(Ord. passed 6-12-2006)

#### **§ 51.056 SURFACE RUNOFF AND GROUNDWATER DRAINS.**

(A) No person shall connect roof, foundation, areaway, parking lot, roadway or other surface runoff or groundwater drains to any sewer that is connected to a treatment works unless the connection is authorized in writing by the Manager. The connection of those drains shall conform to codes specified in § 51.057 or as specified by the Manager as a condition of approval of the connection.

(B) Except as provided in division (A) above, roof, foundation, areaway, parking lot, roadway or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

(Ord. passed 6-12-2006) Penalty, see § 51.999

#### **§ 51.057 CONFORMANCE TO APPLICABLE CODES.**

The connection of a building sewer into a treatment works shall conform to the requirements of the Building and Plumbing Code or other applicable requirements of the town, or the procedures set forth in appropriate specifications of the State Sewerage Regulations, Uniform Building Code of Virginia and American Society of Testing Materials. The connections shall be made gas-tight and water-tight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the Manager before installation.

(Ord. passed 6-12-2006)

#### **§ 51.058 CONNECTION INSPECTION.**

The applicant for a building sewer or other drainage connection permit shall notify the Manager when the sewer or drainage connection is ready for inspection prior to its connection to the town's treatment works. The connection inspections and testing as deemed necessary by the Manager shall be made by the Manager.

(Ord. passed 6-12-2006)

#### **§ 51.059 EXCAVATION GUARDS AND PROPERTY RESTORATION.**

Excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(Ord. passed 6-12-2006)

**§ 51.060 PROTECTION OF CAPACITY FOR EXISTING USES.**

The Manager shall not issue a permit for any class of connection to the town's treatment works or treatment facilities unless there is sufficient capacity, not legally committed to other users, in the treatment works and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the treatment works or treatment facility. The Manager may permit a connection if there are legally binding commitments to provide the needed capacity.  
(Ord. passed 6-12-2006)

***CONDITIONS TO USE THE TOWN TREATMENT WORKS*****§ 51.075 SPECIAL USES OF TREATMENT WORKS.**

All discharges of stormwater, surface water, groundwater, roof runoff, subsurface drainage or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for these discharges, except as authorized under § 51.056. Any connection, drain or arrangement that will permit any waters to enter any other sewer shall be deemed to be a violation of this section and this chapter.  
(Ord. passed 6-12-2006)

**§ 51.076 INDUSTRIAL USER, GENERAL PROHIBITIONS UPON.**

An industrial user shall not introduce any pollutants into the town's treatment works that will pass through or interfere with the operation or performance of the treatment facilities.  
(Ord. passed 6-12-2006) Penalty, see § 51.999

**§ 51.077 RESTRICTED DISCHARGES.**

(A) No person shall discharge or cause to be discharged to any of the town's treatment works any substances, materials, waters or wastes in quantities or concentrations that do or are likely to:

(1) Create a fire or explosion hazard including, but not limited to, gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas; waste stream with a closed cup flashpoint of less than 140°F or 60°C using test methods specified in 40 C.F.R. § 261.21;

(2) Cause corrosive damage or hazard to structures, equipment or personnel of the wastewater facilities, but in no case discharges with the following properties:

(a) Having a pH lower than 5.0 or greater than 9.0;

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- (b) Having a BOD concentration greater than 240 milligrams per liter;
  - (c) Having a suspended solids concentration greater than 240 milligrams per liter; or
  - (d) Having an oil and grease concentration greater than 100 milligrams per liter.
- (3) Cause obstruction to the flow in sewers, or other interference with the operation of treatment facilities due to the accumulation of solid or viscous materials;
- (4) Constitute a rate of discharge or substantial deviation from normal rates of discharge (“slug discharge”) sufficient to cause interference in the operation and performance of the treatment facilities;
- (5) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the town wastewater sewer to exceed 65°C (150°F) or the temperature of the influent to the treatment facilities to exceed 40°C (104°F) unless the facilities can accommodate heat and the town has obtained the prior approval from the approval authority;
- (6) Contain more than 100 milligrams per liter of nonbiodegradable oils of mineral or petroleum origin;
- (7) Contain floatable oils, fat or grease;
- (8) Contain noxious gases, vapors or fumes, malodorous gas or substance in quantities that may cause a public nuisance or cause acute human or safety problems;
- (9) Contain radioactive wastes in harmful quantities as defined by applicable state and federal regulations;
- (10) Contain any garbage that has not been properly shredded;
- (11) Contain any odor or color producing substances exceeding concentration limits which may be established by the Manager for purposes of meeting the town’s VPDES permit;
- (12) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;
- (13) Any trucked or hauled pollutants except at designated discharge points; and
- (14) Contain herbicidal chemicals of any description or in any controllable amount.
- (B) If, in establishing discharge restrictions, discharge limits or pretreatment standards pursuant to the subchapter, the Manager establishes concentration limits to be met by a user, the Manager in lieu of

concentration limits, may establish mass limits of comparable stringency for an individual user at the request of the user. Upon approval by the state, the limits should become pretreatment standards.  
(Ord. passed 6-12-2006) Penalty, see § 51.999

#### **§ 51.078 CATEGORICAL PRETREATMENT STANDARDS.**

(A) No person shall discharge or cause to be discharged to any treatment works wastewaters containing substances subject to an applicable categorical pretreatment standard promulgated by EPA in excess of the quantity prescribed in an applicable pretreatment standards except as otherwise provided in this section. Compliance with the applicable pretreatment standards shall be within six months of the date the standard is promulgated, provided, however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.

(B) The Manager shall notify any user affected by the provisions of this section and establish an enforceable compliance schedule for each.

(C) No person shall discharge trucked hazardous wastes to the town's treatment works.  
(Ord. passed 6-12-2006) Penalty, see § 51.999

#### **§ 51.079 SPECIAL AGREEMENTS.**

Nothing in this subchapter shall be construed as preventing any agreement or arrangement between the town and any user of the treatment works and treatment facility whereby wastewater of unusual strength or character (only in terms of BOD and/or suspended solids) is accepted into the system and specially treated subject to additional payments or user charges as may be applicable.  
(Ord. passed 6-12-2006)

#### **§ 51.080 WATER AND ENERGY CONSERVATION.**

The conservation of water and energy shall be encouraged by the Manager. In establishing discharge restrictions upon users, the Manager shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the Manager, each user will provide the Manager with pertinent information showing that the quantities of substances or pollutants have not been and will not be increased as a result of the conservation steps. Upon a showing to the satisfaction of the Manager, he or she shall make adjustments to discharge restrictions, which have been based on concentrations to reflect the conservation steps.  
(Ord. passed 6-12-2006)

**§ 51.081 EXCESSIVE DISCHARGE.**

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards or in any other pollutant-specific limitation developed by the town or state.

(Ord. passed 6-12-2006) Penalty, see § 51.999

**§ 51.082 ACCIDENTAL DISCHARGES.**

(A) (1) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved by the town before construction of the facility.

(2) No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of the plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter.

(3) In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions.

(B) (1) Within five days following an accidental discharge, the user shall submit to the Manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences.

(2) The notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the treatment works and treatment facility, fish kills or any other damage to person or property; nor shall the notification relieve the user of any fines, civil penalties or other liability which may be imposed by this subchapter or other applicable law.

(C) (1) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge.

(2) Employers shall ensure that all employees who may cause or suffer a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. passed 6-12-2006)

**INDUSTRIAL DISCHARGERS****§ 51.095 INFORMATION REQUIREMENTS.**

(A) All industrial dischargers shall file, with the town, wastewater information deemed necessary by the Manager for determination of compliance with this chapter, the town's VPDES permit conditions and state and federal law. The information shall be provided by completion of a questionnaire designed and supplied by the Manager and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions as set out in this section.

(B) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one location, separate information submittals shall be made for each location as may be required by the Manager.

(C) (1) Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

(2) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter. The state pollutant discharge elimination system permit, state disposal system permit and/or the pretreatment programs, provided, however, that the portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(3) Information accepted by the town as confidential, shall not be transmitted to any governmental agency or to the general public by the town until and unless a ten-day notification is given to the user.

(Ord. passed 6-12-2006)

**§ 51.096 USER PERMITS.**

(A) *User permit required.* All significant industrial users proposing to connect to or to contribute to the treatment works shall obtain a user permit before connecting to or contributing to the treatment works. All existing significant industrial users connected to or contributing to the treatment works shall obtain a user permit within 180 days after the effective date of this chapter.

(B) *Application.* Significant industrial users required to obtain a permit shall complete and file with the town, an application in the form prescribed by the town, and accompanied by a fee to be set by Town

Council. Existing significant industrial users shall apply for a permit within 30 days after the effective date of this chapter, and proposed new significant industrial users shall apply at least 90 days prior to connecting to or contributing to the treatment works. In support of this application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address and location (if different from address);
- (2) SIC number according to the *Standards Industrial Classification Manual*, Bureau of the Budget, 1987, as amended;
- (3) Wastewater constituents and characteristics, including but not limited to, those mentioned in § 51.077 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to § 304(g) of the Act and contained in 40 C.F.R. part 136, as amended;
- (4) Time and duration of contribution;
- (5) Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by their size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- (8) The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
  - (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction and the like);
  - (b) No increment referred to in division (B)(9)(a) above shall exceed one year; and

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Manager including, as a minimum, whether or not it complied with the increment of progress to be met on the date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than one year elapse between the progress reports to the Manager.

(10) Each product produced by type, amount, process or processes and rate of production;

(11) Type and amount of raw materials processed (average and maximum per day);

(12) Number of type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system; and

(13) Any other information as may be deemed by the town to be necessary to evaluate the user permit application.

(C) *Evaluation and issuance of permit.* The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a user permit subject to terms and conditions provided herein.

(D) *Standard.* Within nine months of the promulgation of a national categorical pretreatment standard, the user permit of users subject to these standards shall be revised to require compliance with the standard if they are more restrictive than the local limits developed by the POTW within the timeframe prescribed by the standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a user permit as required by division (B) above, the user shall apply for a user permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with existing user permit shall submit to the Manager, within 180 days after the promulgation of an applicable federal categorical pretreatment standard, the information required by divisions (B)(8) and (B)(9) above.

(E) *Permit conditions.* User permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the town. Permits may contain the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(2) Limits on the average and maximum wastewater constituents and characteristics (Permits must contain this item);

(3) Limits on the average and maximum rate and time of discharge or requirements for flow regulations and equalization. (Permits must contain this item);

(4) Requirements for installation and maintenance of inspection and sampling facilities;



(5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(6) Compliance schedules;

(7) Requirements for submission of technical reports or discharge reports. See § 51.097 (Permits must contain this item);

(8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording the town access thereto (Permits must contain this item);

(9) Requirements for notification of the town for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the treatment works (Permits must contain this item);

(10) Requirements for immediate notification of slug discharges (Permits must contain this item);

(11) Other conditions as deemed appropriate by the town to ensure compliance with this chapter;  
and

(12) Statement of applicable remedies.

(E) *Time period.* User permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the town during the term of the permit as limitations or requirements as identified in this section are modified or other just cause exists. The user shall be informed of any proposed changes in his or her permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(F) *User permit; specific user for a specific operation.* User permits are issued to a specific user for a specific operation. A user permit shall not be reassigned or transferred or sold by the user to a new owner, new user, different premises or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit in the interim prior to the issuance of the respective new permit.

(Ord. passed 6-12-2006)

#### **§ 51.097 REPORTING REQUIREMENTS FOR PERMITEE.**

(A) Within 90 days following the date of final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the wastewater treatment facilities, any user subject to pretreatment standards and requirements shall submit to the Manager a report indicating the nature and concentration of all pollutants in the discharge from

the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by pretreatment standards and requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. In addition, the report shall contain the results of any sampling and analysis of the discharge as specified in division (B)(2) below. This statement shall be signed by an authorized representative of the user, and certified to by a qualified professional.

(B) (1) Any user subject to a pretreatment standard, after the compliance date of the pretreatment standard, or, in the case of a pretreatment standard or in the case of a new source, after commencement of the discharge into the treatment works, shall submit to the Manager during the months of June and December, unless required more frequently in the pretreatment standard or by the Manager, a report indicating the nature and concentration, of pollutants in the effluent which are limited by pretreatment standards, in addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported. At the discretion of the Manager and in consideration of factors such as local high or low flow rates, holidays, budget cycles and the like, the Manager may agree to alter the months during which the above reports are to be submitted.

(2) The Manager may impose mass limitations on users that are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In these cases, the report required by division (B)(1) above shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Manager, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the permit. All analysis shall be in accordance with procedures established by EPA pursuant to § 304(g) of the Act and contained in 40 C.F.R. part 136 and amendments thereto or with any other test procedures approved by EPA. Sampling shall be performed in accordance with the techniques approved by EPA. All samples analyzed by this method should be reported. Where 40 C.F.R. part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with sampling and analytical procedures approved by EPA.

(Ord. passed 6-12-2006)

#### **§ 51.098 PROVISION FOR MONITORING.**

(A) When required by the Manager, the owner of any property serviced by a building sewer carrying Class II or III wastewater discharges shall provide suitable access and necessary meters and or devices in the building sewer to facilitate observation, sampling and measurement of the wastewater. Access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the Manager. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

(B) The Manager shall consider factors such as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, treatment facility removal capabilities and cost effectiveness in determining whether or not access and equipment for monitoring Class II or III wastewater discharges shall be required.

(C) Where the Manager determines access and equipment for monitoring or measuring Class II or III wastewater discharges is not practicable, reliable or cost effective, the Manager may specify alternative methods of determining the characteristics of the wastewaters discharge which will, in the Manager's judgment, provide a reasonably reliable measurement of the characteristics.

(D) Measurements, tests and analyses of the characteristics of wastewater required by this chapter shall conform to 40 C.F.R. part 136 and be performed by a qualified laboratory. When analyses are required of a discharger, the discharger may, in lieu of using the town's laboratory, make arrangement with any qualified laboratory, including that of the discharger, to perform the analyses.

(E) Fees for any given measurement, test or analysis of wastewater required by this chapter and performed by the town shall be the same for all classes of dischargers, regardless of the quantity and quality of the discharge and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of discharger shall be borne directly by the discharger.

(Ord. passed 6-12-2006)

#### **§ 51.099 COSTS OF DAMAGE.**

If the drainage or discharge from any establishment causes a deposit, obstruction or damage to any of the town's treatment works or treatment facility, the Manager shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for the work, including materials, labor and supervision shall be borne by the person causing the deposit, obstruction or damage.

(Ord. passed 6-12-2006)

### ***PRETREATMENT***

#### **§ 51.110 WASTEWATERS WITH SPECIAL CHARACTERISTICS.**

(A) While the Manager should initially rely upon the federal categorical pretreatment standards to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the treatment works or treatment facilities, processes, equipment, receiving waters or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the wastewater sewers, the Manager may require any or all of the following:

- (1) Pretreatment by the user or discharger to a condition acceptable for discharge to the treatment works;
- (2) Control over the quantities and rates of discharge;
- (3) The development of compliance schedules to meet any applicable pretreatment requirements;
- (4) The submission of reports necessary to assure compliance with applicable pretreatment requirements;
- (5) Carry out all inspection, surveillance and monitoring necessary to determine compliance with applicable pretreatment requirements;
- (6) Obtain remedies for noncompliance by any user. These remedies may include injunctive relief, the civil penalties specified in §§ 51.140 through 51.145 of this chapter or appropriate criminal penalties; or
- (7) Reject the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works or treatment facilities.

(B) When considering the above alternatives, the Manager shall assure that conditions of the town's permit are met. The Manager shall also take into consideration cost effectiveness, the economic impact of the alternatives and the willful noncompliance of the discharger. If the Manager allows the pretreatment or equalization of wastewater flows, the installation of the necessary facilities shall be subject to review. The Manager shall review and recommend any appropriate changes to the program, within 30 days of submittal.

(C) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.  
(Ord. passed 6-12-2006)

### **§ 51.111 COMPLIANCE WITH PRETREATMENT REQUIREMENTS.**

Persons required to pre-treat wastewater in accordance with § 51.110 shall provide a statement, reviewed by an authorized representative of the user and certified by the representative indicating whether applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements, the user shall submit a plan (including schedules) to the Manager as described in § 51.096(B)(9). The plan (including schedules) shall be consistent with applicable conditions of the town's permit or other local, state or federal laws.  
(Ord. passed 6-12-2006)

**§ 51.112 MONITORING REQUIREMENTS.**

Discharges of wastewater to the town's treatment works from the facilities of any user shall be monitored in accordance with the provisions of the user's permit.

(Ord. passed 6-12-2006)

**§ 51.113 EFFECT OF FEDERAL LAW.**

In the event that the federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that the user is exempt from pretreatment standards, federal regulations shall immediately supersede § 51.110(A) if they are more stringent.

(Ord. passed 6-12-2006)

**§ 51.114 CERTIFICATION.**

All reports and permit applications must be signed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(Ord. passed 6-12-2006)

***WASTEWATER SERVICE, CHARGES AND INDUSTRIAL COST RECOVERY*****§ 51.125 WASTEWATER SERVICE CHARGES.**

Charges and fees for the use of the public treatment works and treatment facility shall be based upon the actual use of the system, or contractual obligations for a level of use in excess of current actual use. Property value may be used to collect the amount due as permitted by law.

(Ord. passed 6-12-2006)

**§ 51.126 INDUSTRIAL COST RECOVERY.**

Users of the town's treatment works and treatment facilities will also be assessed industrial cost recovery charges as required by law.

(Ord. passed 6-12-2006)

**§ 51.127 DETERMINATION OF SYSTEM USE.**

(A) The use of the town's treatment works and treatment facilities shall be based upon actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of § 51.098 to the extent the measurement and analysis is considered by the Manager to be feasible and cost-effective.

(B) Where measurement and analysis is considered not feasible, determination of each user's use of the treatment works and treatment facilities shall be based upon the quantity of water used whether purchased from a public water utility or obtained from a private source, or an alternative means as provided by division (C) below.

(C) The Manager, when determining actual use of the town's treatment works and treatment facilities based on water use, shall consider consumptive, evaporative or other use of water which results in a significant difference between a discharger's water use and wastewater discharge. Where appropriate, the consumptive water use may be metered to aid in determining actual use of the treatment works and treatment facilities. The meters used to measure water uses shall be of a type and installed in a manner approved by the Manager. (The actual average water use by each residential user (Class I) during the three months of (January, February and March) shall be used as the measure of each respective residential user's actual use of the sewer system throughout the year.)

(Ord. passed 6-12-2006)

***ENFORCEMENT*****§ 51.140 HARMFUL CONTRIBUTIONS.**

(A) The town may suspend the wastewater treatment service and/or a user permit when the suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of humans, to the environment, causes interference to the treatment facilities or causes the town to violate any condition of its VPDES permit.

(B) Any person notified of a suspension of the wastewater treatment service and/or the user permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the town shall take steps as deemed necessary, including immediate severance of the sewer connection and/or the seeking of legal and equitable relief in the Circuit Court, to prevent or minimize damage to the wastewater treatment facilities or endangerment to any individuals. The town shall reinstate the user permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement by the user describing the cause of the harmful contribution and the measures taken to prevent any future occurrences shall be submitted to the town within 15 days of the date of occurrence.

(Ord. passed 6-12-2006)

**§ 51.141 REVOCATION OF PERMIT.**

Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to having his or her permit revoked in accordance with the procedures of §§ 51.140 through 51.145 of this chapter for:

(A) Failure of a user to factually report the wastewater constituents and characteristics of his or her discharge;

(B) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;

(C) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;  
or

(D) Violation of conditions of the permit.  
(Ord. passed 6-12-2006)

**§ 51.142 NOTICE OF VIOLATION.**

Whenever the town finds that any user has violated or is violating this chapter, user permit or any prohibition or limitation of requirements contained herein, the town may serve upon the person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user.

(Ord. passed 6-12-2006)

**§ 51.143 SHOW CAUSE HEARING.**

(A) The town may order any user who causes or allows an authorized discharge to show cause why the proposed enforcement action should not be taken. Hearings shall be preceded by a notice being served on the user specifying the time and place of the hearing, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(B) The Manager may conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the assigned department to:

(1) Issue in the name of the Manager notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearings;

(2) Take the evidence; and

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Manager for action thereon.

(C) (1) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically.

(2) The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of transcript costs.

(D) (1) After the Manager has reviewed the evidence, he or she may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be disconnected unless adequate treatment facilities, devices or other related appurtenances have been installed and existing treatment facilities, devices or other related appurtenances are properly operated.

(2) Further orders and directives as are necessary and appropriate may be issued.  
(Ord. passed 6-12-2006)

#### **§ 51.144 LEGAL ACTION.**

If any person discharges sewage, industrial wastes or other wastes into the town's treatment works contrary to the provisions of this chapter, applicable federal or state pretreatment requirements, or any order of the town or if any industrial user refuses access to the Manager or his or her designee for purposes of inspection, the Town Attorney may commence an action for appropriate legal and/or equitable relief in the Circuit Court.

(Ord. passed 6-12-2006) Penalty, see § 51.999

#### **§ 51.145 FALSIFYING INFORMATION.**

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or user permit, or who falsifies any monitoring device or method required under this chapter, shall upon conviction, be guilty of a Class 1 misdemeanor.

(Ord. passed 6-12-2006) Penalty, see § 51.999



***SEWERS AND SEWAGE DISPOSAL GENERALLY*****§ 51.160 INJURING SEWER PIPE AND THE LIKE.**

No person shall break, injure, obstruct, tamper with or molest any sewer pipe, manhole or other part of the town sewerage system.

(Prior Code, § 16-1) Penalty, see § 51.999

**§ 51.161 ALLOWING DISCHARGE FROM SINK AND THE LIKE TO FLOW INTO STREET.**

No person shall allow any discharge from any sink, bathroom or hydrant or water fixtures upon premises for which he or she is responsible to flow onto any street or sidewalk or upon any adjacent premises.

