



**THE CODE
OF
THE TOWN
OF
HALIFAX,
VIRGINIA
(ADOPTED MARCH, 14, 2006)**

THE CODE OF
THE TOWN OF
HALIFAX, VIRGINIA

Published by Order of the Town Council



MUNICIPAL CODE CORPORATION

Tallahassee, Florida

2005

OFFICIALS

of the

TOWN OF

HALIFAX, VIRGINIA

AT THE TIME OF THIS RECODIFICATION

R. Leon Plaster
Mayor

Cabel W. Daniel
Vice-Mayor

David F. "Buddy" Guthrie
S. J. "Jack" Dunavant, Jr.
W. Allen Stevens
Phillip D. Hollis
Dr. Charles H. Parker, Jr.
Councilmen

Carl Espy, IV
Town Manager and Town Clerk

Russell O. Slayton, Jr.
Town Attorney

Rocco E. Reynolds
Town Finance Director

Keith B. Tribble
Chief of Police

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Town of Halifax, Virginia.

Source materials used in the preparation of the Code were the 1950 Code, as supplemented, and ordinances subsequently adopted by the town council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1950 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of

the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

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CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Milton E. Leskoff, Senior Code Attorney, and William B. Eddy, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Honorable R. Leon Plaster, Mayor, Honorable David F. "Buddy" Guthrie, Councilman, Mr. Carl Espy, IV, Town Manager, Mr. Rocco E. Reynolds, Town Finance Director and Mr. Keith B. Tribble, Chief of Police, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

Copyright

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TOWN OF HALIFAX, VIRGINIA
Office of the Zoning Administrator
70 South Main Street, Post Office Box 627
Halifax, Virginia 24558
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Town Code of Halifax, Virginia
Summary of Supplemental Changes Following Re-codification
-Approval HTC March 14, 2006

1. Page iii: Town Officials at the time of this Recodification-Remove "~~Reece E. Reynolds~~"; replace "~~Keith B. Tribble~~" with "Devin H. Snead".
2. Section 2-3. Identification of official vehicles. Insert "excepting the police department" after "town government" in 1st sentence.
3. Section 10-34. Kinds of licenses. Licenses issued under authority of this article shall be as follows:
 - (4) Retailer's licenses, which shall authorize the licensees to sell beverages at retail only and not for resale.
 - a. Add "(a) *Beer and wine*. Every person who sells alcoholic beverages shall be assessed by the finance director and pay for the privilege a license tax in accordance with the following:
 - (1) Retail on-premises wine and beer ...\$25.00
 - (2) Retail off-premises wine and beer ...\$25.00
 - (3) Retail off- and on-premises wine and beer ...\$25.00"
 - b. Add "(b) *Mixed beverages*. The following license tax shall be assessed and collected upon persons holding mixed beverage restaurant licenses for establishments located within the town. Persons operating restaurants, including restaurants located on premises of, and operated by, hotels or motels:
 - (1) Each restaurant with seating capacity at tables for up to 100 persons, per annum...\$125.00
 - (2) Each restaurant with seating capacity at tables for more than 100 but not more than 150 persons, per annum...\$125.00
 - (3) Each restaurant with seating capacity at tables for more than 150, per annum...\$125.00"
 - c. Add "(c) *Computation of license tax required of merchants, etc*. The amount of gross receipts from sales of beverages subject to a license tax under this section shall not be deducted in the computation of the retail merchant's license tax required to be paid by merchants, restaurants or any other person or establishment."
 - d. Add "(d) *Mixed beverages*. No license shall be issued to any person under the provisions of this section unless the applicant therefore holds at the time or simultaneously procures a state license from the state alcoholic beverage control board." Add "State law reference – Local alcoholic beverage licenses and taxes, Code of Virginia §§ 4.1-205, 4.1-233."
4. Section 10-36. Sales to underage persons. Add "State law reference – Similar provisions, Code of Virginia §18.2-255" and "Cross reference - § 46-20".