(Prior Code, § 16-2) Penalty, see § 51.999

***DISPOSITION OF HUMAN EXCREMENT*****§ 51.175 WHERE SANITARY DEVICE FOR CATCHMENT OF HUMAN EXCREMENT REQUIRED.**

Every house used as a human habitation, warehouse, public building, recreation or tourist camp, transient lodging house, trailer or other place where human beings congregate or are employed in the town shall be provided by the owner thereof, with a sanitary privy, septic tank or other sanitary device for the catchment of human excrement; provided, however, that this section shall not be construed to permit the installation of a cesspool.

(Prior Code, § 16-3) Penalty, see § 51.999

**§ 51.176 CONSTRUCTION AND THE LIKE OF ARRANGEMENT FOR DISPOSAL OF HUMAN EXCREMENT ENDANGERING DRINKING WATER OR ALLOWING ACCESS TO FLIES.**

No person shall construct, maintain or permit on any premises owned by him or her any arrangement for the disposal of human excrement which may possibly endanger any source of drinking water or which allows flies to have access to human excrement.

(Prior Code, § 16-4) Penalty, see § 51.999

**§ 51.177 DEPOSITING HUMAN EXCREMENT ON GROUND AND THE LIKE.**

No person shall deposit any human excrement upon the surface of the ground or in any place where it may endanger a source of drinking water to be accessible to flies or animals.

(Prior Code, § 16-5) Penalty, see § 51.999

**§ 51.178 COMPLIANCE WITH SUBCHAPTER.**

It shall be unlawful for any person to neglect, fail or refuse to comply with provisions of this subchapter.

(Prior Code, § 16-6) Penalty, see § 51.999

***PRIVIES*****§ 51.190 PERMIT FOR INSTALLATION.**

It shall be unlawful for any person to install or have installed a privy in the town without first obtaining a permit from the Health Officer or his or her representative.

(Prior Code, § 16-7) Penalty, see § 51.999

**§ 51.191 POWER OF HEALTH OFFICER AS TO CAPACITY OF LOCATION.**

The Health Officer shall decide the capacity and approve the location of each privy installed in the town.

(Prior Code, § 16-8)

**§ 51.192 INSPECTION AND APPROVAL PREREQUISITE TO COVERING OR USE.**

Privies shall be inspected by a representative of the Health Department and approved by a representative before they are permitted to be covered or used.

(Prior Code, § 16-9)

**§ 51.193 REQUIREMENTS AND SPECIFICATIONS.**

If, pursuant to § 51.175, an outside privy be resorted to, it shall be of the concrete slab type and built in accordance with specifications of the current privy bulletin of the State Health Department.

(Prior Code, § 16-10)

*SEPTIC TANKS***§ 51.205 PERMIT FOR INSTALLATION.**

It shall be unlawful for any person to install or have installed a septic tank in the town without first obtaining a permit from the Health Officer of his or her representative.

(Prior Code, § 16-11) Penalty, see § 51.999

**§ 51.206 POWER OF HEALTH OFFICER AS TO CAPACITY AND LOCATION.**

The Health Officer shall decide the capacity and approve the location of each septic tank installed in the town.

(Prior Code, § 16-12)

**§ 51.207 INSPECTION AND APPROVAL PREREQUISITE TO COVERING OR USE.**

Septic tanks shall be inspected by a representative of the Health Department and approved by the representative before they are permitted to be covered or used.

(Prior Code, § 16-13)

**§ 51.208 REQUIREMENTS AND SPECIFICATIONS; GENERALLY.**

If, pursuant to § 51.175, a septic tank be used, it shall be built in accordance with specifications of the current septic tank bulletin of the State Health Department.

(Prior Code, § 16-14)

*CESSPOOLS***§ 51.220 PROHIBITED.**

No person shall construct, maintain or use any cesspool in the town.

(Prior Code, § 16-15) Penalty, see § 51.999

**SEWERAGE SYSTEM****§ 51.235 COMPLIANCE WITH SUBCHAPTER.**

The administration, operation and maintenance of the sewerage system of the town shall be as provided in this subchapter.

(Prior Code, § 16-16)

**§ 51.236 MAKING OF SEWER CONNECTIONS GENERALLY.**

(A) All connections made with the sewage system or water system of the town shall be made under the supervision of the Town Director of Public Works and in accordance with the provisions of this subchapter relative to sewer service and water service connections. Only one building, house or appurtenance shall be served by each sewer connection, regardless of the number of dwelling units or apartment units contained in the mobile home park or apartment building, except that each unit or mobile home in any apartment units or mobile home parks created after May 10, 1993, and any additional units or spaces added to any existing apartment building or mobile home park after May 10, 1993, shall be served by a separate connection and/or meter for sewer and water service. The owner of the unit or mobile home park shall pay the standard connection fee for every unit or space connected to the water or sewer system. The term *APARTMENT BUILDING* shall be deemed to include any building used for multi-family residence and which building is not owned entirely by a person or persons who reside in and occupy the entire building. This definition shall not include duplex apartments.

(B) The owners of mobile home parks and apartment buildings existing as of May 10, 1993, shall have the option to convert these facilities to individual meters and connections. In this case, in addition to the standard connection charges to be paid by the owner for each individual unit or space, all costs to bring the plumbing to a central point for metering shall be paid by the owner. The central metering point shall be approved by the owner and the town, and shall be accessible to the town personnel during normal business hours.

(C) The charges set forth herein and in other sections of the code of the town shall apply regardless of whether the property to be connected to the water and/or sewer system is located inside or outside the of the town. The owners of property located outside of the town connecting to the water or sewer system shall further pay to the town the costs of parts, labor and other materials in making the connections.

(D) If the owner of property having an existing water or sewer connection shall desire that the size of the sewer connection or water meter or connection be increased, then in addition to the other charges which may apply herein, the owner of the property shall pay the costs of labor and materials in making the larger connection. This division shall apply to connections both inside and outside of town.

(Prior Code, § 16-17) (Ord. passed - -; Ord. passed 5-10-1993)

**§ 51.237 AUTHORITY OF TOWN MANAGER TO ENFORCE.**

The Town Manager shall have full power and authority to carry out and enforce the provisions of this subchapter.

(Prior Code, § 16-18)

**§ 51.238 WHERE SEWER CONNECTION REQUIRED.**

All persons owning land upon which buildings are now erected or upon which buildings may hereafter be erected, in the town, any part of which land abuts a highway, street, alley or space in which town sewer lines have been constructed for and on behalf of the owners of the property in the town, shall connect all closets, urinals, sinks, lavatories, laundry tubs, bath tubs and generally all appliances arranged as outlets for domestic or sanitary water supply or inlets to the sewer at their own cost within 60 days after the completion of the sewer line or portion thereof, in the area of town in which the property is located and after notice has been given to the property owners by the town that the sewer line is ready for service; provided, however, that no person shall be required to so connect any building where the distance from the main part of the building to the nearest sewer line exceeds 300 feet, measured in a straight line. Any person failing or refusing to complete the work and make the sewer connection within the 60-day period shall be punished as provided in § 51.999. Each month a connection is not made shall constitute a separate offense.

(Prior Code, § 16-19) Penalty, see § 51.999

**§ 51.239 USE OF PRIVIES, SEPTIC TANKS OR CESSPOOLS WHERE SANITARY SEWERS HAVE BEEN INSTALLED.**

No privies, septic tanks or cesspools shall be constructed or used in any area of the town where sanitary sewers have been installed and where connection can be made with the sewerage system, as provided in § 51.238. The use or maintenance of any septic tank, privies or cesspools on the premises is hereby declared a nuisance and shall be punishable as provided in § 51.999.

(Prior Code, § 16-20) Penalty, see § 51.999

**§ 51.240 SEWER CONNECTION CHARGE.**

All owners of real property in the town who connect property with the sanitary sewer system of the town shall pay a sewer connection charge as set by Council from time to time in the town's fee schedule, which shall be paid at the time the owner makes application to the town for connection to the sanitary sewer system.

(Prior Code, § 16-21) (Ord. 77-, passed 6-2-1977; Ord. 08-01, passed 10-14-2008)

***Cross-reference:***

*Fee schedule, see § 30.05*

**§ 51.241 MAINTENANCE OF AND TITLE TO SERVICE LINE.**

The portion of the sewer service line which is located within a street or alley in the town shall, after construction, be repaired and maintained by the town and shall become the property of the town.  
(Prior Code, § 16-22)

***REGULATIONS APPLICABLE TO OUTSIDE OF TOWN*****§ 51.255 PERMIT PREREQUISITE TO CONNECTION.**

The owner of property lying outside of the town who desires to connect property with the town sewerage system shall obtain a permit to do so from the Town Manager.  
(Prior Code, § 16-23)

**§ 51.256 SUPERVISION OF WORK DONE IN CONNECTING.**

The work done in connecting property outside of the town with the town sewerage system shall be done under the supervision of the Town Manager and in accordance with this chapter.  
(Prior Code, § 16-24)

**§ 51.257 CONNECTION CHARGE.**

All owners of real property outside the corporate limits of the town who connect property with the sanitary sewer system of the town shall pay a sewer connection charge as set by Council from time to time in the town's fee schedule, which shall be paid at the time the owner makes application to the town for connection to the sanitary sewer system.

(Prior Code, § 16-25) (Ord. passed 9-4-1984; Ord. 08-01, passed 10-14-2008)

***Cross-reference:***

*Fee schedule, see § 30.05*

**§ 51.258 MAINTENANCE OF CONNECTIONS.**

All connections of property lying outside of the town to the town sewerage system shall be maintained at the cost of the property owner.  
(Prior Code, § 16-26)

**§ 51.259 SEWER SERVICE CHARGES.**

The charges for sewer service supplied by the town shall be as set by the Town Council from time to time, and the Council shall have the authority to impose penalties for late payment of bills.

(Prior Code, § 16-27)

**§ 51.260 DISCONNECTION OF WATER SUPPLY FOR FAILURE TO PAY SEWER SERVICE CHARGE.**

If the amount of the bill and penalty provided for by the Town Council is not paid within 30 days of penalty date of the bill, the water supply to the consumer so in default of payment of the bill for sewer service shall be disconnected because of failure to pay the monthly sewerage service charges in accordance with the procedures set forth in § 52.19, and the property owner or consumer shall pay a fee as set by Council from time to time in the town's fee schedule for having the water supply reconnected with the water main.

(Prior Code, § 16-28)

***Cross-reference:***

*Fee schedule, see § 30.05*

**§ 51.261 LIABILITY OF PROPERTY OWNER FOR UNPAID SEWER SERVICE CHARGES; LIEN FOR UNPAID SEWER SERVICE CHARGES.**

Each owner of property shall be personally liable for the payment of the charges levied under this section and the same shall constitute a lien upon the property served by the town sewerage system for the amount so assessed or charged thereon.

(Prior Code, § 16-29)

***ROOF DRAINAGE*****§ 51.275 ROOF DRAINAGE INTO SEWER SYSTEM PROHIBITED.**

It shall be unlawful for any person to have a drainage system connected in any manner from a roof to the sewer system of the town so that the drainage would enter the town system. Each day that the offense shall continue shall constitute a separate offense.

(Ord. 3-76, passed 5-5-1976) Penalty, see § 51.999

**§ 51.999 PENALTY.**

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Vandalism.* Any person who violates § 51.006 shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine in an amount not to exceed \$1,000. In the event the damage exceeds \$1,000, the violator, upon conviction, shall be punished according to state law.

(C) *Sewer usage.*

(1) Any person or user that violates the provisions of §§ 51.001 through 51.007, 51.020, 51.021, 51.035 through 51.038, 51.050 through 51.060, 51.075 through 51.082, 51.095 through 51.099, 51.110 through 51.114, 51.125 through 51.127 and 51.140 through 51.145 or a user/discharge permit hereunder shall be subject to a penalty of \$1,000 per day and/or shall, upon conviction, be guilty of a Class 2 misdemeanor for each day the violation continues.

(2) Each day, or portion thereof, a violation continues shall constitute a separate violation. (Ord. passed 6-12-2006)





## CHAPTER 52: WATER

### Section

#### *General Provisions*

- 52.01 Obstructing and injuring the waterworks
- 52.02 Unauthorized cross connection
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#### *Connections and Charges*

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- 52.16 Deposit on each water meter installed
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**GENERAL PROVISIONS****§ 52.01 OBSTRUCTING AND INJURING THE WATERWORKS.**

No person shall willfully obstruct, cut, uncover, make holes in or in any manner willfully damage or injure or commit any nuisance upon or about any portion of the town waterworks, spring house, pipes, drought, cisterns, hydrants, pumps, wells or any other fixtures, parts or appurtenances of the waterworks. (Prior Code, § 22-1) Penalty, see § 52.99

**§ 52.02 UNAUTHORIZED CROSS CONNECTION.**

No unauthorized cross connection shall be made between the town water system and any other source of water. (Prior Code, § 22-2) Penalty, see § 52.99

**§ 52.03 USE OF WATER FOR AIR CONDITIONING.**

It shall be unlawful for persons to use water from the lines of the town water system in any air conditioning system which does not have an approved back-flow prevention device attached thereto and used in connection therewith. (Prior Code, § 22-3) Penalty, see § 52.99

**CONNECTIONS AND CHARGES****§ 52.15 CONNECTION RATES.**

(A) All owners of real property in the town who connect the property with the water system of the town shall pay a water connection charge as set by Council from time to time in the town's fee schedule, which shall be paid at the time the owner makes application to the town for connection to the water system.

(B) All owners of real property outside the corporate limits of the town who connect property with the water system of the town shall pay a water connection charge as set by Council from time to time in the town's fee schedule, which shall be paid at the time the owner makes application to the town for connection to the water system.

(Prior Code, § 22-4) (Ord. passed 9-4-1984; Ord. 08-01, passed 10-14-2008)

***Cross-reference:***

*Fee schedule, see § 30.05*

**§ 52.16 DEPOSIT ON EACH WATER METER INSTALLED.**

(A) Owners of single-family residential dwellings shall pay a deposit in an amount set by Council from time to time in the town's fee schedule before water service will be turned on for each dwelling. The deposit will be refunded without interest after two years from payment of the deposit or from the owner's last delinquent payment for water and/or sewer service, whichever shall occur last.

(B) Renters shall pay a deposit in an amount set by Council from time to time in the town's fee schedule before water service will be turned on, and the deposit will be refunded without interest when the renter closes the account.

(C) Owners of businesses shall pay a deposit in an amount set by Council from time to time in the town's fee schedule before water service will be turned on for each business. The deposit will be refunded without interest after two years from payment of the deposit or from the owner's last delinquent payment for water and/or sewer service, whichever shall occur last.

(Prior Code, § 22-5) (Ord. 04-01, passed 6-14-2004; Ord. 08-01, passed 10-14-2008)

***Cross-reference:***

*Fee schedule, see § 30.05*

**§ 52.17 ONLY ONE HOUSE TO BE CONNECTED TO WATER METER.**

It shall be unlawful for any person to connect two or more houses, buildings or other appurtenances which are to be furnished with water by the town to one water meter or service connection to the town's water main.

(Prior Code, § 22-6) Penalty, see § 52.99

**§ 52.18 CHARGES FOR WATER SUPPLIED BY TOWN.**

Water rates for inside the town and outside the town shall be set by the Council from time to time.  
(Prior Code, § 22-7)

**§ 52.19 BILLS; DISCONTINUANCE OF SERVICE.**

(A) Any remaining unpaid portion of a water/sewer bill outstanding at the time the following or next succeeding bill is prepared shall be declared delinquent and a penalty of 10% shall be added to the outstanding or unpaid portion, i.e., January bill unpaid when February bill is prepared, a 10% penalty added to January portion.

(B) A water disconnect order will be issued 15 days after the second bill is prepared with the first bill being unpaid or overdue.

(C) (1) It is the policy of the town to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The town's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(a) That all bills are due and payable on or before the date set forth on the bill; and

(b) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

(c) That any customer disputing the correctness of his bill shall have a right to a hearing at which time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the town official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(D) Owners of rental property will be held liable for all overdue bills.

(Prior Code, § 22-8) (Ord. passed 5-2-1989; Ord. passed 6-14-2004; Ord. 04-01, passed 6-14-2004)

## **§ 52.20 RECONNECTION CHARGE.**

(A) When any water service line has been disconnected because of failure to pay the water charges, as provided in this subchapter, the property owner or consumer shall pay a fee as set by Council from time to time in the town's fee schedule for having the water service line reconnected with the water main. In addition, all past-due amounts, including the current bill, any unpaid personal property and real estate taxes, delinquent automobile decals and the like, must be paid before service will be restored. A fee as set by Council from time to time in the town's fee schedule will be charged for a second and succeeding occurrences within one year.

(B) Any service turned on or restored by someone other than a town employee will be subject to a penalty or fine in an amount set by Council from time to time in the town's fee schedule, or charged with theft. (The homeowner/renter is exempt from this fee if he or she turns the water on/off for repair of leaks.)

(C) Service will not be restored after noon on Fridays or the day before a holiday, except in a life threatening or dire emergency. Town employees will not be called out on an over-time or comp-time basis to restore service.

(D) Commercial establishments will be subject to the same delinquent penalties. Reconnect fees will be set by Council from time to time in the town's fee schedule.

(E) Special provisions or arrangements may be made for handicapped, disabled seniors, hospitalized or other special hardship cases, considered on a case by case basis.  
(Prior Code, § 22-9) (Ord. passed 6-14-2004; Ord. 04-01, passed 6-14-2004)

***Cross-reference:***

*Fee schedule, see § 30.05*

**§ 52.21 MANDATORY CONNECTION.**

(A) Notwithstanding the provision of any other section of the code, the owner of any dwelling or other building in which human beings live or congregate shall connect those building or dwelling to a public water line maintained by the town, so that public water is consumed in the structure.

(B) No water provided by a private well or other source may be used or consumed in any manner in any dwelling or any structure or building within the town.

(C) No private wells shall be dug or constructed within the corporate limits of the town.  
(Ord. passed 5-2-1989)

**§ 52.22 WATER/SEWER NEW ACCOUNT FEES AND TEMPORARY ACTIVATION FEES.**

(A) Whenever any person or entity opens an account for water/sewer service with the town, the person shall pay to the town a new account fee as set by Council from time to time in the town's fee schedule.

(B) Any owner of real property may apply to the town for a temporary activation of a water/sewer account, which temporary activation shall be for a period of three days with a maximum of 1,000 gallons of water usage. Any water used in excess of 1,000 gallons shall be billed to the owner at the usual rates for water and sewer usage. The fee for a temporary activation shall be set by Council from time to time in the town's fee schedule.

(Ord. 08-01, passed 10-14-2008)

***Cross-reference:***

*Fee schedule, see § 30.05*

**§ 52.23 COLLECTION OF FEES FOR SEWER SERVICE.**

For sewer service provided by the town, fees and charges may be charged to and collected from:

(A) Any person contracting for the same;

(B) The owner, lessee or tenant or some or all of them who use or occupy any real estate:

(1) Which directly or indirectly is or has been connected with the sewage disposal system; and

(2) From or on which sewage or industrial wastes originate or have originated and have directly or indirectly entered or will enter the sewage disposal system, as provided by VA Code §§ 15.2-2119 and 15.2-2120, which sections are adopted herein by this reference thereto.

(Ord. 08-01, passed 10-14-2008)

#### **§ 52.24 SHORT-TERM WATER DISCONNECT.**

(A) Upon notification the town will turn water off at the meter when a resident is out of town for a period of time, (not less than two months) and then back upon the resident's return.

(B) The resident should turn the water off inside the house and turn off their hot-water heater. The town will not be responsible for any damage in the house due to the water being off.

(C) The fee shall be as set by Council from time to time in the town's fee schedule, and the resident will not pay any bill during the time the water is off. If the resident prefers to leave the water on during his or her absence, he or she will be billed for water and sewer.

(D) The town must turn the water off and back on or the resident will be responsible for the water bill during his or her absence.

(E) Notification shall be made to the town during regular business hours, and someone must be present when the water is turned back on.

(Ord. passed 3-12-2001)

***Cross-reference:***

*Fee schedule, see § 30.05*

#### ***CROSS CONNECTION AND BACKFLOW PREVENTION CONTROL***

#### **§ 52.35 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***AIR GAP SEPARATION.*** The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture or other device and the rim of the receptacle.

**AUXILIARY WATER SYSTEM.** Any water system on or available to the premises other than the waterworks. These **AUXILIARY WATERS** may include water from another purveyor's waterworks; or water from, a source such as wells, lakes or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable, or constitute a water source or system over which the water purveyor does not have control.

**BACKFLOW.** The flow of contaminants, pollutants, process fluids, used water, untreated waters, chemicals, gases, non-potable waters into any part of a waterworks.

**BACKFLOW PREVENTION DEVICE.** Any approved device, method or type of construction intended to prevent backflow into a waterworks.

**CONSUMER.** The owner or person in control of any premises supplied by or in any manner connected to a waterworks.

**CONSUMER'S WATER SYSTEM.** Any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

**CONTAMINATION.** Any introduction into pure water of microorganisms, wastes, wastewater, undesirable chemicals or gases.

**CROSS CONNECTION.** Any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

**DEGREE OF HAZARD.** This is a term derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks.

**DOUBLE GATE-DOUBLE CHECK VALVE ASSEMBLY.** An approved assembly composed of two single, independently acting check valves including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the water tightness of each check valve.

**HEALTH HAZARD.** Any condition, device or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

**INTERCHANGEABLE CONNECTION.** An arrangement or device that will allow alternate but not simultaneous use of two sources of water.

**POLLUTION.** The presence of any foreign substance (chemical, physical, radiological or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

**POLLUTION HAZARD.** A condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.



**PROCESS FLUIDS.** Any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted which would constitute a health, pollutional or system hazard if introduced into the waterworks. This includes, but not limited to:

- (1) Polluted or contaminated waters;
- (2) Process waters;
- (3) Used waters originating from the waterworks which may have deteriorated in sanitary quality;
- (4) Cooling waters;
- (5) Contaminated natural waters taken from wells, lakes, streams or irrigation systems;
- (6) Chemicals in solution or suspension; and
- (7) Oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes or for firefighting purposes.

**PURE WATER or POTABLE WATER.** Water fit for human consumption and use which is sanitary and normally free of minerals, organic substances and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in supply for the minimum health requirement of the persons served.

**REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION DEVICE.** A device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shut-off valves located at each end of the device, and each device shall be fitted with properly located test cocks. These devices must be of the approved type.

**SERVICE CONNECTION.** The terminal end of a service line from the waterworks. If a meter is installed at the end of the service, then the **SERVICE CONNECTION** means the downstream end of the meter.

**SYSTEM HAZARD.** A condition posing an actual, or threat of, damage to the physical properties of the waterworks or a consumer's water system.

**USED WATER.** Any water supplied by a water purveyor from waterworks to a consumer's water system after it has passed through the service connection.

**WATERPURVEYOR.** An individual, group of individuals, partnership, firm, association, institution, corporation, municipal corporation, county or authority which supplies water to any person within this state from or by means of any waterworks.

**WATERWORKS.** All structures and appliances used in connection with the collection, storage, purification and treatment of water for drinking or domestic use and the distribution thereof to the public or residential consumers as set forth in VA Code Title 62.1, Chapter 4, § 62, 1-45a, as amended.  
(Ord. 77-4, passed 9-29-1977)

### **§ 52.36 INSPECTIONS.**

It shall be the duty of the town to cause inspections to be made of properties served by the waterworks where cross connection with the waterworks is deemed possible. The frequency of inspections, and re-inspections, based on potential health hazards involved, shall be established by the town in the cross connection control and backflow prevention program and as approved by the State Department of Health.  
(Ord. 77-4, passed 9-29-1977)

### **§ 52.37 RIGHT OF ENTRY.**

The representative of the town shall have the right to enter at any reasonable time properties served by a connection to the waterworks of the town for the purpose of inspecting the piping system or systems for cross connections. Upon request, the owner or occupants of property served shall furnish to the inspection agency pertinent information regarding the piping system or systems on the property. The refusal of information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.  
(Ord. 77-4, passed 9-29-1977)

### **§ 52.38 BACKFLOW PREVENTION DEVICE.**

The water purveyor may deny or discontinue the water service to a consumer if the required backflow prevention device is not installed. If it is found that the device(s) has been removed or bypassed or if a cross connection exists on the premises, or if the pressure in the waterworks is lowered below ten psi gauge, the purveyor shall take positive action to ensure that the waterworks is adequately protected at all times. Water service to these premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with state waterworks regulations and to the satisfaction of the purveyor.  
(Ord. 77-4, passed 9-29-1977)

**§ 52.39 ENFORCEMENT.**

(A) Potable water made available on the properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of this subchapter. Any water outlet which could be used for potable or domestic purposes and is not supplied by the potable system must be labeled as “Water Unsafe for Drinking” in a conspicuous manner.

(B) This subchapter is a supplement to applicable plumbing codes.  
(Ord. 77-4, passed 9-29-1977)

***WATER SHORTAGES*****§ 52.50 PROHIBITED MISUSE OF WATER DURING WATER SHORTAGE.**

(A) It shall be unlawful for any person to waste water during a water shortage. No person shall water the lawn, garden, wash cars or other vehicles during a water shortage. Any person shall be required to keep and maintain any faucet and fixture in good repair so as not to cause water to run needlessly.

(B) A water shortage shall be deemed to exist upon a declaration of the Town Manager.  
(Ord. 81-3, passed 12-1-1981) Penalty, see § 52.99

**§ 52.51 WATER SUPPLY EMERGENCIES; MANDATORY RESTRICTIONS; CONSERVATION MEASURES.**

(A) During the continued existence of climatic, hydrological and other extraordinary conditions the protection of the health, safety and welfare of the residents of the Town of Rich Creek may require that certain uses of water, not essential to public health, safety and welfare, be reduced, restricted or curtailed. As the storage of raw or potable water becomes increasingly more critical, conservation measures may become increasingly strict to further reduce consumption or curtail nonessential water use.

(B) Under VA Code § 15.2-924, the governing body of the locality is authorized to adopt an ordinance restricting the use of water by the citizens of such locality for the duration of such emergency or for a period of time necessary to prevent the occurrence of a water supply emergency.

(C) The Giles County Public Service Authority routinely monitors water supplies. The executive director of Giles County PSA will notify the of The Town of Rich Creek when water supply conditions approach or pass the indicators developed in the New River Valley’s Regional Water Supply Plan. At

such time as the town is informed of an imminent water supply emergency, the Town Manager is authorized to manage the water supply emergency.

(D) Upon declaration of a water emergency, the Town Manager or designee shall immediately post a written notice of the emergency at the front door of the administration building and on the town's web site as well as other public places within the service area. For extended emergencies, notice shall be run in a newspaper of general circulation in the area in which such emergency has been declared and shall further be included on the water bills rendered to each customer of the town.

(E) The Town Manager will coordinate with the GCPSA executive director to notify customers of necessary voluntary or mandatory water use restrictions, as outlined in the New River Valley's Regional Water Supply Plan. In exercising this discretionary authority, the PSA executive director and Town Manager shall give due consideration to water levels, available/usable storage on hand, draw down rates, and the projected supply capability, system purification and pumping capacity, daily water consumption and consumption projections of the system's customers, prevailing and forecast weather conditions, fire service requirements, pipeline conditions including breakages, stoppages and leaks, supplementary source data, estimates of minimum essential supplied to preserve public health and safety and such other data pertinent to the past, current and projected water demands.

(F) Upon determination of a water supply emergency, the Town Manager and the PSA director shall collaborate on a set of water conservation measures to be observed by resident of Rich Creek. Contained in the New River Valley's Regional Water Supply Plan are a set of example measures that could be implemented at each phase of water supply emergency or drought.

(G) The Town Manager shall notify the Rich Creek Town Council when the indicators have been met that the water emergency situation no longer exists and the water emergency shall be declared to have ended. When this declaration is made, the information shall be conveyed to the general public by the same means prior notifications were made.

(Ord. 11-01, passed 6-13-2011) Penalty, see § 52.99

### **§ 52.99 PENALTY.**

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Cross connection and backflow prevention control.* Any person or customer found guilty of violating any of the provisions of §§ 52.35 through 52.39, or any written order of the town, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$10 or more than \$500 for each violation. Each day upon which a violation of the provisions of this act shall occur shall be deemed a separate and additional violation for the purposes of §§ 52.35 through 52.39.

(C) *Water shortages.* Any person violating § 52.50 upon conviction thereof shall be fined not less than \$25 nor more than \$100 or shall be made liable to have his or her water cut off.

(D) Any person, firm, corporation, or other entity violating a mandatory water conservation measure shall be guilty of a misdemeanor and subject to fine in the amount of \$100 which fine shall be pre-payable in the Giles County General District Court and shall also be subject to a surcharge for excessive water usage over and above the average monthly usage for such class of customers.

(Ord. 77-4, passed 9-29-1977; Ord. 81-3, passed 12-1-1981; Ord. 11-01, passed 6-13-2011)

**TITLE VII: TRAFFIC CODE**

Chapter

**70. GENERAL PROVISIONS**

**71. STOPPING, STANDING AND PARKING**

**72. MOTOR VEHICLE LICENSES**

**73. ROLLER SKATES, SKATEBOARDS, BICYCLES,  
MOTORIZED SKATEBOARDS OR FOOT-SCOOTERS,  
MOTOR-DRIVEN CYCLES OR ELECTRIC  
POWER-ASSISTED BICYCLES**



## **CHAPTER 70: GENERAL PROVISIONS**

### Section

#### 70.01 Adoption of state law

### **§ 70.01 ADOPTION OF STATE LAW.**

(A) Pursuant to the authority contained in VA Code § 46.2-1313, the traffic regulations of the state are hereby adopted by reference, being VA Code Title 46.2, 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 town.

(B) It shall be unlawful for any person to violate, or fail, neglect, or refuse to comply with any provision adopted in this section; provided, however, that in no event shall the penalty imposed be greater than that imposed for a similar offense under state law.

(Ord. passed 2-2-1988; Ord. passed 7-3-1989; Ord. passed 11-7-1989; Ord. passed 9-8-1997) Penalty, see § 10.99





## CHAPTER 71: STOPPING, STANDING AND PARKING

### Section

- 71.01 Stopping on highways generally
- 71.02 Parking in front of fire hydrant, fire station or private driveway
- 71.03 Double parking
- 71.04 Parking by yellow curb markings
- 71.05 Limitation on period of continuous parking by certain motor vehicles
- 71.06 When signs required; disobedience prohibited
- 71.07 Blocking driveways of filling stations and the like
- 71.08 Removal and disposition of certain unattended vehicles; sale; disposition of proceeds
- 71.09 Leaving vehicles upon private property prohibited; removal and disposition of vehicles so left
- 71.10 Notice of disposition of vehicle under § 71.08 or § 71.09
- 71.11 Inoperative vehicles on private property
- 71.12 Parking in spaces reserved for disabled; enforcement
- 71.13 Reserved spaces; permit
  
- 71.99 Penalty

### § 71.01 STOPPING ON HIGHWAYS GENERALLY.

(A) No vehicle shall be stopped in a manner as to impede or render dangerous the use of the street by others, except in the case of an emergency as the result of an accident or mechanical breakdown, in which case a report shall be made to the nearest police officer as soon as practicable and the vehicle shall be removed from the roadway to the shoulder as soon as possible and removed from the shoulder without unnecessary delay; and, if the vehicle is not promptly removed, the removal may also be ordered by a police officer at the expense of the owner if the disabled vehicle creates a traffic hazard.

(B) No vehicle shall be stopped except close to and parallel to the right-hand edge of the curb or roadway, except that a vehicle maybe stopped close to the parallel to the left-hand curb or edge of the roadway on one-way streets or may be parked at an angle where permitted by the State Highway Commission with respect to streets under its jurisdiction.

(C) No vehicle shall be stopped at or in the vicinity of a fire, vehicle or airplane accident or other area of emergency, in a manner as to create a traffic hazard of interfere with the necessary procedures of police, firefighters, rescue workers of others whose duty it is to deal with those emergencies. Any

vehicle found unattended in the vicinity of a fire, accident or area of emergency may be removed by order of a police officer at the risk and expense, not to exceed an amount set by Council from time to time in the town's fee schedule, of the owner if the vehicle creates a traffic hazard or interferes with the necessary procedures of police, firefighters, rescue workers or others whose assigned duty it is to deal with those emergencies. Vehicles being used by accredited information services, such as press, radio and television, when being used for the gathering of news shall be exempt from the provisions of this section, except when actually obstructing the police, firefighters and rescue workers dealing with those emergencies.

(D) The provisions of this section shall not apply to any vehicle owned or controlled by the State Department of Highways, while actually engaged in the construction, reconstruction or maintenance of highways.

(Prior Code, § 10-70) Penalty, see § 71.99

#### **§ 71.02 PARKING IN FRONT OF FIRE HYDRANT, FIRE STATION OR PRIVATE DRIVEWAY.**

No person shall park a vehicle or permit it to stand, whether attended or unattended, upon a street in front of a private driveway or within 15 feet in either direction of a fire hydrant or the entrance to a fire station, nor within 20 feet from the intersection of curb lines or, if none, then within 15 feet of the intersection of property lines at an intersection of streets.

(Prior Code, § 10-71) Penalty, see § 71.99

#### **§ 71.03 DOUBLE PARKING.**

It shall be unlawful for any person to park a vehicle on the roadway side of any vehicle parked at the edge or curb of a street.

(Prior Code, § 10-72) Penalty, see § 71.99

#### **§ 71.04 PARKING BY YELLOW CURB MARKINGS.**

It shall be unlawful for any person to park a vehicle at any place where yellow markings, painted pursuant to the order of the Town Council or Town Manager appear on the curb.

(Prior Code, § 10-73) Penalty, see § 71.99

**§ 71.05 LIMITATION ON PERIOD OF CONTINUOUS PARKING BY CERTAIN MOTOR VEHICLES.**

No motor vehicle shall be parked on the streets of the town for a longer period than any one 24-hour period, the 24-hour period to begin with the parking of the motor vehicle in question, when the street is designated as limited parking, unless otherwise posted.

(Prior Code, § 10-74) (Ord. 10-74, passed 5-7-1974) Penalty, see § 71.99

**§ 71.06 WHEN SIGNS REQUIRED; DISOBEDIENCE PROHIBITED.**

(A) Whenever by this chapter or any subsequent amendments any parking time limit is imposed, or parking is prohibited on designated streets, except where specifically set forth in this chapter, there shall be appropriate signs or markers giving notice thereof, and no such regulations shall be effective unless those signs or markers are erected and in place at the time of any alleged offense.

(B) Whenever authorized signs or markers are placed, erected, or installed indicating parking restrictions, no driver of a vehicle shall disobey the regulations in connection therewith.

Penalty, see § 71.99

**§ 71.07 BLOCKING DRIVEWAYS OF FILLING STATIONS AND THE LIKE.**

It shall be unlawful for any person to park any vehicle so as to block any driveway of any filling station or other like establishment.

(Prior Code, § 10-75) Penalty, see § 71.99

**§ 71.08 REMOVAL AND DISPOSITION OF CERTAIN UNATTENDED VEHICLES; SALE; DISPOSITION OF PROCEEDS.**

(A) Whenever any motor vehicle, trailer or semitrailer is found on the public streets or public places unattended by the owner or operator and constitutes a hazard to traffic or is parked in a manner as to be in violation of law or whenever any motor vehicles, trailer or semitrailer is left unattended for more than ten days upon any privately owned property other than the property of the owner of the motor vehicle, trailer or semitrailer, within the town or is abandoned upon privately owned property without the permission of the owner, lessee or occupant thereof, any motor vehicle, trailer or semitrailer may be removed for safekeeping by or under the direction of a police officer to a storage garage or area, provided, however, that no vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof. The person at whose request the motor vehicle, trailer or semitrailer is removed from privately owned property shall indemnify the town against any loss or expense incurred by reason of removal, storage or sale thereof. Each removal shall be reported immediately to the Chief of Police who shall give notice to the owner of the motor vehicle, trailer or semitrailer as promptly as possible. The owner, before obtaining possession of the motor vehicle, trailer or semitrailer shall pay to the town all reasonable costs incidental to the removal, storage and locating

the owner of the motor vehicle, trailer or semitrailer. Should the owner fail or refuse to pay the costs of should the identity or whereabouts of the owner be unknown and unascertainable after a diligent search has been made, and after notice to the owner at his or her last known address and to the holder of any lien of record in the office of the Division of Motor Vehicles against the motor vehicle, trailer or semitrailer, the Chief of Police may, after holding the motor vehicle, trailer or semitrailer 60 days and after due notice of sale dispose of the same at public sale and the proceeds from the sale be forwarded by the Chief of Police to the Treasurer of the town; provided that if the value of the motor vehicle, trailer or semitrailer be determined by three disinterested dealers or garage men to be less than \$50 which would be incurred by advertising and public sale, it may be disposed of by private sale or junked.

(B) The Treasurer shall pay from the proceeds of sale the cost of removal, storage, investigation as to ownership and liens and notice of sale, and the balance of the funds shall be held by him or her for the owner and paid to the owner upon satisfactory proof of ownership.

(C) If no claim has been made by the owner for the proceeds of the sale, after the payment of the above-mentioned cost of \$50 and funds may be deposited to the General Fund or any special fund of the town. Any owner shall be entitled to apply to the town within three years after the date of the sale and if timely application is made therefore, the town shall pay the same to the owner without interest or other charges. No claim shall be made nor shall any suit, action or proceeding be instituted for the recovery of the funds after three years from the date of the sale.

(Prior Code, § 10-77)

#### **§ 71.09 LEAVING VEHICLES UPON PRIVATE PROPERTY PROHIBITED; REMOVAL AND DISPOSITION OF VEHICLES SO LEFT.**

(A) It shall be unlawful for any person to leave any motor vehicle, trailer, semitrailer, or part thereof, on the private property of any other person without his or her consent. Upon complaint of the owner of the property on which the motor vehicle, trailer, semitrailer, or part thereof, has been abandoned for more than five days, the motor vehicle, trailer, semitrailer, or a part thereof, may be removed by or under the direction of a police officer to a storage garage or area. The person at whose request the motor vehicle trailer, semitrailer, or part thereof, is so removed shall indemnify the town against any loss or expense incurred by reason of removal, storage or sale thereof.

(B) In the case of the removal of a motor vehicle, trailer, semitrailer, or part thereof, from private property, when the same cannot be readily sold, the motor vehicle, trailer, semitrailer, or part thereof, may be disposed of in a manner as the Town Council may provide.

(C) In all other respects, the provisions of § 71.08 shall apply to the removals; provided, that disposal of a motor vehicle, trailer or semitrailer may at the option of the Town Council be carried out under either the provisions of § 71.08 or under the provisions hereof after a diligent search for the owner, after notice to him or her at his or her last known address and to the holder of any lien of record

of the office of the Division of Motor Vehicles against any other motor vehicle, trailer or semitrailer, and after the motor vehicle, trailer or semitrailer has been held at least 60 days.

(Prior Code, § 10-78) Penalty, see § 71.99

**§ 71.10 NOTICE OF DISPOSITION OF VEHICLE UNDER § 71.08 OR § 71.09.**

The Division of Motor Vehicles shall be notified of the disposition of any motor vehicle, trailer or semitrailer under § 71.08 or § 71.09.

(Prior Code, § 10-79)

**§ 71.11 INOPERATIVE VEHICLES ON PRIVATE PROPERTY.**

It shall be unlawful for any person, firm or corporation to keep, except within a fully enclosed building or structure or otherwise shielded or screened from public view, on any property zoned for residential or commercial or agricultural purposes, any motor vehicle, trailer or semitrailer, as such are defined in VA Code § 46.2-100, as amended, which is inoperative. As used in this section, an ***INOPERATIVE MOTOR VEHICLE*** shall mean any motor vehicle which is not in operating condition; or which for a period of 90 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the motor vehicle; and for which there is no valid license plate and inspection sticker. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970 is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

(B) The owners of property zoned for residential or commercial or agricultural purposes shall remove there from any inoperative motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure. Whenever the owner of the premises, after reasonable notice, has failed to so remove the inoperative motor vehicle or trailer or semitrailer, the town through its own agents or employees may remove the inoperative motor vehicles, trailers or semitrailers and after further reasonable additional notice to the owner of the vehicle may dispose of the motor vehicle, trailer or semitrailer. The cost of any removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the town as taxes and levies are collected and every cost authorized by this section with which the owner of the premises shall have been assessed shall constitute a lien against the property from which the vehicle was removed and the lien shall continue until actual payment of the costs shall have been made to the town.

(Prior Code, § 10-80) (Ord. passed 7-3-1984) Penalty, see § 71.99

**§ 71.12 PARKING IN SPACES RESERVED FOR DISABLED; ENFORCEMENT.**

(A) 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 VA Code § 46.2-1241, or DV disabled parking license plates issued under VA Code § 46.2-739(B), to be parked in a parking space reserved for persons with

disabilities that limit or impair their ability to walk to park a vehicle in a space so designated except when transporting a person with such a disability in the vehicle.

(B) A summons or parking ticket for this offense may be issued by law enforcement officers or any other uniformed personnel employed by the town to enforce parking regulations without the necessity of a warrant being obtained by the owner of a private parking area.

(C) In any prosecution charging a violation of this section, proof that the vehicle described in the complaint, summons, parking ticket, citation, or warrant was parked in violation of this section together with proof that the defendant was at the time the registered owner of the vehicle, as required by VA Code § 46.2-600 *et seq.*, shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.

(D) No violation of this section shall be dismissed for a property owner's failure to comply strictly with the requirements for disabled parking signs set forth in VA Code § 36-99.11 provided the space is clearly distinguishable as a space reserved for persons with disabilities that limit or impair their ability to walk.

Penalty, see § 71.99

***Statutory reference:***

*Disabled parking license plates, VA Code § 46.2-731*

*Parking in spaces reserved for persons with disabilities, VA Code § 46.2-1237*

**§ 71.13 RESERVED SPACES; PERMIT.**

It shall be unlawful for the owner or operator of any vehicle to park such vehicle within any parking space marked by a reserved sign, between the hours indicated on such sign, except Sundays and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, unless such vehicle displays a permit to use such reserved space. Permits will be issued by the Town Manager to businesses demonstrating a need for on-street loading and unloading as determined by the town. There shall be imposed a fee as set by Council from time to time in the town's fee schedule.

Penalty, see § 71.99

**§ 71.99 PENALTY.**

(A) For illegal parking in violation for this chapter, where no other specific penalty is provided, the minimum fine shall be \$20, if the fine is paid upon the date of violation or within 24 hours of the violation. In the event parking violating fines are not paid to the town within five days after the assessment of the fine, a warrant shall be issued against the owner of the vehicle in question.

(B) Any violation of § 71.12 shall constitute a misdemeanor and shall be punishable by a fine of not less than \$100 nor more than \$500.

(Ord. 74-2, passed 11-6-1974; Ord. 80-1, passed 2-5-1980)





## CHAPTER 72: MOTOR VEHICLE LICENSES

### Section

72.01	License fees
72.02	Persons moving into town
72.03	License fee year; when fee payable
72.04	Amount of license fee
72.05	Payment of personal property tax
72.06	Reserved
72.07	Reserved
72.08	Exemptions
72.99	Penalty

### § 72.01 LICENSE FEES.

(A) There shall be levied and assessed a license fee on every motor vehicle, trailer and semitrailer (“vehicle”), normally garaged, parked or stored in the town and intended to be used or operated upon the streets and highways within the town a license fee as provided herein.