Town Code of Halifax, Virginia
Summary of Supplemental Changes-Approved HTC March 14, 2006

5. Section 10-39 .Sale of beer and wine on Sunday; penalty. Strike "~~12:00 midnight each Saturday and 1:00 post meridian each Sunday and between the hours of 12:00 midnight on each Sunday and 6:00 ante meridian on each Monday~~" and replace with "2:00 ante meridian and 11:00 ante meridian each Sunday and the hours of 2:00 ante meridian and 6:00 ante meridian on each Monday".
6. Section 18-9. Disposition of dead animals. (a) *Depositing dead animals on public property prohibited; burial.* Strike "~~to be carried beyond the limits of the town and~~" in 2nd sentence.
7. Section 22-33. Issuance; approval of chief of police; appeal. Strike "~~chief of police~~" in section title and 2nd sentence and replace with "county building inspector".
8. Section 26-37. Rate of license tax.
 - a. (1) Strike "\$0.16" and replace with "\$0.10".
 - b. (1) Strike "\$0.20" and replace with "\$0.10".
 - c. (1) Strike "\$0.58" and replace with "\$0.10".
 - d. (1) Strike "\$0.36" and replace with "\$0.10".
9. Section 26-39. Proof of gross receipt. Strike "~~of schedule 'C'~~".
10. Section 34-2. Congregating in streets at fires; interference with fire department. Insert "or his/her designee" after "chief of police" in 2nd sentence.
11. Section 34-13. Fireworks-Sale, storage or display. Add "without consent of the town manager and/or his/her designee" to end of sentence.
12. Section 34-14. Same-Setting off. Add "without consent of the town manager and/or his/her designee" to end of sentence.
13. Section 42-2-37. By whom fine or punishment imposed; fines to inure to use of town.
 - a. (a) *Warrant issuance by town manager.* Add "and/or his/her designee" after "town manager" in sentence.
14. ARTICLE II. CHIEF OF POLICE Section 42-31. Powers and duties generally. Strike 2nd sentence and replace with "The chief of police shall be under the jurisdiction and control of the town manager. The town manager shall appoint the chief of police with the approval of town council and such number of officers as shall be approved by town council." Add "State law reference – Minimum qualifications of chief of police and police officers, Code of Virginia § 15.2-1705" and "Cross reference - § 2-104".
15. Section 42-12. Arrest for or report of violations of ordinances. Insert "and/or his/her designee" after "chief of police".
16. Section 46-8. Discharging firearms; throwing missiles, shooting; use of bow and arrows-Generally. Add "State law reference – Shooting in or across road or in street, Code of Virginia § 18.2-286"
17. Section 46-9. Same-Exception. Add "State law reference – Shooting in or across road or in street, Code of Virginia § 18.2-286"
18. Section 46-10. Disturbing public performance or assembly. Add "State law reference – Disorderly conduct in public places, Code of Virginia § 18.2-415"

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Summary of Supplemental Changes-Approved HTC March 14, 2006

19. Section 46-11. False publications. Add "State law reference – False publications, Code of Virginia § 18.2-209"
 - a. Add "(a) *Penalty.* Any person violating the provisions of this section shall be guilty of a Class 3 misdemeanor."
20. Add "CHAPTER 55 RECYCLING" Add "State law reference – Code of Virginia § 15.1-11.5 [Repealed]; Code of Virginia §15.2-927 through §15.2-939 (adopted 05-13-1991; amended 03-14-2006)"
21. Add "Section 55-1. Purpose." *
22. Add "Section 55-2. Definitions." *
 - a. Add "(a) Solid Waste." *
 - b. Add "(b) Recycling." *
 - c. Add "(c) Recyclable Materials." *
23. Add "Section 55-3. Requirement." *
24. Add "Section 55-4. Collection of refuse." *
 - a. Amend "(g)." *
 - b. Amend "(h)." *
 - c. Amend "(i)." *
25. Add "Section 55-5. Penalty for non-compliance." *
26. Section 58-3. Persons assembling on streets and sidewalks. Insert "and/or his/her designee" after "chief of police".
27. Add "Section 58-25. Persons riding a bicycle, using roller skates, skateboards, electric personal assistive mobility devices or electric power-assisted bicycles on a sidewalk, shared-use path, or across a roadway on a crosswalk." * (adopted 07-08-97 as § 13-10) ; Add "State law reference – Use of roller skates and skateboards on sidewalks and shared-use paths; operation of bicycles, electric power-assisted bicycles, and electric personal assistive mobility devices on sidewalks and crosswalks and shared-use paths; local ordinances, Code of Virginia § 46.2-904" *
28. Add "Section 58-26. Same-Penalty." * (adopted 07-08-97 as § 13-10)
29. Add "Section 58-27. Same-Exception." * (adopted 07-08-97 as § 13-10)
30. Amend Section 62-32. Local natural gas utility consumer tax. (adopted 06-30-05 as § 98-88) *
31. Amend "Section 62-105. Reports and remittances." Add "; preservation of records." to section title.
 - a. Add "(c). *Preservation of records.*" *
32. Add "Section 62-106. Penalty for violation of ordinance." *
33. Add "Section 62-107. Duty of seller when going out of business." *
34. Add "Section 62-108. Powers and duties of director." *
35. Add "Secs 62-109 – 62-129. Reserved."