(B) It shall be presumed that any person who has acquired a valid current state license plate and/or registration for any vehicle normally garaged, parked or stored in the town, or who lists upon the records of the State Department of Motor Vehicles that the vehicle is kept with the town, is subject to the town license fee and intends to use and operate the vehicle upon the streets and highways within the town and owning vehicles that the vehicles are subject to the town vehicle license fee.

(C) If it cannot be determined where the vehicle is normally garaged, parked or stored, then the sites for the town vehicle license fee imposed by the town shall be the domicile of the owner of the vehicle.

(D) If the owner of the vehicle is a full-time student attending an institution of higher education, the sites shall be the domicile of the student, provided that the student has presented sufficient evidence that he or she has paid personal property taxes on the vehicle in his or her domicile. Nothing herein shall be construed to require a town vehicle license fee of a person exempt from the payment of a license fee under the applicable provisions of state law.

(Ord. 08-02, passed 11-10-2008)

**§ 72.02 PERSONS MOVING INTO TOWN.**

Each person who moves into the town from another town, county or city shall comply with the requirements imposed for the payment of the town vehicle license fee, within 30 days of locating within in the town.

(Ord. 08-02, passed 11-10-2008) Penalty, see § 72.99

**§ 72.03 LICENSE FEE YEAR; WHEN FEE PAYABLE.**

The town vehicle license fee year shall commence on January 1 of each year and shall end on December 31 of each year. The fee is due and payable at the same date established by the town code for the payment of real estate and personal property taxes. The Town Treasurer shall assess the town vehicle license fee as the vehicles are registered upon the records of the Virginia Department of Motor Vehicles and/or based upon information obtained by the Treasurer and the Treasurer shall bill the owner of the vehicle at the time personal property tax bills are sent. Any owner of any vehicle who acquires or disposes of any vehicle or otherwise causes a vehicle to be subject to or exempt from the town vehicle license fee at any time during any year shall, within ten days of the change, notify the Town Treasurer in writing of the change and, if required, pay the applicable town vehicle license fee imposed on the vehicle(s).

(Ord. 08-02, passed 11-10-2008; Ord. 12-01, passed 9-10-2012)

**§ 72.04 AMOUNT OF LICENSE FEE.**

Subject to the provisions of this chapter, there shall be assessed an annual town vehicle license fee upon all applicable motor vehicles as set by Council from time to time in the town's fee schedule; provided however, that no town license fee herein imposed shall exceed the amount permitted by the applicable provisions of state law. There shall be no prorating of the town license fee.

(Ord. 08-02, passed 11-10-2008)

**§ 72.05 PAYMENT OF PERSONAL PROPERTY TAX.**

No vehicle shall be licensed until all personal property taxes upon the vehicle and all delinquent personal property taxes on any vehicle owned by the owner of the vehicle which have been properly assessed or are assessable against the owner by the town have been paid.

(Ord. 08-02, passed 11-10-2008) Penalty, see § 72.99

**§ 72.06 RESERVED.**

**§ 72.07 RESERVED.**

**§ 72.08 EXEMPTIONS.**

Nothing contained herein shall impose the town vehicle license fee on a person or vehicle exempt from the payment of the fee under the applicable provisions of state law. The town vehicle license fee shall not be applicable to one vehicle owned and used personally by any Town Volunteer Fire Department member or veteran who holds a current state motor vehicle registration card establishing that he or she has received a disabled veteran's exemption from the Department of Motor Vehicles and has been issued a disabled veteran's motor vehicle license plate as prescribed pursuant to VA Code § 46.2-739.  
(Ord. 08-02, passed 11-10-2008)

**§ 72.99 PENALTY.**

Every person who violates any provision of this chapter shall be guilty of a Class 4 misdemeanor. Prepayment of fine, upon waiver of appearance and plea of guilty, shall not be accepted until a receipt from the Town Treasurer is produced evidencing payment of the applicable town license fee.  
(Ord. 08-02, passed 11-10-2008)



**CHAPTER 73: ROLLER SKATES, SKATEBOARDS, BICYCLES,  
MOTORIZED SKATEBOARDS OR FOOT-SCOOTERS,  
MOTOR-DRIVEN CYCLES OR ELECTRIC POWER-ASSISTED BICYCLES**

Section

73.01 Prohibited activities on certain designated sidewalks or crosswalks

73.99 Penalty

**§ 73.01 PROHIBITED ACTIVITIES ON CERTAIN DESIGNATED SIDEWALKS OR CROSSWALKS.**

(A) The use of roller skates and skateboards and/or the riding of bicycles, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles, as such are defined in VA Code § 46.2-100, as amended, is prohibited 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.

(B) The following areas of the Town of Rich Creek are designated as locations where the use of roller skates and skateboards and/or the riding of bicycles, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles on sidewalks and crosswalks is prohibited:

(1) The downtown areas of Old Virginia Avenue from Island Street to U.S. Route 460, Knob Street, Riverside Avenue, Giles Avenue, Woodland Road from Riverside Avenue to Shumate Avenue;

(2) The Rich Creek Town Park;

(3) The Rich Creek Community Center; and

(4) Any church, school, recreational facility, or any business property open to the public where such activity is prohibited.

(C) The town shall conspicuously post signs in general areas warning of the prohibition on the town property where the use of roller skates and skateboards and/or the riding of bicycles, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles is prohibited. Any church, school, recreational facility, or any business property open to the public where the use of roller skates and skateboards and/or the riding of bicycles, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles is prohibited shall conspicuously post signs in general areas warning of the prohibition.

(D) This section shall not apply to electric personal assistive mobility devices as such are defined in VA Code § 46.2-100, as amended.  
(Ord. 16-01, passed 4-11-2016)

**§ 73.99 PENALTY.**

Every person who violates the prohibition use of roller skates and skateboards and/or the riding of bicycles, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles in designated areas where such activity is prohibited shall be assessed a civil penalty of \$50. If the civil penalty proscribed by this chapter is not paid within five days, it shall be enforceable by a warrant in debt.  
(Ord. 16-01, passed 4-11-2016)

## **TITLE IX: GENERAL REGULATIONS**

### Chapter

- 90. ANIMALS**
- 91. EXPLOSIVES AND FIREWORKS**
- 92. NOISE**
- 93. NUISANCES**
- 94. OPEN BURNING**
- 95. STREETS AND SIDEWALKS**





## CHAPTER 90: ANIMALS

### Section

#### *General Provisions*

- 90.001 Keeping hogs or hog pens
- 90.002 Keeping animals in a manner as to cause nuisance
- 90.003 Keeping a slaughterhouse and the like
- 90.004 Allowing hogs, cows, horses and the like to run wild
- 90.005 Cruelty to animals
- 90.006 Noisy animals and fowl
- 90.007 Trapping and hunting birds or wild fowl

#### *Dogs*

- 90.020 Vaccination or inoculation prerequisite to owning dog
- 90.021 Duty of person transporting dog into town
- 90.022 Issuance of rabies inoculation collar tag and certificate of inoculation
- 90.023 Presentation of certificate of rabies, inoculation when dog license secured
- 90.024 Dogs to wear rabies inoculation collar tag
- 90.025 Duty of person harboring certain dog
- 90.026 Declaration of emergency quarantine
- 90.027 Female dogs in heat; confinement required
- 90.028 Proper care and control required; nuisance prohibited

#### *Enforcement*

- 90.040 Enforcement by police officers

#### *Animal Control*

- 90.055 Title
- 90.056 Definitions
- 90.057 Animal warden and deputy wardens
- 90.058 Licenses
- 90.059 Running at large
- 90.060 Vicious or destructive dogs
- 90.061 Dogs killing or injuring livestock or poultry
- 90.062 Disposal of dead dogs

**Rich Creek - General Regulations**

- 90.063 Dogs deemed personal property
- 90.064 Abandonment of animals
- 90.065 Confinement
- 90.066 Treatment of persons bitten by or exposed to rabid animal
  
- 90.999 Penalty

***GENERAL PROVISIONS*****§ 90.001 KEEPING HOGS OR HOG PENS.**

It shall be unlawful for any person to keep in the town any hog or hog pens.  
(Prior Code, § 4-1) Penalty, see § 90.999

**§ 90.002 KEEPING ANIMALS IN A MANNER AS TO CAUSE NUISANCE.**

No person shall pen up or confine cows, horses, mules or other animals in any place within the town that will cause it to be a nuisance.  
(Prior Code, § 4-2) Penalty, see § 90.999

**§ 90.003 KEEPING A SLAUGHTERHOUSE AND THE LIKE.**

It shall be unlawful for any person to have or keep a slaughterhouse or butcher pen in the town.  
(Prior Code, § 4-3) Penalty, see § 90.999

**§ 90.004 ALLOWING HOGS, COWS, HORSES AND THE LIKE TO RUN WILD.**

It shall be unlawful for any person to allow any hog, pig, goat, ox, cow, calf, horse, mule, colt or other animal likely to be a nuisance to run at large in the town.  
(Prior Code, § 4-4) Penalty, see § 90.999

**§ 90.005 CRUELTY TO ANIMALS.**

(A) No person shall:

(1) Override, overdrive, overload, torture, ill treat or cruelly or unnecessarily beat, maim, mutilate or kill any animal, whether belonging to himself, herself or another, or deprive any animal of

necessary sustenance, food or drink or cause any of the above things, or being the owner of that animal permit those acts to be done by another;

(2) Wilfully set on foot, instigate, engage in or in any way further any act of cruelty to any animal; or

(3) Carry or cause to be carried in or upon any vehicle or vessel or otherwise any animal in a cruel, brutal or inhuman manner, so as to produce torture or unnecessarily suffering; but nothing in this section shall be construed to prohibit the dehorning of cattle.

(B) The word **ANIMAL** as used in this section shall be construed to include birds and fowl.  
(Prior Code, § 4-5) Penalty, see § 90.999

**§ 90.006 NOISY ANIMALS AND FOWL.**

It shall be unlawful for any person to keep or permit on his or her premises or in any public places any animal or fowl which by its actions causes objectionable noise and disturbs the public peace and rest.  
(Prior Code, § 4-6) Penalty, see § 90.999

**§ 90.007 TRAPPING AND HUNTING BIRDS OR WILD FOWL.**

(A) It shall be unlawful for any person to trap, hunt, shoot or molest or attempt to trap, hunt, shoot or molest, in any manner any bird or fowl or to rob bird nests or wild fowl nests; provided, however, that if starlings or similar birds are found to be congregating in numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the town, those health authorities shall meet with representatives of the garden clubs as are found to exist in the town, after having given at least three days' notice of the time and place of the meeting to the representatives of those clubs, in the discretion of the Mayor.

(B) If, as a result of the meeting, no satisfactory alternative is found to abate the nuisance, the birds may be destroyed, in a number and in a manner as is deemed advisable by the Town Manager under the supervision of the Chief of Police.  
(Prior Code, § 4-7) Penalty, see § 90.999

***DOGS***

**§ 90.020 VACCINATION OR INOCULATION PREREQUISITE TO OWNING DOG.**

It shall be unlawful for any person to own, keep, hold or harbor any dog over the age of six months within the town unless the dog in question shall have been vaccinated with a modified live virus (Flury

strain) rabies vaccine, approved by the State Department of Health within a period of 36 months or inoculated within a period of 12 months with a killed rabies vaccine approved by the State Department of Health.

(Prior Code, § 4-8) Penalty, see § 90.999

#### **§ 90.021 DUTY OF PERSON TRANSPORTING DOG INTO TOWN.**

Any person transporting a dog into the town from some other jurisdiction shall comply with § 90.020 within 30 days.

(Prior Code, § 4-9)

#### **§ 90.022 ISSUANCE OF RABIES INOCULATION COLLAR TAG AND CERTIFICATE OF INOCULATION.**

(A) At the time of vaccination or inoculation, as required in this subchapter, a suitable and distinctive rabies inoculation collar tag and a certificate of inoculation shall be issued to the dog owner by the currently licensed veterinarian vaccinating or inoculating the dog in question.

(B) The certificate of rabies inoculation or vaccination shall be properly executed and signed by the veterinarian, shall set forth the type of vaccine used, and shall certify that the dog has been vaccinated in accordance with the provisions set forth in § 90.020. The certificate shall show the date of vaccination or inoculation, rabies collar, tag number, a brief description of the dog, sex and breed of the dog and the owner thereof.

(C) A copy of the certificate of inoculation shall be retained by the vaccinating veterinarian and a copy shall be sent at once to the County Health Department and kept on file where duplicate copies may be obtained by the dog owner.

(Prior Code, § 4-10)

#### **§ 90.023 PRESENTATION OF CERTIFICATE OF RABIES, INOCULATION WHEN DOG LICENSE SECURED.**

Any person making application for a dog license shall present, to the officials who issue licenses, the certificate of rabies inoculation shall be presented before the license is issued and shall be presented within 60 days if a killed rabies virus vaccine has been used, or within 30 months if the modified live virus (Flury strain) rabies vaccine has been used. When the license for the day in question has been issued, the certificate of rabies inoculation shall be so marked and returned to the owner of the dog in question.

(Prior Code, § 4-11)

**§ 90.024 DOGS TO WEAR RABIES INOCULATION COLLAR TAG.**

The officials charged with the enforcement of this chapter shall impound any dog not wearing a rabies inoculation tag.

(Prior Code, § 4-12)

**§ 90.025 DUTY OF PERSON HARBORING CERTAIN DOG.**

No person shall knowingly harbor or permit to remain on the premises for 15 days any dog over six months of age of unknown ownership or any dog which is not wearing a rabies inoculation collar tag and not reporting the fact to the county game warden or the town office.

(Prior Code, § 4-13) Penalty, see § 90.999

**§ 90.026 DECLARATION OF EMERGENCY QUARANTINE.**

When in the judgment of the Health Officer, an emergency shall be deemed to exist in the town, or any section thereof, due to the appearance of rabies, for the protection of the public health, the Health Officer may declare a quarantine in the town, or that section thereof as may be affected, which restricts all dogs to the owner's property or to the immediate custody of a responsible person, either or both, for the duration of the emergency as it is set forth.

(Prior Code, § 4-14)

**§ 90.027 FEMALE DOGS IN HEAT; CONFINEMENT REQUIRED.**

Every female dog in heat shall be confined in a building, secure enclosure or on the owner's property in a manner that the female dog cannot come into contact with another dog except for planned breeding.

(Ord. 10-75, passed 8-6-1974) Penalty, see § 90.999

**§ 90.028 PROPER CARE AND CONTROL REQUIRED; NUISANCE PROHIBITED.**

(A) No person shall fail to exercise proper care and control of any dog owned or kept by him or her to prevent the dog from becoming a public nuisance.

(B) Excessive, continuous or untimely barking, molesting passersby, chasing vehicles, habitually attacking other domestic animals, trespassing upon school or park grounds or trespassing upon private property in a manner as to damage property, shall be deemed a nuisance.

(Ord. 10-75, passed 8-6-1974) Penalty, see § 90.999

***ENFORCEMENT*****§ 90.040 ENFORCEMENT BY POLICE OFFICERS.**

The provisions of this chapter shall be enforced by all town police officers, the Sheriff of the county and his or her deputies and the game warden of the county.  
(Prior Code, § 4-15)

***ANIMAL CONTROL*****§ 90.055 TITLE.**

This subchapter shall be known and cited as the town animal control subchapter.  
(Ord. 04-01, passed 11-10-2004)

**§ 90.056 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ANIMAL WARDEN.*** Any person employed, contracted or appointed by the town or by the county for the purpose of aiding in the enforcement of this subchapter relating to the licensing of dogs, control of dogs and cats, cruelty to animals or seizure and impoundment of dogs and cats and includes any state or municipal police officer, animal control officer, sheriff or other employees whose duties in whole or in part include assignments which involve seizure or taking into custody of any dog or other animal.

***ANIMAL.*** Domestic animals, including both agriculture and companion animals if not specified otherwise.

***KENNEL.*** An enclosure constructed to house and restrain animals without the use of a leash in a limited amount of space.

***LIVESTOCK.*** Includes cattle, horses, sheep, goats, swine and enclosed domesticated rabbits or hares.

***OWNER.***

- (1) Any person who:
  - (a) Has a right of property in an animal;

- (b) Keeps or harbors an animal;
- (c) Has an animal in his or her care; or
- (d) Acts as a custodian of an animal.

(2) Any person who knowingly permits a dog to remain on or about any premises occupied by him or her shall be considered the **OWNER** of the animal.

**POULTRY.** Includes all domestic fowl and game birds raised in captivity.

**RUN AT LARGE.** A dog or cat shall be deemed to **RUN AT LARGE** while self-hunting, running or roaming off the property of its owner or custodian and not under the immediate control of its owner or custodian.

**TREASURER.** Includes the Treasurer and his or her assistants or other officer designated by law to collect taxes in the county.

**VACCINATE.** The immunization of a dog against rabies, which by inoculation vaccination or any method of treatment approved by the County Health Officer.  
(Ord. 04-01, passed 11-10-2004)

**§ 90.057 ANIMAL WARDEN AND DEPUTY WARDENS.**

(A) The animal warden and deputy animal wardens shall be those persons so appointed by the Town Council or by the Board of Supervisors of the county pursuant to VA Code § 3.2-6555.

(B) The powers of enforcement of this subchapter and all laws for the protection of domestic animals and other duties as may be required by the Town Council shall be vested in the animal warden and deputy animal wardens as may be appointed. Deputy animal wardens shall have all the powers and duties of an animal warden.

(C) The animal warden pursuant to VA Code § 3.2-6557 shall not give or sell or negotiate for the gift or sale to a pet shop dealer or research facility of any animal which may come into his or her possession.

(D) An animal warden or the custodian of any pound, upon taking custody of any animal in the course of his or her official duties, shall immediately make a record of the matter. The record shall include a description of the animal including color, breed and sex, approximate weight, reason for seizure, location of seizure, the owner's name and address if known and all license or other identification numbers and the disposition of the animal.



(E) Any animal warden or custodian of any pound who violates any provision of this subchapter which relates to the seizure, impoundment and custody of animals by an animal warden may be subject to suspension or dismissal from his or her position.

(F) Animal wardens, custodians or animal control officers engaged in the operation of a pound shall be required to have a knowledge of the laws of the state governing animals, as well as basic animal care. They may avail themselves of any training course offered by the state for law enforcement officers or any animal warden, with the approval of the County Administrator.  
(Ord. 04-01, passed 11-10-2004)

### § 90.058 LICENSES.

(A) *Unlicensed dogs prohibited.* It shall be unlawful for any person to own a dog six months old or older unless the dog is licensed, as required by the provisions of this subchapter.

(B) *How to obtain license.* Any person residing in the town may obtain a dog license by making oral or written application to the Treasurer, accompanied by the amount of license tax and certificate of vaccination as required by this division. The Treasurer or other officer charged with the duty of issuing dog licenses shall only have the 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 certificate of vaccination as required by this division, the Treasurer or other officer charged with the duty of issuing dog licenses shall issue a license receipt for the amount of which he or she shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tag, whether individual or kennel, and deliver the metal license tags or plates provided for herein. The information thus received shall be retained by the Treasurer, open to public inspection, during the period for which the license is valid. The Treasurer may establish substations in convenient locations in the county and appoint agents for the collection of the license tax and issuance of the license.

(C) *Evidence showing inoculation for rabies prerequisite to obtaining dog license.* No license tag shall be issued for any dog unless there is presented to the Treasurer or other officer of the county charged by law with the duty of issuing license tags for dogs at the time application for license is made, evidence satisfactory to him or her showing that the dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian.

(D) *Licenses taxes; amounts.*

(1) License taxes shall be as set by Council from time to time in the town's fee schedule.

(2) No kennel license will be issued without proof that applicant maintains a bona fide kennel and all of applicant's dogs are actually housed in this kennel. Evidence must be presented showing that each dog owned by the applicant has been inoculated or vaccinated against rabies by a currently licensed veterinarian.

(3) (a) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing-impaired person.

(b) As used in this section, **HEARING DOG** shall mean a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

(E) *License taxes; when payable.*

(1) On January 1 and not later than January 31 of each year, the owner of any dog six months old or older shall pay a license tax as prescribed in division (B) above.

(2) If a dog shall become six months of age or come into the possession of any person between January 1 and November 1 of any year, the license tax for the current calendar year shall be paid forthwith by the owner.

(3) If a dog shall become six months of age or come into the possession of any person between October 31 and December 31 of any year, the license tax for the succeeding calendar year shall be paid forthwith by the owner and the license shall protect the dog from the date of purchase.

(4) Notwithstanding any other provision of this subchapter, a dog license valid for a period of three years may be obtained upon payment of a license fee as set by Council from time to time in the town's fee schedule, together with presentation of a rabies certificate which expires no sooner than October 30 of the last valid year of the three year license. A three-year license shall be available only for an individual dog. The license is not transferable and no portion of the license fee shall be refundable.

(F) *License taxes; payment subsequent to summons.* Payment of the license tax subsequent to a summons to appear before a court for failure to do so within the time required shall not operate to relieve the owner from the penalties provided.

(G) *Effect of dog not wearing collar as evidence.* Any dog not wearing a collar bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed and in any proceedings under this section, the burden of proof of the fact that the dog has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog.

(Ord. 04-01, passed 11-10-2004) Penalty, see § 90.999

### **§ 90.059 RUNNING AT LARGE.**

Dogs and cats shall not be permitted to run at large in the town at any time.  
(Ord. 04-01, passed 11-10-2004) Penalty, see § 90.999

**§ 90.060 VICIOUS OR DESTRUCTIVE DOGS.**

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***DANGEROUS DOG.*** A canine or canine crossbreed which has bitten, attacked or inflicted injury on a person or companion animal, other than a dog or killed a companion animal.

***VICIOUS DOG.*** A canine or canine crossbreed which has:

- (a) Killed a person;
- (b) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of a bodily function; or
- (c) Continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.

(B) Any animal control officer who has reason to believe that a canine or canine crossbreed within his or her jurisdiction is a dangerous dog or vicious dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before the General District Court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control officer shall confine the animal until a time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he or she may permit the owner or custodian to confine the animal until a time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of the subchapter. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of VA Code § 3.2-6562.

(C) (1) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed.

(2) No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was:

- (a) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;
- (b) Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or

(c) Provoking, tormenting or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times.

(3) No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog.

(D) The owner of any animal found to be a dangerous dog shall, within ten days of the finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee as set by Council from time to time in the town's fee schedule in addition to other fees that may be authorized by law. The local animal control officer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this division shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

(E) (1) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence:

(a) Of the animal's current rabies vaccination, if applicable; and

(b) The animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed.

(2) In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that:

(a) Their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and

(b) The animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

(F) (1) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(2) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

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(G) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal:

- (1) Is loose or unconfined;
- (2) Bites a person or attacks another animal;
- (3) Is sold, given away or dies; or
- (4) Has been moved to a different address.

(H) The owner of any animal which has been found to be a dangerous dog who willfully fails to comply with the requirements of this section shall be guilty of a Class 1 misdemeanor.

(I) All fees collected pursuant to this section, less the costs incurred by the county in producing and distributing the certificates and tags required by the section, shall be paid into a special dedicated fund in the treasury of county for the purpose of paying the expenses of any training course required under VA Code § 3.2-6556.

(J) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence that the animal has been neutered or spayed.

(K) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$50,000, that covers animal bites.

(L) Notwithstanding the provisions of division (B) above, the animal control officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he or she may order the animal's owner to comply with the provisions of the section. If the animal's owner disagrees with the animal control officer's determination, he or she may appeal the determination to the General District Court for a trial on the merits.

( Ord. passed - -; Ord. 04-01, passed 11-10-2004) Penalty, see § 90.999

**§ 90.061 DOGS KILLING OR INJURING LIVESTOCK OR POULTRY.**

It shall be the duty of any animal warden who may find a dog in the act of killing or injuring livestock or poultry to kill the dog forthwith whether the dog bears a tag or not, and any person finding a dog committing any of the depredations mention in this section shall have the right to kill the dog on sight as shall any owner of livestock or his or her agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that the chasing is harmful to the livestock. Any court shall have the power to order the animal warden or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry to the third time shall be considered a confirmed killer. Any animal warden who has reason to believe that any dog is killing livestock or poultry shall be

empowered to seize the dog solely for the purpose of examining the dog in order to determine whether it committed any of the depredations mentioned herein. Any animal warden or 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 a magistrate of the county who shall issue a warrant requiring the owner or custodian, if known, to appear before a district court at a time and place named herein, at which time evidence shall be heard, and if it shall appear that a dog is a livestock or poultry killer, or has committed any of the depredations mentioned in this section, the dog shall be ordered killed immediately, which the animal warden or other officer designated by the judge of the district court to act shall do.

(Ord. 04-01, passed 11-10-2004) Penalty, see § 90.999

#### **§ 90.062 DISPOSAL OF DEAD DOGS.**

The owner of any dog which has died from disease or other cause shall forthwith cremate or bury the same. If, after notice, any owner fails to do so, the animal warden shall bury or cremate the dog or he or she may recover on behalf of the county from the owner his or her cost for this service.

(Ord. 04-01, passed 11-10-2004) Penalty, see § 90.999

#### **§ 90.063 DOGS DEEMED PERSONAL PROPERTY.**

All dogs shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass, and the owners thereof may maintain any action for the killing of any dogs, or injury thereto, or unlawful detention or use thereof as in the case of other personal property. The owner of any dog which is injured or killed contrary to the provisions of this subchapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from the person. An animal warden or other officer finding a stolen dog, or a dog held or detained contrary to law, shall have authority to seize and hold the dog pending action before a general district court or other court, if no action is instituted within seven days, the animal warden or other officer shall deliver the dog to its owner. The presence of a dog on the premises of a person other than its legal owner shall raise no presumption of theft against the owner and the animal warden make take the dog in charge and notify its legal owner to remove it. The legal owner of the dog shall pay a charge as specified by the Board of Supervisors of the county for the keep of the dog while in the possession of the animal warden.

(Ord. 04-01, passed 11-10-2004) Penalty, see § 90.999

#### **§ 90.064 ABANDONMENT OF ANIMALS.**

(A) No person shall abandon any animal.

(B) *ABANDONMENT* for the purpose of this subchapter is defined as deserting, forsaking or intending to absolutely give up an animal without securing another owner or without providing necessities set out in VA Code § 3.2-6503.

(Ord. 04-01, passed 11-10-2004)

**§ 90.065 CONFINEMENT.**

(A) Any dog or cat seized pursuant to the provisions of this subchapter and not otherwise determined shall be kept for a period of not less than five days, the period to commence on the day immediately following the day the dog or cat is initially confined unless sooner claimed by the owner thereof.

(B) Either a custodian of a dog or cat or an individual who has found a dog or cat may qualify as owner and may claim the dog or cat by expressing his or her desire in writing to claim the dog at the expiration of the five-day period set out herein after payment of the required license fee. In the event that its rightful owner claims any dog or cat confined pursuant to this section, the owner shall only be charged with the actual expenses incurred in keeping the dog or cat impounded. In the event the rightful owner shall claim the dog or cat at any time, the custodian or finder shall relinquish possession of the dog or cat to the rightful owner. If the animal has not been claimed, it may be humanely destroyed or disposed of by sale or gift to a federal agency, or state-supported institution, agency of the state, agency of another state, or a licensed federal dealer having its principal place of business located within the state, or by delivery to any local humane society, shelter or to any person who is a resident of the county or town for which the pound is operated and who will pay the required license fee, if any, on the animal. If the rightful owner of any dog or cat confined may be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the dog or cat of the dog's or cat's confinement within 48 hours next following its confinement. The animal may also be delivered to any person who proposes to adopt it as a pet and who will pay the required license fee, if any, on the animal; however, no more than two animals or a family of animals shall be delivered during any 30-day period to any one person.

(C) Any person proposing to adopt an unclaimed dog or cat must have the animal spayed or neutered.

(D) No provision herein shall prohibit the destruction of a critically injured or critically ill animal for humane purposes. Any animal destroyed pursuant to the provisions of this subchapter shall be euthanized by one of the methods prescribed or approved by the state veterinarian.

(Ord. 04-01, passed 11-10-2004)

**§ 90.066 TREATMENT OF PERSONS BITTEN BY OR EXPOSED TO RABID ANIMAL.**

Any person bitten by a rabid animal in the town shall be paid the costs of necessary treatment by the county, not to exceed an amount as set by Council from time to time in the town's fee schedule; provided, that the County Health Officer shall first treat any case of rabies, and no person shall be entitled to recover the cost of necessary treatment herein provided unless he or she first applies to the officer for treatment and the officer refuses or fails to treat the case.

(Ord. 04-01, passed 11-10-2004)

**§ 90.999 PENALTY.**

(A) Any person who violates any provision §§ 90.001 through 90.007, 90.020 through 90.028 and 90.040 shall be fined not less than \$5 and no more than \$25, at the discretion of the court having jurisdiction. Each violation of the provisions in §§ 90.001 through 90.007, 90.020 through 90.028 and 90.040 shall constitute a separate offense.

(Prior Code, § 4-16)

(B) (1) The following shall be unlawful acts and constitute Class 4 misdemeanors and shall be punishable in accordance with VA Code § 18.2-11:

(a) *License application.* For any person to make a false statement in order to secure a dog license to which he or she is not entitled;

(b) *License tax.* For any dog owner to fail to pay the license tax required by §§ 90.055 through 90.066 before February 1 for the year in which it is due. In addition, the court may order confiscation and proper disposition of the unlicensed dog. For violations of this division, there shall be a minimum, mandatory fine of \$35 for a first offense, and a minimum, mandatory fine of \$50 for a second or subsequent offense;

(c) *Running at large.* For any dog or cat owner to allow a dog or cat to run at large in violation of §§ 90.059 and 90.060;

(d) *Dead dogs.* For any owner to fail to dispose of the body of his or her dog in violation of § 90.062;

(e) *Diseased dogs.* For any owner of any dog with a contagious or infectious disease to permit the dog to stray from its premises if the disease is known to the owner;

(f) *Removing collar and tag.* For any person, except the owner or custodian, to remove a legally acquired license tag from a dog;

(g) *Concealing a dog.* 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 the same from being killed; and

(h) *Other violations.* Any other violation of §§ 90.055 through 90.066 for which a specific penalty is not provided.

(2) If any person presents a false claim or receives any money on a false claim under the provisions of § 90.062, he or she shall be guilty of a Class 1 misdemeanor and punished in accordance with VA Code § 18.2-11.

(3) (a) It shall be unlawful to own, keep, possess or harbor any animal which frequently or habitually howls, barks, meows, squawks or makes other noise as is plainly audible across property boundaries or through partitions. The creation of noise by an animal for a period of five minutes or more



at any time shall constitute a prima facie violation of this division, subject however to rebuttal by competent evidence. Any animal used for law enforcement or search and/or rescue operations shall be exempt from the provisions of this section while in the performance of its official duties. A violation of this division shall be a misdemeanor punishable by a fine in an amount not to exceed \$100. A second or subsequent offense within a period of one year shall be punishable by a fine in an amount not to exceed \$500.

(b) This division shall not apply to noise created by cows, poultry, pigs or other farm animals commonly referred to as livestock.

(Ord. 04-01, passed 11-10-2004)

## CHAPTER 91: EXPLOSIVES AND FIREWORKS

Section

### *General Provisions*

- 91.01 Blasting
- 91.02 Storing dynamite for a period of more than five hours

### *Fireworks*

- 91.15 Manufacture, sale, use and the like of fireworks
- 91.16 Special displays
- 91.17 Exceptions to application of subchapter

## **GENERAL PROVISIONS**

### **§ 91.01 BLASTING.**

(A) No person shall blast or carry on any blasting operations without having first secured therefor a permit from the Town Manager.

(B) Blasting or blasting operations conducted pursuant to a permit shall be carried on subject to conditions as may be expressed in the permit.

(Prior Code, § 7-1) Penalty, see § 10.99

### **§ 91.02 STORING DYNAMITE FOR A PERIOD OF MORE THAN FIVE HOURS.**

It shall be unlawful for any person to store or house any dynamite, dynamite caps or other explosives or set off, any fireworks of any manner, make or description, in the town.

(Prior Code, § 7-2) Penalty, see § 10.99

***FIREWORKS*****§ 91.15 MANUFACTURE, SALE, USE AND THE LIKE OF FIREWORKS.**

No person shall manufacture, sell, transfer, give, store, possess, use, explode or set off or cause to be exploded or set off any fireworks of any manner, make or description in the town.

(Prior Code, § 7-3) Penalty, see § 10.99

**§ 91.16 SPECIAL DISPLAYS.**

The Town Manager may order the special display of fireworks by properly qualified individuals under the direct supervision of experts in the handling of fireworks. This display shall be of a character, so located, discharged or fired, as in the opinion of the Town Manager shall not be hazardous to surrounding property and endanger any person.

(Prior Code, § 7-4)

**§ 91.17 EXCEPTIONS TO APPLICATION OF SUBCHAPTER.**

This subchapter shall not apply to sparklers, fountains, pharaoh's serpents, caps for pistols, nor shall it apply to pin wheels commonly known as whirligigs or spinning jennies, when used, ignited or exploded on private property with the consent of the owner of the property.

(Prior Code, § 7-5)

## CHAPTER 92: NOISE

### Section

- 92.01 Making loud, unnecessary noises; prohibited
- 92.02 Enumeration of certain acts declared to be loud and the like

### **§ 92.01 MAKING LOUD, UNNECESSARY NOISES; PROHIBITED.**

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace and safety or others within the town.

(Prior Code, § 11-1) Penalty, see § 10.99

### **§ 92.02 ENUMERATION OF CERTAIN ACTS DECLARED TO BE LOUD AND THE LIKE.**

The following acts among others are hereby declared to be loud, disturbing and unnecessary noises and a public nuisance in violation of § 92.01, but this enumeration shall not be deemed to be exclusive, namely:

#### *(A) Radios, phonographs and the like.*

(1) The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing of or the persons who are in the room, vehicle or chamber in which the machine or device or operate and who are voluntary listeners thereto; and

(2) The operation of any set, instrument, phonograph machine or device between the hours of 11:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation.

#### *(B) Loudspeakers or amplifiers for advertising.*

(1) The using, operating or permitting to be played, used or operated of any radio, receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing of sound which is case upon the public streets or other public places for the public to any building or structure. The using operating or permitting to be used or operated any motor vehicle or

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horse-drawn vehicle having mounted thereon or attached thereto any sound amplifier equipment for the purpose of advertising; and

(2) This division shall not be construed to prohibit the use of loudspeakers between 9:00 a.m. and 4:00 p.m. in connection with an auction sale held pursuant to a permit from the Town Manager.

(C) *Yelling, shouting and the like.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy, disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type or residence or of any persons in the vicinity; and

(D) *Construction or repairing of buildings.* The creation of a loud, and excessive noise in the erection (including excavation), demolition, alternation or repairing of any building other than between the hours of daylight and 11:00 p.m., except in case of urgent necessity in the interest of public health and safety. (Prior Code, § 11-2) Penalty, see § 10.99

## CHAPTER 93: NUISANCES

Section

### *General Provisions*

- 93.01 Notice to abate
- 93.02 Duty of property owners
- 93.03 Grass; weeds; other foreign growth; height

### *Litter Control*

- 93.15 Title
- 93.16 Definitions
- 93.17 Littering prohibited
- 93.18 Uncovered vehicles; escape of load
- 93.19 Areas surrounding commercial establishments and institutions
- 93.20 Keeping residential property clean
- 93.21 Construction and demolition sites
- 93.22 Handbills and advertising material
- 93.23 Indiscriminate dumping or discarding of litter and solid waste
- 93.24 Cleanup of premises by government authorization
- 93.25 Use of litter receptacles
- 93.26 Enforcement

- 93.99 Penalty

***Cross-reference:***

*Refuse, see Chapter 50*

### **GENERAL PROVISIONS**

#### **§ 93.01 NOTICE TO ABATE.**

(A) Whenever it shall come to the knowledge of the Town Manager that there exists upon any premises in the town, any offensive or insanitary matter likely to become a nuisance or a health hazard,

he or she shall cause a written notice to be served upon the person who created the nuisance or who placed the matter upon the premises or, if the identity of the person cannot be ascertained, upon the occupant of the premises, or if the premises are unoccupied, upon the owner, requiring the abatement of the nuisance or the removal of the matter from the premises, within a fixed time to be prescribed or specified in the notice.

(B) In the event the recipient of the notice fails to comply therewith within the time specified therein, he or she shall, upon conviction, be punished as provided in § 10.99. Each day that the nuisance in question continues after the expiration of the time specified in the notice, shall constitute a separate offense. (Prior Code, § 15-23) Penalty, see § 93.99

### **§ 93.02 DUTY OF PROPERTY OWNERS.**

(A) The owners of all property shall cut, or cause to be cut, the grass, weeds and other foreign growth on the property or any part thereof whenever any grass, weeds and other foreign growth has grown to a height of more than 12 inches.

(B) The Town Manager shall give notice in writing to the owners of property upon which grass, weeds and other foreign growth have grown to a height of more than 12 inches that if the grass, weeds and foreign growth is not cut within the time prescribed in the notice, the town will have grass, weeds and foreign growth cut and the expenses incurred by the town in the cutting of grass, weeds and foreign growth will be charged to and paid by the owners of the property and may be collected from them as other taxes and levies are collected.

(C) If the owners of properties receiving the notices do not cut the grass, weeds and other growth within the time prescribed in the notices, the Town Manager shall have the grass, weeds and other foreign growth cut by the town's agents or employees and shall charge the expenses incurred in cutting to the owners of the property and shall collect charges as other taxes and levies are collected by the town. (Prior Code, § 15-24) (Ord. passed 9-4-1984)

***Statutory reference:***

*Abatement or removal of nuisances, see VA Code § 15.2-1115*

### **§ 93.03 GRASS; WEEDS; OTHER FOREIGN GROWTH; HEIGHT.**

It shall be unlawful for the owner of any vacant property to allow the height of grass, weeds and other foreign growth on property to attain a height that the growth constitutes a health or safety hazard when the property is located within 75 feet of a building. A height of 12 inches shall be presumed to constitute a health or safety hazard for purposes of this section.

(Ord. passed 9-7-1976) Penalty, see § 93.99

***LITTER CONTROL*****§ 93.15 TITLE.**

This subchapter shall be known and may be cited as the town litter control subchapter.  
(Ord. passed 2-5-1985)

**§ 93.16 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***INSTITUTION.*** Any public or private establishment which educates, instructs, treats for health purposes or otherwise performs a service or need for the community, region, state or nation.

***LITTER.*** All waste materials, including, but not limited to, bottles, glass, crockery, cans, scrap metal, paper, plastic, rubber, garbage, offal, waste building material at construction sites, disposable packages or containers thrown or deposited as prohibited herein, but not including the properly disposed waste of the primary processes of mining, logging, saw-milling, farming or manufacturing.

***LITTER RECEPTACLE.*** A container with a capacity of not less than ten gallons, constructed and/or placed for use as a depository for litter.

***PERSON.*** Any natural person, corporation, partnership, association, firm, receiver, guardian trustee, executor, administrator, fiduciary or representative or group of individuals or entities of any kind.

***PRIVATE PROPERTY.*** Property owned by any person as defined herein, including but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, any body of water, vacant land and recreation facilities.

***PUBLIC PROPERTY.*** Any area that is used, or held out for use, by the public, whether owned or operated by public or private interests, including but not limited to, highways, streets, alleys, parks, recreation areas, sidewalks, medians, lakes, rivers, streams, ponds or other bodies of water.

***VEHICLE.*** Every device capable of being moved upon a public highway or public waterway and in, upon or by which any person or property may be transported or drawn upon a public highway or public waterway, and shall also include any watercraft, boat or other floating craft, except devices moved by human power, or used exclusively upon stationary rails or tracks or used exclusively for agricultural purposes and not licensed pursuant to state law, which is not operated on any public highway for purposes other than crossing a public highway, or along a highway between two tracts of the owner's land.  
(Ord. passed 2-5-1985)



**§ 93.17 LITTERING PROHIBITED.**

(A) It shall be unlawful for any person to drop, deposit, discard or otherwise dispose of litter in or upon any public or private property within the county, including but not restricted to, any street, sidewalk, park, body of water, vacant or occupied lot, except in public litter receptacles, or in authorized private litter receptacles provided for public use, or in an area designated by the State Department of Health as a permitted disposal site.

(B) When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of in the highway, right-of-way, property adjacent to the highway or right-of-way or private property has been ejected from a motor vehicle, the owner or operator of the motor vehicle shall be presumed to be the person ejecting the trash, garbage, refuse or other unsightly matter; provided, however, that the presumption shall be rebuttable by competent evidence.

(Ord. passed 2-5-1985) Penalty, see § 93.99

**§ 93.18 UNCOVERED VEHICLES; ESCAPE OF LOAD.**

(A) No vehicle shall be driven or moved on any highway unless the vehicle is constructed or loaded to prevent any of its loads from dropping, sifting, leaking or otherwise escaping therefrom; provided, however, that sand or any substance to increase traction or water or other substance may be applied on a roadway in the cleaning or maintaining of the roadway by the state or local government agency having those responsibilities.

(B) Any person operating a vehicle from which any glass or objects have fallen or escaped, which could cause an obstruction or damage a vehicle or otherwise endanger travelers on public property, shall immediately cause the public property to be cleaned of all glass or objects and shall pay any costs therefore.

(Ord. passed 2-5-1985) Penalty, see § 93.99

**§ 93.19 AREAS SURROUNDING COMMERCIAL ESTABLISHMENTS AND INSTITUTIONS.**

It shall be the duty of each proprietor and each operator of any business, industry or institution to keep the adjacent and surrounding area clear and free of litter. These areas include, but are not restricted to, public and private sidewalks, roads and alleys; grounds; parking lots; loading and unloading areas; and all vacant lots which are owned or leased by the establishment or institution.

(Ord. passed 2-5-1985) Penalty, see § 93.99

**§ 93.20 KEEPING RESIDENTIAL PROPERTY CLEAN.**

(A) It shall be the duty of each residential property owner and tenant to keep all exterior private property free of litter.

(B) This section shall not be deemed to prohibit the accumulation of litter awaiting the next regular scheduled refuse or garbage collection if the property is served by regularly scheduled garbage refuse or litter collection. The collection shall deem to be regular if the collection regularly occurs at least once per week or more frequently.

(Ord. passed 2-5-1985) Penalty, see § 93.99

**§ 93.21 CONSTRUCTION AND DEMOLITION SITES.**

(A) It shall be unlawful for any owner, agent or contractor to permit the accumulation of litter before, during or after completion of any construction or demolition project.

(B) It shall be the duty of the owner, agent or contractor in charge of a construction or development site to furnish litter receptacles and to collect and contain to prevent scattering other bulk litter on a daily basis. All litter shall be removed from the site not less than once per week.

(Ord. passed 2-5-1985) Penalty, see § 93.99

**§ 93.22 HANDBILLS AND ADVERTISING MATERIAL.**

It shall be unlawful for any person distributing commercial handbills, leaflets, flyers or any other advertising and information material to distribute material in a manner that it litters either public or private property.

(Ord. passed 2-5-1985) Penalty, see § 93.99

**§ 93.23 INDISCRIMINATE DUMPING OR DISCARDING OF LITTER AND SOLID WASTE.**

It shall be unlawful for any person to discard or dump along any street or road, on or off the right-of-way, any household or commercial solid waste, rubbish, refuse, junk, vehicle or vehicle parts, rubber tires, appliances, furniture and any other material or equipment, on public or private property, except by written consent of the owner of the private property, or except in receptacles provided for public use for the deposit of the material, or except in an area designated by the State Department of Health as a permitted disposal site.