Town Code of Halifax, Virginia
Summary of Supplemental Changes-Approved HTC March 14, 2006

36. Add "ARTICLE IV. TAX ON REAL AND PERSONAL PROPERTY" Add "State law reference – Real property tax, Code of Virginia § 58.1-3200 et seq.; tangible personal property, machinery, and tools and merchants' capital, Code of Virginia § 58.1-3200 et seq."
37. Add "DIVISION 1. GENERALLY"
38. Add "Section 62-130. Annual establishment of rates; valuation of property." *
39. Add "Section 62-131. Tax tickets; billing." *
40. Add "Section 62-132. When due and payable; penalty for non-payment." *
41. Add "Section 62-133. Interest on unpaid taxes." *
42. Add "Section 62-134. Assessment of new building substantially completed; extension of time for paying." *
43. Add "Section 62-135. Payment of administrative fees, attorney's fees and collection agency's fees to cover costs associated with the collection of delinquent taxes." *
44. Add "Secs 62-136 – 62-149. Reserved."
45. Add "DIVISION 2. IMPLEMENTATION OF 2004-05 CHANGES TO THE PERSONAL PROPERTY TAX RELIEF ACT OF 1998 (PPTRA) (adopted 12-13-05)"
46. Add "Section 62-150. Purposes; definitions; relation to other ordinances." *
47. Add "Section 62-151. Method of computing and reflecting tax relief." *
48. Add "Section 62-152. Allocation of relief among taxpayers." *
49. Add "Section 62-153. Transitional provisions." *
50. Add "Secs 62-154 – 62-169. Reserved."
51. Add "ARTICLE V. TAX ON TRANSIENTS OBTAINING LODGING" Add "State law reference – Excise tax on transient room rentals, Code of Virginia § 58.1-3840"
52. Add "Section 62-170. Definitions." *
53. Add "Section 62-171. Levied; amount." *
54. Add "Section 62-172. Exemptions." *
55. Add "Section 62-173. Collection." *
56. Add "Section 62-174. Reports and remittances generally." *
57. Add "Section 62-175. Collector's records." *
58. Add "Section 62-176. Duty of collector going out or disposing of business." *
59. Add "Section 62-177. Penalty for late remittance or false return." *
60. Add "Section 62-178. Procedure upon failure to collect, report." *
61. Add "Section 62-179. Violations of article." *
62. Section 70-1. Guidelines for water/sewer adjustments.
 - a. (b) *Adjustments for repaired leaks.* Add "for the previous six (6) months of water consumption only" to second to last sentence.

Town Code of Halifax, Virginia

Summary of Supplemental Changes-Approved HTC March 14, 2006

- b. (c) *Billing of leaks not returning to sewer system.* Strike “no sewer fee shall be charged on the water that is lost.” in the first sentence and strike the entire second sentence and add “the adjustment will be based on the customer’s average usage for the previous six (6) months of water consumption and sewer use.”
 - c. (d) *Large consumptions of water.* Strike entire subsection.
63. Section 70-56. Penalty. Add “class 1” in front of “misdemeanor” in the first sentence.