(Ord. passed 2-5-1985) Penalty, see § 93.99

**§ 93.24 CLEANUP OF PREMISES BY GOVERNMENT AUTHORIZATION.**

(A) Ten days after due notice is given to any owner, agent, occupant or lessee of any private property to remove litter from the premises, the town is authorized to remove the litter from private property and charge and collect the costs for the removal from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of state and local taxes.

(B) Execution of the notice to remove litter shall be in writing, and shall be in the form of a letter sent by registered mail to the mailing address of the private property and by registered mail to the owner of record as recorded in the office of the Commissioner of Revenue.

(Ord. passed 2-5-1985)

**§ 93.25 USE OF LITTER RECEPTACLES.**

(A) *Use of receptacles.*

(1) It shall be unlawful to deposit any item or items, except litter, in any receptacle placed for public use as a depository for litter. Any item or items, including litter, which are specifically prohibited in written form on or around the receptacle from being placed in the receptacle, shall not be so placed or deposited in the receptacle.

(2) It shall be unlawful for any person to scavenge or remove any item or items which have been discarded as litter in any litter receptacle, unless a written notice of permission has been obtained from an authorized enforcement officer of the county.

(B) *Providing adequate litter receptacles.* It shall be the duty of any person owning or operating any establishment or public place to provide receptacles adequate to contain the litter generated at the establishment.

(Ord. passed 2-5-1985) Penalty, see § 93.99

**§ 93.26 ENFORCEMENT.**

(A) Enforcement officers of the Department of State Police, County Sheriff's Department, Town Police Department, dog warden and game warden are hereby empowered to issue citations to or arrest, persons violating any provision of this subchapter, and may serve and execute all warrants, and other process issued by the court in enforcing the provisions of this subchapter.

(B) The officers of the following departments shall be empowered to issue citations only: Public Works, Sanitation, Solid Waste Management, Building and Zoning, Health, Parks and Recreation and Housing.

(C) Prosecution for a violation of any provision of this act may be initiated by any law enforcement officer or private citizen.  
(Ord. passed 2-5-1985)

### § 93.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Litter control.*

(1) Any person convicted of violating § 93.17 shall be punished by a fine of not less than \$25 nor more than \$500 and by imprisonment for not more than 30 days in jail, either or both. The court may suspend the imposition of any sentence on the condition that the defendant volunteer services, for a period of time as the court may designate, to remove litter from the highways or other property in the county.

(2) A violation of § 93.18(B) shall constitute a Class 1 misdemeanor, punishable as provided by VA Code § 18.2-11(a), as amended.

(3) Any person convicted of violating §§ 93.19 through 93.22 shall be punished by a fine of \$25. The offender may pay the fine in lieu of appearing in court pursuant to VA Code § 19.2-254.2, as amended.

(4) Any person convicted of violating § 93.23 shall be punished by a fine of not less than \$25 nor more than \$500 and by imprisonment for not more than 30 days in jail, either or both. The court may suspend the imposition of any sentence on the condition that the defendant volunteer services, for a period of time as the court may designate, to remove litter from the highways or other property in the town. In addition to or in lieu of the foregoing penalty, any person convicted of violating § 93.23 may be directed by the court to pick up litter at locations which may be assigned by the court and/or in whatever amounts and/or for whatever time may be deemed appropriate by the court.

(5) Any person convicted of violating § 93.25(A) shall be punished by a fine of \$25. The offender may pay the fine in lieu of appearing in court pursuant to VA Code § 19.2-254.2, as amended.

(6) The penalty established for violation of § 93.25(B) is \$15 for each day of violation. The offender shall receive a ticket from the enforcement officer for any violation of § 93.25(B). The offender may pay the fine in lieu of appearing in court pursuant to VA Code § 19.2-254.2, as amended.  
(Ord. passed 2-5-1985)



## CHAPTER 94.: OPEN BURNING

### Section

94.01 Open fire and open burning

94.99 Penalty

### **§ 94.01 OPEN FIRE AND OPEN BURNING.**

(A) It shall be unlawful for any person to set an open fire or do any open burning or use recreational fires or bonfires, within the corporate limits, between the hours of 12:00 a.m. and 4:00 p.m. Sunday through Friday or during periods whenever an emergency exists as determined by the County Director of Emergency Services upon recommendation of the State Forester that forest lands, brush lands and fields of the county have become so dry as to create a serious fire hazard endangering lives and property.

(B) For the purposes of this section, the County Administrator or his or her designee shall be the Director of Emergency Services.

(Ord. 08-04, passed 12-8-2008) Penalty, see § 94.99

### **§ 94.99 PENALTY.**

Any person violating the provisions of this chapter shall be guilty of a Class 3 misdemeanor for each separate offense and shall, in addition to the penalties, be liable for all cost incurred in controlling or attempting to control any fire resulting from prohibited burning.

(Ord. 08-04, passed 12-8-2008)



## CHAPTER 95: STREETS AND SIDEWALKS

### Section

- 95.01 Previously enacted regulations still in effect
- 95.02 Obstructions
  
- 95.99 Penalty

### **§ 95.01 PREVIOUSLY ENACTED REGULATIONS STILL IN EFFECT.**

All streets and sidewalk provisions and ordinances previously in effect are continued in full force and effect.

(Prior Code, § 17-1)

### **§ 95.02 OBSTRUCTIONS.**

It shall be unlawful for any person to place or permit to remain upon the streets, alleys or sidewalks adjoining their property any boxes, crates, brush, grass clippings, leaves or other things that may cause the streets, alleys or sidewalks to become unsafe, littered or obstructed.

(Prior Code, § 17-2) (Ord. 72-1, passed 7-11-1972; Ord. 07-01, passed 7-9-2007) Penalty, see § 95.99

### **§ 95.99 PENALTY.**

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Obstructions.* Any person violating § 95.02 shall, upon conviction, be punished by a fine not less than \$10 nor more than \$500 or confinement, or both.

(Ord. 07-01, passed 7-9-2007)





**TITLE XI: BUSINESS REGULATIONS**

Chapter

**110. GENERAL LICENSING PROVISIONS**

**111. FLEA MARKETS**

**112. YARD SALES**



## CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

### *General Provisions*

- 110.01 License required
- 110.02 Applications
- 110.03 Records to be kept by licensees; determination of tax when applicant fails to keep record or report
- 110.04 Beginning business after January 1
- 110.05 License year
- 110.06 Billing date; delinquent taxes
- 110.07 Issuance and display of license certificates
- 110.08 Transferability
- 110.09 Combination of two or more taxable businesses
- 110.10 Inspection of books or licensees; failure to permit inspection of books
- 110.11 Assessment of additional taxes
- 110.12 Information and returns confidential
- 110.13 Prorating of license tax
- 110.14 Treasurer to administer and enforce chapter
- 110.15 Compliance with zoning regulations
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- 110.17 Credit to license taxes paid in other jurisdictions

### *Businesses and Licenses*

- 110.30 Wholesale merchants
  - 110.31 Retail merchants
  - 110.32 Alcoholic beverages
  - 110.33 Taxicabs
  - 110.34 Warehouses
  - 110.35 Hotels and motels
  - 110.36 Coin-operated machines; license tax on merchandise
  - 110.37 Health centers, health clinics and nursing homes
  - 110.38 Professional services
  - 110.39 Non-profit businesses
- 110.99 Penalty

**GENERAL PROVISIONS****§ 110.01 LICENSE REQUIRED.**

It shall be unlawful for any person, firm or corporation, unless otherwise provided by law, to engage in any business, profession, trade or calling in the town without first having obtained a license from the town, as provided in this chapter.

(Ord. 79-1, passed 6-5-1979; Ord. passed 3-4-1986) Penalty, see § 110.99

**§ 110.02 APPLICATIONS.**

Applications for licenses under this chapter shall be filed with the Town Treasurer on or before May 15 of each year on forms to be furnished by the Town Treasurer, and shall give information as shall be requested by the Town Treasurer on the forms. When the license tax is to be based on gross receipts, sales or purchases, the applicant shall include with the application a sworn statement as to the applicant's gross receipts, sales or purchases during the preceding calendar year. Persons, firms or corporations keeping records on a fiscal year basis and who file state tax returns based on a fiscal year may use the preceding fiscal year as the basis for their town license taxes, rather than the preceding calendar year.

(Ord. 78-2, passed 6-6-1978; Ord. passed 3-4-1986)

**§ 110.03 RECORDS TO BE KEPT BY LICENSEES; DETERMINATION OF TAX WHEN APPLICANT FAILS TO KEEP RECORD OR REPORT.**

(A) Every person, firm or corporation liable for a license tax under this chapter which is based on gross receipts or gross purchases shall keep all records necessary to show and compute gross receipts or gross purchases, and the report of gross receipts or gross purchases shall be taken from those records. All records and general books of account shall be open to inspection and examination by any authorized representative of the town.

(B) If any licensee shall fail to maintain the records required in this section, regularly supported by customary vouchers or shall fail to report the amount of gross receipts or purchases on the application for a license, the Town Treasurer is hereby authorized and directed to estimate the taxpayer's gross receipts or gross purchases on the basis of the best evidence the Town Treasurer can obtain, and the Town Treasurer shall make an assessment on the basis of that determination.

(Ord. 78-2, passed 6-6-1978; Ord. 79-1, passed 6-5-1979; Ord. passed 3-4-1986)

**§ 110.04 BEGINNING BUSINESS AFTER JANUARY 1.**

(A) Whenever any person, firm or corporation begins a business, trade or occupation on or after January 1 of any year, so much of the license tax imposed by this chapter as is based of gross receipts shall be measured by the applicant's estimate of gross receipts that will be made and received from the commencement of the business, trade or occupation to the end of the calendar year.

(B) Whenever a license tax is assessed on the basis of estimated gross receipts, every erroneous assessment thereof shall be subject to correction, and the Town Treasurer shall assess the person, firm or corporation with any additional license tax found to be due and owing after the close of the license year or the Town Treasurer shall recommend to the Town Council the refunding of any excess payment. These refunds shall only be made after the end of the calendar year.

(Ord. 78-2, passed 6-6-1978; Ord. 79-1, passed 6-5-1979; Ord. passed 3-4-1986)

**§ 110.05 LICENSE YEAR.**

The license year for licenses issued pursuant to this chapter, unless otherwise provided, shall be from July 1 of the year issued until June 30 of the year following. All licenses shall expire on June 30 of each year.

(Ord. passed 3-4-1986) Penalty, see § 110.99

**§ 110.06 BILLING DATE; DELINQUENT TAXES.**

The Town Treasurer shall mail bills for license taxes on or before June 1 of each year. License taxes not paid on or before June 30 of each year shall be deemed delinquent. Failure to receive a bill for license taxes shall not excuse the payment of license taxes or any penalty or interest for delinquency.

(Ord. passed 3-4-1986)

**§ 110.07 ISSUANCE AND DISPLAY OF LICENSE CERTIFICATES.**

Upon payment of the required license fee, the Town Treasurer shall issue a license certificate to the applicant. The certificate shall be displayed in a prominent place in the licensed place of business. If the licensee has no place of business in the town, the licensee shall carry the certificate on his or her person, or in his or her vehicle while conducting business in the town and shall display it on request to any town official or police officer.

(Ord. passed 3-4-1986)

**§ 110.08 TRANSFERABILITY.**

(A) Licenses issued pursuant to this chapter may be transferred upon notice in writing to the Town Treasurer.

(B) A fee as set by Council from time to time in the town's fee schedule shall be paid to the town for each transfer of a license.

(Ord. passed 3-4-1986)

***Cross-reference:***

*Fee schedule, see § 30.05*

**§ 110.09 COMBINATION OF TWO OR MORE TAXABLE BUSINESSES.**

In those cases in which the conduct of the business, trade or occupation involves operations subject to two or more rates, as set forth in this chapter, the licensee shall maintain separate accounts for each operation and shall be subject to the rate applicable to each operation.

(Ord. passed 3-4-1986)

**§ 110.10 INSPECTION OF BOOKS OR LICENSEES; FAILURE TO PERMIT INSPECTION OF BOOKS.**

(A) The Town Treasurer, or his or her authorized agent, shall have the right and authority to audit and examine any return or report of gross receipts from any business, occupation or profession. In connection with an audit, the Town Treasurer, or his or her authorized agent, is further authorized and empowered to examine the records, books and papers of any person, firm or corporation required by this chapter to have a license.

(B) If it shall appear that any person, firm or corporation has incorrectly reported or returned his or her gross receipts, the Town Treasurer shall proceed to assess the person, firm or corporation with the proper license tax, penalty and interest, as set forth in § 110.99 of this chapter.

(C) If it shall appear that gross receipts or other matters pertinent to the license tax assessments have been willfully reported incorrectly or returned incorrectly, the person, firm or corporation shall pay, in addition to the increased license tax, penalty and interest as set forth in division (B) above, an additional penalty of 10% of the increased assessment; provided, however, that any incorrect report or return shall be deemed to be prima facie evidence of a willful intent to report incorrectly and the burden of proof that incorrect report was not willful shall rest upon the licensee.

(D) Any person, firm or corporation who shall be liable for a license tax measured upon gross receipts shall, upon request of the Town Treasurer, or his or her authorized agent, produce and exhibit at the Town Treasurer's office his or her records, books and papers pertaining to the gross receipts of the person, firm or corporation. Any person, firm or corporation failing to produce his or her records, books and papers upon request of the Town Treasurer shall, in addition to any other liability herein imposed, suffer an immediate revocation of his or her town license, if already issued, and if not already issued, no license shall be issued unless or until the person, firm or corporation shall have produced and exhibited to the Town Treasurer at the office of the Town Treasurer his or her records, books and papers

pertaining to his or her gross receipts and unless or until the person, firm or corporation shall have fully complied with the other provisions of this chapter.

(Ord. passed 3-4-1986) Penalty, see § 110.99

**§ 110.11 ASSESSMENT OF ADDITIONAL TAXES.**

Whenever the Town Treasurer shall ascertain that any person, firm or corporation shall be assessed with any additional license tax pursuant to the provisions of this chapter, it shall be his or her duty to assess the person, firm or corporation with an additional license tax, penalty and interest as may be reported to the Town Treasurer or determined by the Town Treasurer to be due. In the event the additional license tax, penalty and interest so assessed is not paid within 30 days after the assessment, the Town Treasurer shall proceed to collect the same as delinquent taxes.

(Ord. passed 3-4-1986)

**§ 110.12 INFORMATION AND RETURNS CONFIDENTIAL.**

It shall be unlawful for the Town Treasurer or any town employee or officer to divulge any information acquired by the person, firm or corporation in respect to the transactions, property, income or business of any person, firm or corporation while in the performance of his or her public duties; provided, that the information may be acquired by court order from a court of record; and provided, further, that this inhibition does not extend to any matters required by law to be entered on any public assessment roll or record.

(Ord. passed 3-4-1986)

**§ 110.13 PRORATING OF LICENSE TAX.**

License taxes imposed by this chapter shall not be prorated; provided, that where an annual flat rate is provided in this chapter, any person, firm or corporation, except where specifically prohibited in this chapter, beginning business after January 1 of any year shall be permitted to pay one-half of the stated license tax. This section shall not apply to any license tax computed on the basis of gross sales or gross purchases.

(Ord. passed 3-4-1986)

**§ 110.14 TREASURER TO ADMINISTER AND ENFORCE CHAPTER.**

The Town Treasurer, or his or her authorized agents, shall administer and enforce the provisions of this chapter. The Town Treasurer, or his or her authorized agents, shall assess and collect all license taxes under this chapter.

(Ord. passed 3-4-1986)



**§ 110.15 COMPLIANCE WITH ZONING REGULATIONS.**

The Town Treasurer shall not issue a license for conducting any business, trade or occupation at a location where the conducting of business, trade or occupation at the location is prohibited by the zoning ordinances of the town. This provision shall not apply to applicants conducting a business in an improperly zoned location whose business was conducted in the location before the location was zoned to preclude the business.

(Ord. passed 3-4-1986)

**§ 110.16 COMPLIANCE WITH CHAPTER.**

It shall be unlawful for any person, firm or corporation to fail or refuse to file an application for a license as provided in this chapter, or to fail or refuse to pay any license tax assessed when due and payable, or to willfully give any false information to the Town Treasurer, or to in any other manner violate any of the provisions of this chapter.

(Ord. passed 3-4-1986) Penalty, see § 110.99

**§ 110.17 CREDIT TO LICENSE TAXES PAID IN OTHER JURISDICTIONS.**

(A) Any entity required to obtain a license under this chapter shall report on its license application all gross receipts received by the entity, however any entity doing business in a jurisdiction outside of the state may deduct from gross receipts such gross receipts as have accrued outside of the state and upon which the entity has paid a gross receipts based license tax substantially similar to that of this chapter.

(B) Any entity which seeks a deduction from gross receipts shall identify the amount of the deduction sought and shall attach a copy of the application or tax form filed by the entity with a jurisdiction outside of the state and the entity shall also attach a copy of the receipt for payment of the gross receipts tax to the application required by this chapter.

(Ord. passed 5-2-1989)

***BUSINESSES AND LICENSES*****§ 110.30 WHOLESALE MERCHANTS.**

(A) Every person, firm or corporation, engaged in business within the town as a wholesale bulk petroleum product distributor or as any other wholesale distributor shall pay an annual license tax based on purchases during the preceding calendar year.

(B) For all wholesale bulk petroleum product distributors, the license tax shall be as set by Council from time to time in the town's fee schedule.

(C) For all other wholesale distributors, the license tax shall be as set by Council from time to time in the town's fee schedule.

(Ord. 79-1, passed 6-5-1979; Ord. passed 3-4-1986)

***Cross-reference:***

*Fee schedule, see § 30.05*

**§ 110.31 RETAIL MERCHANTS.**

Every person, firm or corporation, engaged in the business within the town of retail merchandising of goods, wares, merchandise or services shall pay an annual license tax based on gross receipts during the calendar year as follows.

(A) For retail merchants selling petroleum products, service stations, garages, grocery stores, restaurants, barber shops or beauty shops, the license tax shall be as set by Council from time to time in the town's fee schedule.

(B) For all other retail merchants not listed in division (A) above (including, but not limited to, furniture stores, clothing stores, hardware stores, drug stores, feed supply stores, sundries and the like) the license tax shall be as set by Council from time to time in the town's fee schedule.

(Ord. 79-1, passed 6-5-1979; Ord. passed 4-5-1983; Ord. passed 3-4-1986)

***Cross-reference:***

*Fee schedule, see § 30.05*

**§ 110.32 ALCOHOLIC BEVERAGES.**

(A) Every person, firm or corporation licensed by the State Alcoholic Beverage Control Board to sell alcoholic beverages in town shall pay annual license taxes to the town as follows.

(B) For each retail on-premises wine and beer license for a hotel, restaurant, club, retail merchant or other business and for each retail off-premises wine and beer license, the license tax shall be as set by Council from time to time in the town's fee schedule.

(C) The license required in this section shall be in addition to any other licenses required by the town for a hotel, restaurant, club, retail merchant or other business.

(Ord. 79-1, passed 6-5-1979; Ord. passed 3-4-1986)

**§ 110.33 TAXICABS.**

Every person, firm or corporation owning a taxicab business within the town shall pay an annual license tax of as set by Council from time to time in the town's fee schedule.

(Ord. 79-1, passed 6-5-1979; Ord. passed 3-4-1986)

**§ 110.34 WAREHOUSES.**

Every person, firm or corporation operating a warehouse within the town shall pay an annual license tax of as set by Council from time to time in the town's fee schedule.

(Ord. 79-1, passed 6-5-1979; Ord. passed 3-4-1986)

**§ 110.35 HOTELS AND MOTELS.**

Every person, firm or corporation engaged in the business of operating a hotel or motel in the town shall pay an annual license tax as set by Council from time to time in the town's fee schedule.

(Ord. 79-1, passed 6-5-1979; Ord. passed 3-4-1986)

**§ 110.36 COIN-OPERATED MACHINES; LICENSE TAX ON MERCHANDISE.**

(A) Every person, firm or corporation engaged in the business or operation a nickelodeon or similar musical instrument in the town shall pay an annual license tax as set by Council from time to time in the town's fee schedule, which license tax shall not be prorated or transferable.

(B) Every person, firm or corporation engaged in the business of operating a pinball machine, a shuffleboard table or any other similar device or game of skill, used for gain, in the town shall pay for every coin-operated machine or device a license tax as set by Council from time to time in the town's fee schedule, which license shall not be prorated or transferable.

(C) Every person, firm or corporation keeping or maintaining pool or billiard tables in the town for use by the public shall pay an annual license tax as set by Council from time to time in the town's fee schedule, which license shall not be prorated or transferable.

(Ord. 79-1, passed 6-5-1979; Ord. 79-3, passed 7-10-1979; Ord. passed 3-4-1986)

**§ 110.37 HEALTH CENTERS, HEALTH CLINICS AND NURSING HOMES.**

Every person, firm or corporation engaged in the business within the town of operating a health center, health clinic or nursing home shall pay an annual license tax as set by Council from time to time in the town's fee schedule.

(Ord. passed - -; Ord. passed 3-4-1986)

**§ 110.38 PROFESSIONAL SERVICES.**

(A) Every person, firm or corporation engaged in a professional service in the town shall pay an annual license tax as set by Council from time to time in the town's fee schedule.

(B) Those engaged in rendering a professional service include, but are not limited to, the following: architects, attorneys at law, accountants, dentists, engineers, land surveyors, practitioners of the healing arts as defined in VA Code § 54.1-2900, real estate agents, surgeons, veterinarians and contractors. (Ord. passed 4-5-1983; Ord. passed 3-4-1986)

**§ 110.39 NON-PROFIT BUSINESSES.**

Any non-profit business which is designed primarily as a recreation center for young people shall be exempt from paying the taxes and licenses required by this chapter. (Ord. passed 3-4-1975)

**§ 110.99 PENALTY.**

(A) *License year; § 110.05.*

(1) If any license tax is not paid when due, there shall be added to the license tax a penalty as set by Council from time to time in the town's fee schedule.

(2) The amount of any unpaid license tax as of June 30 of each year shall bear interest thereafter at the rate of 12% per annum and the interest shall be paid with the license tax and hereinabove provided penalty.

(B) *Inspection of books; § 110.10.* Any person, firm or corporation who shall refuse to permit the Town Treasurer or his or her authorized agent to examine and audit his or her records, books and papers pertaining to the gross receipts of the person, firm or corporation shall, upon conviction thereof, be guilty of a Class 1 misdemeanor. This penalty shall likewise apply to any person, firm or corporation who shall fail or refuse to bring his or her records, books and papers pertaining to gross receipts to the office of the Town Treasurer for examination and audit upon request by the Town Treasurer for production.

(C) *Compliance with chapter.* Any violation shall be a Class 1 misdemeanor. (Ord. passed 3-4-1986)



## **CHAPTER 111: FLEA MARKETS**

### Section

111.01 Hours of operation

111.02 Cleanliness

111.03 Unlawful activity

### **§ 111.01 HOURS OF OPERATION.**

No flea market may be operated or open for business except from 6:00 a.m. until 5:00 p.m. on Saturday; and on Sunday from 6:00 a.m. until 5:00 p.m. Goods and wares may not be left on the premises of the flea market overnight. No trailers, campers, tents or other structures for human habitation are permitted and no person may occupy the premises of the flea market while the flea market is closed or overnight.

(Ord. 99-02, passed 2-14-2000) Penalty, see § 10.99

### **§ 111.02 CLEANLINESS.**

The owner/operator of the premises shall keep the flea market grounds clean and free of refuse, and shall provide trash containers in sufficient numbers to serve the customers and vendors on the flea market site.

(Ord. 99-02, passed 2-14-2000) Penalty, see § 10.99

### **§ 111.03 UNLAWFUL ACTIVITY.**

The owner/operator of the premises shall not, to the best of his or her knowledge, allow or permit any unlawful activities to occur. All sales shall conform to all state and federal laws, rules and regulations, and all applicable taxes shall be paid to the appropriate governmental authorities, including without limitation, sales taxes.

(Ord. 99-02, passed 2-14-2000) Penalty, see § 10.99



## CHAPTER 112: YARD SALES

### Section

- 112.01 Definitions
- 112.02 Property permitted to be sold
- 112.03 Permitted number of yard sales per year
- 112.04 Hours of operation and duration
- 112.05 Display of sale property
- 112.06 Advertising; signs
- 112.07 Public nuisance
- 112.08 Inspection – Arrest authority of inspector
- 112.09 Parking
  
- 112.99 Penalty

### § 112.01 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

***PERSONAL PROPERTY.*** As applied in this chapter, means property which is owned, utilized, and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. ***PERSONAL PROPERTY*** does not include merchandise which was purchased for resale or obtained on consignment.

***YARD SALE.*** Includes all general sales, open to the public, conducted from or on a residential premises in any zone, for the purpose of disposing of personal property, including, but not limited to, all sales entitled “garage,” “lawn,” “yard,” “attic,” “porch,” “room,” “auction,” “backyard,” “patio,” “tag,” or “rummage” sale. This definition shall not include a situation where no more than two specific items are held out for sale and all advertisements of such sale specifically names those items to be sold.  
(Ord. 18-01, passed 3-12-2018)



**§ 112.02 PROPERTY PERMITTED TO BE SOLD.**

It shall be unlawful for any individual to sell or offer for sale, under authority granted by this chapter to conduct a yard sale, property other than personal property.

(Ord. 18-01, passed 3-12-2018) Penalty, see § 112.99

**§ 112.03 PERMITTED NUMBER OF YARD SALES PER YEAR.**

It shall be unlawful for any residents and/or family household to conduct more than four yard sales during any one calendar year. If members of more than one residence and/or family household join in the operation of a yard sale, it shall be considered as a yard sale for each and all such residences and/or family households selling personal property in such sale(s).

(Ord. 18-01, passed 3-12-2018) Penalty, see § 112.99

**§ 112.04 HOURS OF OPERATION AND DURATION.**

Such yard sales shall be limited in time to no more than the daylight hours of three consecutive calendar days.

(Ord. 18-01, passed 3-12-2018)

**§ 112.05 DISPLAY OF SALE PROPERTY.**

Personal property offered for sale in a yard sale may be displayed within the residence, porch, in a garage, carport, and/or in any yard, but shall not be permitted within the public right-of-way.

(Ord. 18-01, passed 3-12-2018)

**§ 112.06 ADVERTISING; SIGNS.**

(a) *Signs permitted.* Only the following specified signs may be displayed in relation to a pending yard sale:

(1) *Two signs permitted.* Two signs of not more than four square feet in area each shall be permitted to be displayed on the property of the residence where the yard sale is being conducted.

(2) *Directional signs.* Four signs of not more than two square feet in area each are permitted, provided that the premises upon which the yard sale is conducted is not on a major thoroughfare, and permission to erect such signs is received from the property owners upon whose property such signs are to be placed.

(b) *Time limitations.* No sign or other form of advertisement shall be exhibited for more than 12 hours prior to the commencement of such a yard sale.

(c) *Removal of signs.* Signs must be removed immediately upon the conclusion of the yard sale.  
(Ord. 18-01, passed 3-12-2018)

**§ 112.07 PUBLIC NUISANCE.**

Individuals conducting a yard sale and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such individual shall permit any loud or boisterous conduct on said premises. All such individuals shall obey the reasonable orders of any member of the Police Department of the town, in order to maintain the public health, safety, and welfare.  
(Ord. 18-01, passed 3-12-2018)

**§ 112.08 INSPECTION – ARREST AUTHORITY OF INSPECTOR.**

The Town Manager, a police officer or any other official designated by the Town Manager, shall have the right of entry upon any premises showing evidence of a yard sale, for the purpose of enforcement of this chapter and shall make inspections to enforce the same and shall have the right to issue citations for violations of this chapter.  
(Ord. 18-01, passed 3-12-2018)

**§ 112.09 PARKING.**

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the Police Department may enforce such temporary controls to alleviate any special hazards and/or congestion created by any yard sale.  
(Ord. 18-01, passed 3-12-2018)

**§ 112.99 PENALTY.**

Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99. Each day's continuing violation of this chapter shall be a separate offense.  
(Ord. 18-01, passed 3-12-2018)



**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. OFFENSES AGAINST PROPERTY**

**131. OFFENSES AGAINST PERSONS**

**132. WEAPONS**



## CHAPTER 130: OFFENSES AGAINST PROPERTY

Section

### *General Provisions*

- 130.01 Begging on street
- 130.02 Abandoning iceboxes, refrigerators and other containers
- 130.03 Spitting on sidewalks and the like

### *Property Damage*

- 130.20 Trees on streets and public grounds

### *Advertising on Property*

- 130.35 Advertising on town property
- 130.36 Unauthorized advertising on private property, poles and the like
  
- 130.99 Penalty

## **GENERAL PROVISIONS**

### **§ 130.01 BEGGING ON STREET.**

It shall be unlawful for any person to beg upon any of the streets in the town.  
(Prior Code, § 12-9) Penalty, see § 130.99

### **§ 130.02 ABANDONING ICEBOXES, REFRIGERATORS AND OTHER CONTAINERS.**

(A) Abandoned, unattended or discarded iceboxes, refrigerators and other containers having airtight doors or lids constitute a constant means to the health, welfare and safety of the children of the town.

(B) It shall be unlawful for any person to leave outside of any building, dwelling or in any place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container

of any kind having an airtight door or lid, unless the door or lid is securely fastened in place with heavy metal screws or other fasteners that will ensure against opening or closing by any unauthorized person.

(C) It shall be unlawful for any person to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container. (Prior Code, § 12-16) Penalty, see § 130.99

### **§ 130.03 SPITTING ON SIDEWALKS AND THE LIKE.**

No person shall spit, expectorate or deposit any sputum, saliva, mucus or any form of saliva or sputum upon the floor, stairways or upon any part of any theater, public hall, church or other building where the public assemble, or upon the floor of any public conveyance in this town, and upon any sidewalk abutting on any public street, alley or lane of the town. The owner or lessee of every theater, public hall or building in town shall provide every theater, public hall or building with a sufficient number of spittoons or cuspidors.

(B) Printed copies of this section shall be posted conspicuously in all public places, buildings, theaters and railway cars. (Prior Code, § 12-29) Penalty, see § 130.99

## ***PROPERTY DAMAGE***

### **§ 130.20 TREES ON STREETS AND PUBLIC GROUNDS.**

No person shall willfully cut, trim or otherwise injure in any way any tree on any street or in a public place in town without the expressed written consent of the governing body of the town. (Prior Code, § 12-26) (Ord. 06-01, passed 6-11-2007) Penalty, see § 130.99

## ***ADVERTISING ON PROPERTY***

### **§ 130.35 ADVERTISING ON TOWN PROPERTY.**

It shall be unlawful for any person to place posters, handbills or other advertising material on town property without the consent and prior approval of the Town Council. (Prior Code, § 12-31) (Ord. 2-76, passed 3-2-1976) Penalty, see § 130.99

**§ 130.36 UNAUTHORIZED ADVERTISING ON PRIVATE PROPERTY, POLES AND THE LIKE.**

It shall be unlawful for any person to place posters, handbills or other advertising materials on poles located within the town or other private property without the prior consent of the owner.  
(Prior Code, § 12-32) (Ord. 2-76, passed 3-2-1976) Penalty, see § 130.99

**§ 130.99 PENALTY.**

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Spitting on sidewalks and the like.* Any person violating any provision of § 130.02 shall, upon conviction, be fined not less than \$1 nor more than \$5, together with the costs of the prosecution, and in default of payment, be imprisoned in jail for not more than five days  
(Prior Code, § 12-29)

(C) *Trees on streets and public grounds.* Any person violating § 130.20 shall, upon conviction, be punished by a fine not exceeding \$500 or confinement in jail not exceeding 12 months, or both. Any person violating § 130.20 shall, upon conviction, shall pay the replacement value of any injured tree, in addition to any fines or imprisonment.  
(Prior Code, § 12-26)  
(Ord. 06-01, passed 6-11-2007)





## CHAPTER 131: OFFENSES AGAINST PERSONS

Section

### *General Provisions*

131.01 Curfew

### *Loitering*

131.25 Loitering as to obstruct sidewalks

131.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 131.01 CURFEW.**

(A) Except as provided in division (B) of this section, it shall be unlawful for any person under 18 years of age to be upon the streets or public places in the town after 11:00 p.m.

(B) This section does not apply to a minor who is:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(9) Married or had been married or had disabilities of minority removed in accordance with state law.

(Prior Code, § 12-33) (Ord. 4-76, passed 8-3-1976) Penalty, see § 131.99

### ***LOITERING***

#### **§ 131.25 LOITERING AS TO OBSTRUCT SIDEWALKS.**

It shall be unlawful for any person or group of persons to loiter on the sidewalks of the town in a manner as in any way to obstruct or inconvenience pedestrians in the use of the same.

(Prior Code, § 12-19) Penalty, see § 131.99

#### **§ 131.99 PENALTY.**

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) *Curfew.* Any person violating § 131.01 shall pay a fine of not less than \$5 nor more than \$500, and any parents or guardian who shall knowingly allow the person under the age of 18 for whom he or she is responsible to violate § 131.01 shall, upon conviction thereof, be fined not less than \$5 nor more than \$500 or be confined in jail not more than 12 months, or both.

(Prior Code, § 12-33)

(Ord. 4-76, passed 8-3-1976)

## CHAPTER 132: WEAPONS

### Section

- 132.01 Discharging firearms
- 132.02 Discharging air rifles and the like
- 132.03 Discharging arrows from bow
  
- 132 .99 Penalty

### **§ 132.01 DISCHARGING FIREARMS.**

No person shall discharge a firearm of any make, kind or description within the town.  
(Prior Code, § 23-2) Penalty, see § 133.99

### **§ 132.02 DISCHARGING AIR RIFLES AND THE LIKE.**

No person shall discharge any air rifle, air pistol or air gun of any make, kind or description within the town.  
(Prior Code, § 23-3) Penalty, see § 133.99

### **§ 132.03 DISCHARGING ARROWS FROM BOW.**

No person shall anywhere within the town discharge an arrow, shot stone, gravel, bullet or any similar thing from any bow, gravel shooter or other similar instrument.  
(Prior Code, § 23-4) Penalty, see § 133.99

### **§ 132.99 PENALTY.**

Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.  
(Prior Code, § 23-1)



## **TITLE XV: LAND USAGE**

### **Chapter**

- 150. BUILDINGS**
- 151. FLOODPLAIN REGULATIONS**
- 152. SUBDIVISIONS**
- 153. SCHEDULE OF FEES**
- 154. ZONING**



## CHAPTER 150: BUILDINGS

### Section

#### *General Provisions*

- 150.001 Position of Town Manager
- 150.002 Duties
- 150.003 Inspections
- 150.004 Regulations
- 150.005 Right of entry
- 150.006 Records

#### *Building Regulations*

- 150.020 Adoption of State Uniform Statewide Building Code
- 150.021 Matter covered
- 150.022 Ordinary repairs
- 150.023 Installation of service equipment
- 150.024 Building permits issued before effective date of subchapter

#### *Unsafe Buildings*

- 150.070 Right of condemnation
  - 150.071 Examination of building; report
  - 150.072 Notice of unsafe building; issuance
  - 150.073 Posting of notice
  - 150.074 Authority to compel compliance
  - 150.075 Order to vacate; posting of notice
  - 150.076 Emergency repairs; authority of town to perform
  - 150.077 Liens
  - 150.078 Authority to close streets
- 
- 150.999 Penalty



***GENERAL PROVISIONS*****§ 150.001 POSITION OF TOWN MANAGER.**

Until otherwise provided by the Council, the Town Manager shall be the Building Inspector.  
(Prior Code, § 5-1)

**§ 150.002 DUTIES.**

The Building Inspector shall receive required applications, issue the required permits and furnish the prescribed certificates. He or she shall examine premises for which permits have been issued under the State Uniform Statewide Building Code adopted by § 150.020 and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. He or she shall enforce all provisions of the State Uniform Statewide Building Code, the State Plumbing Code, adopted by § 150.040 and the National Electrical Code, adopted by § 150.055. He or she shall, when requested by proper authority, or when the public interest so requires, make investigations in connection with matters referred to in the State Uniform Statewide Building Code, State Plumbing Code and National Electrical Code and render written reports on the same. To enforce compliance with the law, to remove illegal or unsafe conditions, to secure necessary safeguards during construction or to require adequate exit facilities in buildings and structures, he or she shall issue notices or orders as may be necessary.  
(Prior Code, § 5-2)

**§ 150.003 INSPECTIONS.**

Inspections required under the provisions of the State Uniform Statewide Building Code, adopted by § 150.020 or the provisions of this chapter relative to plumbing and electricity shall be made by the Building Inspector or his or her duly appointed assistant. The Building Inspector may accept reports of inspectors of recognized inspection services, after investigation of their qualifications and reliability. No certificate called for by any provision of the State Uniform Statewide Building Code or the provisions of this chapter relative to plumbing and electricity, shall be issued on reports unless the same are in writing and certified to by a responsible officer of the services.  
(Prior Code, § 5-3)

**§ 150.004 REGULATIONS.**

The Building Inspector shall make rules and regulations as to construction work and materials used in connection therewith, not in conflict with the laws of the state, the State Uniform Statewide Building Code, adopted by § 150.020 or the provisions of this chapter relative to plumbing and electricity, as may

be deemed necessary. It shall be unlawful for any person to fail, neglect or refuse to comply with these rules and regulations.

(Prior Code, § 5-4) Penalty, see § 150.999

#### **§ 150.005 RIGHT OF ENTRY.**

The Building Inspector, in the discharge of his or her official duties, and upon proper identification, may enter any building, structure or premises at any reasonable hour.

(Prior Code, § 5-5)

#### **§ 150.006 RECORDS.**

The Building Inspector shall keep comprehensive records of all applications, of permits issued, or certificates issued, of inspections made, of reports rendered and of notices or orders issued under the provisions of this chapter. He or she shall retain on file copies of required plans and all documents relating to building work so long as any part of the building or structure to which they relate may be in existence.

(Prior Code, § 5-6)

### ***BUILDING REGULATIONS***

#### **§ 150.020 ADOPTION OF STATE UNIFORM STATEWIDE BUILDING CODE.**

(A) There is hereby adopted, insofar as not inconsistent with the laws of the state and the ordinances of the town, the State Uniform Statewide Building Code as provided for in VA Code § 36-98, as amended hereinafter described as the Building Code, the provisions of which are adopted and shall control all matters concerning the construction alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings, and all other functions which pertain to the installation of plumbing, electrical, mechanical and like systems vital to all buildings and structures and their service equipment as defined by the Building Code, and shall apply to existing and proposed buildings or structures in the town.

(B) The expressed intent of the Building Code is to ensure public safety, health and welfare insofar as they are affected by building construction, through structural strength, adequate egress facilities, sanitary equipment, light and ventilation and fire safety; and in general, to secure safety to life and property from all hazards incident to the design, erection, repair, removal, demolition or use and occupancy of buildings, structures or premises.

(Prior Code, § 5-7) (Ord. passed 5-6-1975) Penalty, see § 150.999

**§ 150.021 MATTER COVERED.**

(A) The provisions of the Building Code shall apply to all buildings and structures and their appurtenant construction, including vaults, area and street projections and accessory additions, and shall apply with equal force to municipal, county, state and private buildings, except where the buildings are otherwise specifically provided for by this code.

(B) No building or structure shall be constructed, extended, repaired, removed or altered in violation of these provisions, except for ordinary repairs as defined in § 150.022.

(C) When the provisions herein specified for structural, fire and sanitary safety are more restrictive than the town's zoning regulations, the Building Code shall control the erection or alteration of buildings in respect to location, use, permissible area and height; but in any case, the most rigid requirement of either the Building Code or the town's zoning regulations shall apply whenever they may be in conflict.  
(Ord. passed 5-6-1975)

**§ 150.022 ORDINARY REPAIRS.**

Ordinary repairs to buildings may be made without application or notice to the Building Inspector but these repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain, leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.  
(Ord. passed 5-6-1975)

**§ 150.023 INSTALLATION OF SERVICE EQUIPMENT.**

When the installation, extension, alteration or repair of an elevator, moving stairway, mechanical equipment, refrigeration, air conditioning or ventilating apparatus, plumbing, gas piping, electric wiring, heating system or any other equipment is specifically controlled by the provisions of the Building Code or the approved rules, it shall be unlawful to use the equipment until a certificate of approval has been issued therefore by the Building Inspector.  
(Ord. passed 5-6-1975) Penalty, see § 150.999

**§ 150.024 BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF SUBCHAPTER.**

Any building and the like for which a building permit has been issued or which was constructed or on which construction has commenced, or for which working drawings have been prepared in the year,

prior to the effective date of the Building Code, shall remain subject to the building regulations in effect at that time.

(Ord. passed 5-6-1975)

### ***UNSAFE BUILDINGS***

#### **§ 150.070 RIGHT OF CONDEMNATION.**

All buildings or structures that are or hereafter shall become unsafe, unsanitary or deficient in adequate exit way facilities, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which by reason of illegal or improper use, occupancy or maintenance, shall be deemed unsafe building or structures. All unsafe buildings shall be taken down and removed or made safe and secure as the Building Inspector may deem necessary and as provided in this subchapter. A vacant building, unguarded or open at door or window, shall be deemed a fire hazard and unsafe within the meaning of the Building Code.

(Ord. passed 3-5-1985)

#### **§ 150.071 EXAMINATION OF BUILDING; REPORT.**

The Building Inspector shall examine every building or structure reported as dangerous, unsafe structurally or constituting a fire hazard; and he or she shall cause the report to be filed in a docket of unsafe structures and premises, stating the use of the building and the nature and estimated amount of damages, if any, caused by collapse or failure.

(Ord. passed 3-5-1985)

#### **§ 150.072 NOTICE OF UNSAFE BUILDING; ISSUANCE.**

If an unsafe condition is found in a building or structure, the Building Inspector shall serve on the owner, agent or person in control of the building or structure a written notice describing the building as a structure deemed unsafe and specifying the required repairs or improvements to be made to render the building or structure safe and secure, or requiring the unsafe building or structure or portion thereof to be demolished within a stipulated time. The notice shall require the person thus notified to immediately declare to the Building Inspector his or her acceptance or rejection of the terms of the order.

(Ord. passed 3-5-1985)

#### **§ 150.073 POSTING OF NOTICE.**

If the person addressed with an unsafe notice cannot be found within the town after diligent search, then the notice shall be sent by registered or certified mail to the last known address of the person; and

a copy of the unsafe notice shall be posted in a conspicuous place on the premises and the procedure shall be deemed the equivalent of personal notice.

(Ord. passed 3-5-1985)

#### **§ 150.074 AUTHORITY TO COMPEL COMPLIANCE.**

Upon refusal or neglect of the person served with an unsafe notice to comply with the requirement of the order to abate the unsafe condition, the Town Attorney shall be advised of all the facts and he or she shall institute the appropriate action to compel compliance.

(Ord. passed 3-5-1985)

#### **§ 150.075 ORDER TO VACATE; POSTING OF NOTICE.**

(A) When, in the opinion of the Building Inspector, there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life, or when any structure or part of a structure has fallen and life is endangered by the occupation of a building, the Building Inspector is hereby authorized and imposed to order and require occupants to vacate the premises.

(B) In addition, the Building Inspector shall cause to be posted at each entrance to the building a notice reading as follows:

This building is unsafe and its use or occupancy has been prohibited by the Building Inspector of the town.