PART I

THE CHARTER*

- Sec. 1. Enacting clause.
- Sec. 2. Incorporation; powers generally.
- Sec. 3. Corporate boundaries.
- Sec. 4. Election and term of the mayor and councilmen.
- Sec. 5. Composition of council; quorum; exercise of corporate powers.
- Sec. 6. Appointment of town officers; compensation; official bonds; terms of office; powers of town sergeant.
- Sec. 7. Enumeration of powers.
- Sec. 8. Fines and penalties.
- Sec. 9. Use of Halifax County Jail.
- Sec. 10. Certificate of good character required for liquor licensees.
- Sec. 11. Annual tax levy.
- Sec. 12. Occupation licenses and taxes.
- Sec. 13. Borrowing powers; limitations.
- Sec. 14. Supplemental and incidental powers.
- Sec. 15. Inconsistent acts repealed.
- Sec. 16. Effective date of act.

*Editor's note—Printed herein is Acts 1890, ch. 33, page 552 et seq., as amended by Acts 1914, ch. 122, page 177. Subsequent amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

Sec. 1. Enacting clause.

~~BE IT ENACTED BY THE GENERAL ASSEMBLY OF VIRGINIA,~~ That an act to incorporate the town of Banister, in the county of Halifax, approved May sixteenth, eighteen hundred and eighty-seven, be amended and re-enacted so as to read as follows:

Sec. 2. Incorporation; powers generally.

That the name of the town of Banister, in the county of Halifax, incorporated by an act of the general assembly, approved May sixteenth, eighteen hundred and eighty-seven, be, and the same is hereby, changed to Houston,* and shall by that name continue, and the mayor and councilmen now in office, and their successors in office, shall continue to be a body politic and corporate by the name and style of the town of Houston; and by that name and style shall have perpetual succession, with the power to sue and be sued, plead and be impleaded, in any of the courts of the commonwealth, and with authority to purchase, receive and hold lands, tenements, goods and chattels, either in fee simple or any less estate therein, and the same to lease, give, grant, and assign or sell; and shall have and exercise, in addition to the rights and powers that belonged to the town of Banister as well as those granted by the act, all the rights, powers and privileges conferred upon towns by chapter forty-four of the code of Virginia, of eighteen hundred and eighty-seven [see Code of Virginia, title 15.2], and be subject to and governed by the provisions, of said chapter applicable to the towns, and all laws which may be hereafter enacted by the general assembly for towns, so far as the same are not in conflict with this act.

Sec. 3. Corporate boundaries.

The boundaries of the said town shall be as follows: Beginning at the pine in the stable lot on the lands of R. H. Edmondson's estate; thence north twenty-six and one-eighth degrees, east twenty-seven poles to the red oak in the Banister Hill Baptist Church lot; thence north thirty-two and one-eighth degrees, east seventy-two poles to a pine; thence north thirty-seven and three-fourths degrees, west twenty-six poles to a pear tree; thence south sixty-six and one-fourth degrees, west fifty-eight poles to a cherry tree; thence north seventy-three and one-fourth degrees, west forty-two poles to a white oak; thence south twenty-three degrees, west twenty-eight poles to a rock; thence north seventy-three and three-fourths degrees, west seventy-one poles to the northwest corner of Willingham's lot; thence south forty-seven and three-fourths degrees, west thirty-six and one-half poles to a pine in the woods; thence south fifty-one and one-fourth degrees, west forty-eight poles to pointers; thence south sixty-three and three-fourths degrees, west twenty-four poles to N.T. Green's stable; thence south ten and one-half degrees, west thirteen poles to a cedar; thence south sixty-four degrees, east one hundred and seventy two poles to a bunch of locusts on Academy branch; thence down the branch as it meanders south thirty-seven degrees, east thirty-three and one-fourth poles, south forty-two and one-half degrees, east twenty-six poles, south fifty-one degrees, east eight and three fourth poles to the lower line of the right of way of the Lynchburg and Durham

*Editor's note—The name of the town was subsequently changed from Houston to Halifax.

railroad where it crosses the branch; thence along the lower line of the right of way of the said railroad crossing of the branch opposite the lower or second culvert pipe running into the ice-pond on the lands of R. H. Edmondson's estate one hundred and fifty-three poles; thence from the lower line of said right of way opposite said culvert pipe, north thirteen and three-fourths degrees, west one hundred and six and one half-poles to the beginning.