(C) It shall be unlawful for any person to enter the building or structure except for the purpose of making the required repairs or of demolishing the same.

(Ord. passed 3-5-1985) Penalty, see § 150.999

#### **§ 150.076 EMERGENCY REPAIRS; AUTHORITY OF TOWN TO PERFORM.**

When, in the opinion of the Building Inspector, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, he or she shall cause the necessary work to be done to render the building or structure or part thereof temporarily safe, whether or not the legal procedure herein described has been instituted. The Building Inspector shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(Ord. passed 3-5-1985)

**§ 150.077 LIENS.**

Costs incurred in the performance of emergency work or demolition shall be paid by the town; and every charge authorized by this section with which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against the property, and the Town Attorney shall institute proper action against the owner for the collection of the lien.

(Ord. passed 3-5-1985)

**§ 150.078 AUTHORITY TO CLOSE STREETS.**

When necessary for the public safety, the Building Inspector may temporarily close sidewalks, streets, buildings and structures and places adjacent to unsafe buildings, and prohibit the same from being used.

(Ord. passed 3-5-1985)

**§ 150.999 PENALTY.**

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person failing, neglecting or refusing to comply with the State Plumbing Code, adopted by § 150.040 shall be punished as provided in § 10.99.

(Prior Code, § 5-12)

(C) Any person failing, neglecting or refusing to comply with the National Electrical Code, adopted by reference in § 150.055 shall be punished or provided in § 10.99.

(Prior Code, § 5-15)



## **CHAPTER 151: FLOODPLAIN REGULATIONS**

Section

### ***General Provisions***

- 151.001 Purpose
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**GENERAL PROVISIONS****§ 151.001 PURPOSE.**

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief and the impairment of the tax base by:

(A) Regulating uses, activities and development which acting alone or in combination with other existing or future uses, activities and development will cause unacceptable increases in flood heights, velocities and frequencies;

(B) Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding;

(C) Requiring all those uses, activities and developments that do occur in floodprone areas to be protected and/or floodproofed against flooding and flood damage; and

(D) Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

(Ord. 09-03, passed 6-8-2009)

**§ 151.002 APPLICABILITY.**

These provisions shall apply to all lands within the jurisdiction of the town and identified as being floodprone as stipulated in this chapter.

(Ord. 09-03, passed 6-8-2009)

**§ 151.003 COMPLIANCE.**

(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 terms and provisions of this chapter and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this chapter.

(B) The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by human-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that districts outside the floodplain district, or that land uses permitted within the district will be free from flooding or flood damages.

(C) Records of actions associated with administering this chapter shall be kept on file and maintained by the Town Clerk.

(D) This chapter shall not create liability on the part of town or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 09-03, passed 6-8-2009)

**§ 151.004 ABROGATION AND GREATER RESTRICTIONS.**

This chapter supersedes any ordinance currently in effect in floodprone areas. However, any underlying ordinance shall remain in full force and effect to the extent that those provisions are more restrictive.

(Ord. 09-03, passed 6-8-2009)

***ESTABLISHMENT OF ZONING DISTRICTS***

**§ 151.020 DESCRIPTION OF DISTRICTS.**

(A) *Basis of districts.* The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for the town prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 25, 2009, as amended.

(1) The Floodway District is delineated, for purposes of this chapter, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included

in this District are specifically defined in Table 2 of the above referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map, kept on file and maintained by the Town Clerk.

(2) The Special Floodplain District shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which 100-year flood elevations have been provided.

(B) *Overlay concept.*

(1) The floodplain districts described above shall be overlays to the existing underlying districts as shown on the zoning map of the town, and as such the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

(2) Where there happens to be any conflict between the provisions or requirements of any of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

(3) In the event any provisions concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying district provisions shall remain applicable.

(Ord. 09-03, passed 6-8-2009)

#### **§ 151.021 OFFICIAL ZONING MAP.**

The boundaries of the floodplain districts are established as shown on the flood boundary and floodway map which is declared to be a part of this chapter and which shall be kept on file at the town office.

(Ord. 09-03, passed 6-8-2009)

#### **§ 151.022 DISTRICT BOUNDARY CHANGES.**

The delineation of any of the floodplain districts may be revised by the Town Council where natural or human-made changes have occurred and/or more detailed studies conducted or undertaken by the United States Army Corps of Engineers or other qualified agency or individual documents the need or possibility for the change. However, prior to any change, approval must be obtained from the Federal Insurance Administration.

(Ord. 09-03, passed 6-8-2009)

#### **§ 151.023 INTERPRETATION OF DISTRICT BOUNDARIES.**

Initial interpretations of the boundaries of the floodplain districts shall be made by the County Building Inspector. Should a dispute arise concerning the boundaries of any of the districts, the Board

of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case to the Board and to submit his or her own technical evidence if he or she so desires.  
(Ord. 09-03, passed 6-8-2009)

**§ 151.024 SITE PLANS AND PERMIT APPLICATIONS.**

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

(A) The elevation of the base flood at the site;

(B) The elevation of the lowest floor (including basement); and

(C) For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.  
(Ord. 09-03, passed 6-8-2009)

***DISTRICT PROVISIONS***

**§ 151.025 GENERALLY.**

(A) All uses, activities and developments occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. The development shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances such as the State Uniform Statewide Building Code and the town's subdivision regulations. Prior to the issuance of any permit, the County Building Inspector shall require all applications to include compliance with all applicable state and federal laws.

(B) Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility of system.

(C) Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, stream and the like within a municipality, approval shall be obtained from the State Water Control Board. Further, notification of the proposal shall be given to all affected adjacent municipalities. Copies of the notifications shall be forwarded to both the State Water Control Board, the State Department of Intergovernmental Affairs and the Federal Insurance Administration.  
(Ord. 09-03, passed 6-8-2009)

**§ 151.026 FLOODWAY DISTRICT.**

(A) *Generally.* The following provisions shall apply within the Floodway District.

(1) Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.

(2) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies, with the town's endorsement, for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

(3) In the Floodway District, no development shall be permitted except where the effect of the development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities as required above.

(4) The placement of any mobile home except in an existing mobile home park or subdivision within the Floodway District is specifically prohibited.

(B) *Permitted uses.* In the Floodway District the following uses and activities are permitted provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill or storage of materials and equipment:

(1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming forestry, sod farming and wild crop harvesting;

(2) Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms/fish hatcheries, trap and skeet game ranges and hunting and fishing areas;

(3) Accessory residential uses such as yard areas, gardens, play areas and previous loading areas;  
and

(4) Accessory industrial and commercial uses such as yard areas, pervious parking and loading areas, airport landing strips and the like.

(C) *Uses permitted by special exception.* The following uses and activities may be permitted by special exception provided that they are in compliance with the provisions of the underlying district and are not prohibited by this or any other ordinance:

(1) Structures except for mobile homes accessory to the uses and activities in division (B) above;

(2) Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipe lines, water and sewage treatment plants and other similar or related uses;

(3) Water-related uses and activities such as marines, docks, wharves, piers and the like;

(4) Extraction of sand, gravel and other materials (where no increase in level of flooding or velocity is caused thereby);

(5) Temporary uses such as circuses, carnivals and similar activities;

(6) Storage of materials and equipment, provided that they are not buoyant, flammable or explosive and are not subject to major damage by flooding, or provided that the material and equipment is firmly anchored to prevent flotation or movement and/or can be readily removed from the area within the time available after flood warning; and

(7) Other similar uses and activities provided they cause no increase in flood heights and/or velocities. All uses, activities and structural development, shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and ordinances.

(Ord. 09-03, passed 6-8-2009)

**§ 151.027 STANDARDS FOR SPECIAL FLOODPLAIN DISTRICT.**

The following provisions shall apply within the Special Floodplain District.

(A) Until a regulatory floodway is designated, no new construction, substantial improvements or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A and AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the town.

(B) Development activities in Zones A, AE and AH, on the town's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies, with the town's endorsement, for a conditional Flood Insurance Rate Map revision and receives the approval of the Federal Emergency Management Agency.

(Ord. 09-03, passed 6-8-2009)

**§ 151.028 STANDARDS FOR MANUFACTURED HOMES AND RECREATIONAL VEHICLES.**

(A) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has

incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements.

(B) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision in which a manufactured home has not incurred substantial damage as the result of a flood shall be elevated so that either:

(1) The lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation;

(2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and

(3) Be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.

(C) All recreational vehicles placed on sites must either:

(1) Be on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or

(3) Meet all the requirements for manufactured homes.

(Ord. 09-03, passed 6-8-2009)

***SPECIAL EXCEPTIONS AND VARIANCES; ADDITIONAL FACTORS TO BE SATISFIED***

**§ 151.050 FACTORS.**

In passing upon applications for special exceptions and variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning regulations and the following factors:

(A) The danger to life and property due to increased flood heights or velocities caused by encroachments. No special exception or variance shall be granted for proposed use, development or activity within the Floodway District that will cause any increase in flood levels during the 100-year flood;

(B) The danger that materials may be swept on to other lands or downstream to the injury of others;

(C) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;

(D) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owners;

(E) The importance of the services provided by the proposed facility to the community;

(F) The requirements of the facility for a waterfront location;

(G) The availability of alternative locations not subject to flooding for the proposed use;

(H) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(I) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

(J) The safety of access to the property in time of flood of ordinary and emergency vehicles;

(K) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the time;

(L) The repair or rehabilitation of historic structures 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; and

(M) Other factors which are relevant to the purposes of this chapter.  
(Ord. 09-03, passed 6-8-2009)

**§ 151.051 REFERRING TO ENGINEER.**

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

(Ord. 09-03, passed 6-8-2009)

**§ 151.052 ISSUANCE.**

(A) Special exceptions and/or variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in:



- (1) Unacceptable or prohibited increases in flood heights;
- (2) Additional threats to public safety;
- (3) Extraordinary public expense;
- (4) Will not create nuisances;
- (5) Will not cause fraud or victimization or the public; or
- (6) Conflict with local laws or ordinances.

(B) Special exceptions and/or variances shall only be issued after the Board of Zoning Appeals has determined that the special exception and/or variance will be the minimum reliefs to hardship.  
(Ord. 09-03, passed 6-8-2009)

#### **§ 151.053 NOTIFICATION.**

The Board of Zoning Appeals shall notify the applicant for a special exception and/or variance, in writing, that the issuance of a special exception and/or variance to construct a structure below the 100-year flood elevation:

(A) Increases the risks to life and property; and

(B) Will result in increased premium rates for flood insurance.  
(Ord. 09-03, passed 6-8-2009)

#### **§ 151.054 RECORD.**

A record of the above notification as well as all variance actions, including justification for their issuance, shall be maintained and any variances which are issued shall be noted in the annual report submitted to the Federal Insurance Administrator.  
(Ord. 09-03, passed 6-8-2009)

*EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS*

**§ 151.065 CONDITIONS.**

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions may be continued subject to the following conditions.

(A) Existing structures and/or uses located in Floodway District shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements).

(B) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than 50% of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

(C) The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use regardless of its location in a floodplain district to an extent or amount of 50% or more of its market value shall be undertaken only in full compliance with the provisions of the State Uniform Statewide Building Code.

(D) Uses of adjuncts thereon which are, or become, nuisances shall not be permitted to continue. (Ord. 09-03, passed 6-8-2009)

*FLOOD HAZARD MITIGATION*

**§ 151.080 ADDITIONAL PROVISIONS FOR MITIGATION.**

Within the Flood Fringe District, the following additional provisions shall be met.

(A) All electric water heaters, electric furnaces and other critical electrical installations shall be permitted only at elevations at or above the level of the 100-year flood.

(B) Water supply systems, sanitary sewage systems and gas and oil supply systems shall be designed to preclude infiltration of flood waters into the systems and discharges from the systems into floodwaters.

(C) Adequate drainage shall be provided to minimize exposure to flood heights.

(D) The preliminary plat requirements shall include a map showing the location of the proposed subdivision and/or land developed with respect to any designated floodplain district, including information on, but not limited to, the 100-year flood elevations, boundaries of the floodplain districts,

proposed lots and sites, fills, flood or erosion protective facilities, and areas subject to special deed restrictions.

(Ord. 09-03, passed 6-8-2009)

### ***DEFINITIONS***

#### **§ 151.095 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BASE FLOOD.*** The flood having a 1% chance of being equaled or exceeded in any given year.

***BASE FLOOD ELEVATION.*** The Federal Emergency Management Agency designated 100-year water surface elevation.

***BASEMENT.*** Any area of the building having its floor sub-grade (below ground level) on all sides.

***BOARD OF ZONING APPEALS.*** The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this chapter.

***DEVELOPMENT.*** Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

***ELEVATED BUILDING.*** A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings or columns (posts and piers).

***ENCROACHMENT.*** The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

***EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.*** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

***EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.*** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

**FLOOD or FLOODING.**

(1) A general or temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

(2) The collapse or subsistence 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 flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in division (1)(a) above of this definition.

(3) Mudflows which are proximately caused by flooding as defined in division (a)(2) above 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.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**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 mudflow and/or flood-related erosion hazards.

**FLOODPLAIN or FLOODPRONE AREA.** Any land area susceptible to being inundated by water from any source.

**FLOODPROOFING.** Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate 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 in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**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 in the watershed.

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE.** Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the 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;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

**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**; provided, that the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 C.F.R. § 60.3.

**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 connected to the required utilities. For floodplain management purposes, the term **MANUFACTURED HOME** also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**NEW CONSTRUCTION.** For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to the structures. For floodplain management purposes, **NEW CONSTRUCTION** means structures for which 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 the structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**RECREATIONAL VEHICLE.** A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

**SPECIAL FLOOD HAZARD AREA.** The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined in § 151.027 of this chapter.

**START OF CONSTRUCTION.** The date the building permit was issued, provided the actual **START OF CONSTRUCTION**, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement 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; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the **ACTUAL START OF THE 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.

**STRUCTURE.** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. **STRUCTURE**, for insurance rating purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in construction, alteration or repair, unless the materials or supplies are within an enclosed building on the premises.

**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% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for 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 necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

***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.

***VIOLATION.*** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in this chapter is presumed to be in ***VIOLATION*** until a time as that documentation is provided.

(Ord. 09-03, passed 6-8-2009)

#### **§ 151.999 PENALTY.**

(A) Any person who fails to comply with any of the requirements or provisions of this chapter or directions of the Director of Planning or any authorized employee of the town shall be guilty of a misdemeanor and subject to the penalties therefore.

(B) In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance or permit it to continue; and all persons shall be required to correct or remedy violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this subchapter may be declared by the town to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this chapter.

(Ord. 09-03, passed 6-8-2009)

## **CHAPTER 152: SUBDIVISIONS**

### Section

152.01 Previously enacted regulations still in effect

### **§ 152.01 PREVIOUSLY ENACTED REGULATIONS STILL IN EFFECT.**

All subdivision provisions and ordinances previously in effect are continued in full force and effect.  
(Prior Code, § 18-1)





## CHAPTER 153: SCHEDULE OF FEES

Section

153.01 Generally

### § 153.01 GENERALLY.

The fees related to zoning, amendments, subdivisions and the like shall be as set by Council from time to time in the town's fee schedule.

(Ord. 07-02, passed 7-9-2007)

***Cross-reference:***

*Fee schedule, see § 30.05*



## **CHAPTER 154: ZONING**

### Section

154.01 Previously enacted regulations still in effect

### **§ 154.01 PREVIOUSLY ENACTED REGULATIONS STILL IN EFFECT.**

All provisions and ordinances relating to zoning previously in effect are continued in full force and effect.

(Prior Code, § 21-1)



## **TABLE OF SPECIAL ORDINANCES**

Table

- I. CONVEYANCES OF PROPERTY**
- II. VACATIONS**
- III. ZONING**
- IV. RESOLUTIONS**
- V. FRANCHISES**



**TABLE I: CONVEYANCES OF PROPERTY**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
78-3	10-3-1978	Authorizing the Mayor to convey 2.858 acres of property to the Riverview Nursing Home.
13-02	12-23-2013	Approving a property settlement with New River Health Care Complex, Inc., and approving and executing a quitclaim deed to New River Health Care Complex, Inc.





**TABLE II: VACATIONS**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	--	Vacating an alley on the south side of Woodland Street in Block V.
-	--	Vacating a 15-foot by 160-foot alley running through Lot No. 5.
74-1	2-9-1976	Vacating a part of Highland Court.
-	8-2-1983	Vacating:  A portion of Shumate Avenue, extending from the northerly right-of-way line of Knob Street to the dead end; and  A 15-foot alley extending in a northerly direction from Knob Street to the dead end separating Lots Nos. 3, 5 and 7 and Lots Nos. 2, 4 and 6, Block 6.



**TABLE III: ZONING**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	- -	Rezoning the property known as the E.P. Lane property on east side of Virginia and on the west by the Methodist Church, on the south by the Whittaker property to Powell Lane to commercial property.
80-3	10-7-1979	Rezoning 170 acres, more or less, beginning at a point behind the Hop-In Food Store to agricultural and residential.
87-1	4-7-1987	Rezoning the parcel of real estate bounded on the south by U.S. Route 460, on the west by the Riverview Nursing Home, on the north by Virginia Avenue and on the east by U.S. Route 219 access road from residential to business/residential.
87-2	5-12-1987	Rezoning the parcel of real estate beginning at Virginia Avenue, then north on Woodland Street to Giles Avenue, then west along Giles Avenue to U.S. Route 219 to Virginia Avenue from residential to business/residential.



**TABLE IV: RESOLUTIONS**

<i>Res. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	8-10-2020	Resolution declaring Rich Creek, VA a Second Amendment Sanctuary.



**TABLE V: FRANCHISES**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	3-8-2021	Grants a franchise for the construction, maintenance and operation of an electric power transmission and distribution system in the town of Rich Creek, VA to Appalachian Power Company.





## **PARALLEL REFERENCES**

References to Virginia Code  
References to Prior Code  
References to Resolutions  
References to Ordinances



## REFERENCES TO VIRGINIA CODE

<i>VA Code Section</i>	<i>Code Section</i>
1-220	10.16
3.2-6503	90.064
3.2-6555	90.057
3.2-6556	90.060
3.2-6557	90.057
3.2-6562	90.060
Title 15.2, Chapter 22	32.17
15.2-924	52.51
15.2-1115	93.02
15.2-1429	10.99
15.2-1432	10.99
15.2-2119	52.23
15.2-2120	52.23
18.2-11	10.99, 90.999
18.2-11(a)	93.99
19.2-254.2	93.99
27-4.1	34.16
27-40.1 and 27-41.1	34.15
36-98	150.020
36-99.11	71.12
46.1-1	71.11
46.2-100	35.104, 73.01
46.2-600 et seq.	71.12
46.2-731	71.12
46.2-739	72.08
46.2-739(B)	71.12
46.2-1237	71.12
46.2-1241	71.12
46.2-1313	10.16, 70.01
54.1-2900	110.38
56-594	35.085
Title 58.1	35.030—35.032
58.1-2901	35.086, 35.087

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<i>VA Code Section</i>	<i>Code Section</i>
58.1-3523	35.100
58.1-3814	35.086, 35.087
58.1-3814F.	35.086
58.1-3814G.	35.086
58.1-3814H.	35.087
58.1-3814I.	35.087
58.1-3814J.	35.087
58.1-3819	35.046
58.1-3840	35.046
58.1-3906	35.999
Title 62.1, Chapter 4, 62, 1-45a	52.35

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<i>Prior Code Section</i>	<i>2011 Code Section</i>
1-1	10.01
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1-5	10.11
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2-25	33.020
2-26	33.035
2-27	33.036
2-28	33.037
2-29	33.050
2-30	33.051
2-31	33.052

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2-32	33.065
2-33	33.066
2-34	33.067
2-35	33.068
2-36	33.069
2-37	33.070
2-38	33.071
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23-3	132.02
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## REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
–	8-10-2020	T.S.O. IV



## REFERENCES TO ORDINANCES

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—	8-1-1972	32.01—32.03
—	--	51.236
—	--	52.15
—	--	90.060
—	--	110.37
—	--	TSO Table II
—	--	TSO Table II
—	--	TSO Table III
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74-2	11-6-1974	71.99
3-75	12-3-1974	33.001
—	3-4-1975	34.15—34.17
—	3-4-1975	110.39
—	5-6-1975	150.020—150.024
74-1	2-9-1976	TSO Table II
3-76	5-5-1976	51.275
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—	9-7-1976	93.03
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77-4	9-29-1977	52.35—52.39, 52.99
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78-3	10-3-1978	TSO Table I
79-1	6-5-1979	110.01, 110.03, 110.04, 110.30—110.36
79-2	7-10-1979	35.003
79-3	7-10-1979	110.36
80-3	10-7-1979	TSO Table III
80-1	2-5-1980	71.99
80-2	4-1-1980	35.030—35.033, 35.999
81-1	2-3-1981	34.01
81-3	12-1-1981	52.50, 52.99
—	4-5-1983	110.31

## Rich Creek - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
—	4-5-1983	110.38
—	8-2-1983	TSO Table II
—	7-3-1984	71.11
—	9-4-1984	51.257
—	9-4-1984	52.15
—	9-4-1984	93.02
—	2-5-1985	93.15—93.26, 93.99
—	3-5-1985	150.070—150.078
—	3-4-1986	110.01—110.16, 110.30—110.38, 110.99
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87-2	5-12-1987	TSO Table III
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—	5-2-1989	52.19
—	5-2-1989	52.21
—	5-2-1989	110.17
—	7-3-1989	70.01
—	11-7-1989	70.01
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—	9-8-1997	70.01
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—	12-12-2005	35.100—35.103
—	6-12-2006	51.001—51.007, 51.020, 51.021, 51.035—51.038, 51.050—51.060, 51.075—51.082, 51.095—51.099, 51.110—51.114, 51.125—51.127, 51.140—51.145, 51.999
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