Editor's note—The corporate boundaries were adjusted in the year 2000.

Sec. 4. Election and term of the mayor and councilmen.

There shall be elected on the fourth Thursday in May, eighteen hundred and ninety, and every two years thereafter, one elector of the said town, who shall be denominated the mayor, and six electors, who shall be denominated the councilmen of said town, who shall qualify by taking the oaths prescribed by law before, and enter upon the duties of their offices on the first day of July next succeeding their election, and shall hold said offices for the term of two years and thereafter until their successors are elected and qualified, unless sooner removed.

Sec. 5. Composition of council; quorum; exercise of corporate powers.

The mayor and said councilmen shall together constitute the council of said town; and in the council so composed (four of whom shall constitute a quorum for the transaction of business) shall be vested the corporate powers of the said town.

Sec. 6. Appointment of town officers; compensation; official bonds; terms of office; powers of town sergeant.

The council shall, at its regular meeting in July, eighteen hundred and ninety, and every two years thereafter, appoint a sergeant, clerk, assessor, and treasurer, and may appoint policemen and such other officers and agents for the proper conduct and business of the town as they may deem necessary, prescribe their duties, fix their compensation, and require and take from them such bonds, with good security, and in such penalty as they may deem proper, with condition for the faithful discharge of the duties of their offices: provided, that if such appointments are not made at the regular meeting in July, then the same may be made at any subsequent meeting. The officers so appointed shall hold their respective offices for the term of two years, unless sooner removed, and thereafter until their successors are appointed and qualified. The same person may, in the discretion of the council, be appointed to, and hold at the same time, more than one of the said offices. The sergeant of the said town shall, in addition to the duties that may be prescribed by the council, have the same powers and discharge the same duties as constables, within the corporate limits thereof, and to the distance of one mile beyond the same.

Sec. 7. Enumeration of powers.

The council shall have, subject to the provisions of this act and of chapter forty-four of the code of Virginia of eighteen hundred and eighty-seven [see Code of Virginia, title 15.2], applicable to towns, the control and management of the fiscal and municipal affairs of the town and of all property, real and personal, belonging to it, and may make such ordinances, orders,

and by-laws, and regulations, as they may deem necessary to enforce and carry out the powers vested in said council; and in addition thereto, the following powers, which are hereby vested in them:

First. To secure the inhabitants from contagious, infectious or other dangerous diseases.

Second. To regulate the building of stables, privies and hog pens; to require and compel the abatement and removal of all nuisances or anything which, in the opinion of the majority of the council, or in the opinion of the mayor under an ordinance vesting in him such discretion, is a nuisance within the said town, at, the expense of the person causing the same, or the owner or owners of the ground whereon the same may be, the collection of which said expense may be enforced in the same manner as fines due said town; to provide for the drainage of lots by proper drains or ditches; to prevent or regulate slaughter-houses and soap factories within the said town, or the exercise of any dangerous, offensive or unhealthy business, trade, or employment therein.

Third. To prevent hogs, dogs, cows, or other animals from running at large in the town, and may subject the same and the owners thereof to such levies, taxes and regulations as they may think proper.

Fourth. To establish and maintain a fire department in the said town, and provide for the regulation of the same, and to compel the residents of the town to aid and assist the fire department when necessary. They shall have power to establish fire limits in the said town, within which no building shall be erected without the consent of the council, unless the outer walls, thereof be of brick, stone or some other incombustible material.

Fifth. To prevent the riding or driving of horses or other animals at an improper speed; to prevent the throwing of stones, playing marbles or the engaging in any employment or sports on the streets, sidewalks or public alleys and grounds; to prohibit and punish the abuse or cruel treatment of horses or other animals in the said town; and to prohibit and punish the tying of horses or other animals to any fence, pailings or other objects on or along the streets and public ways in said town.

Sixth. To restrain and punish drunkards, vagrants, and street beggars; to prevent vice and immorality; to preserve public peace and good order; to prevent and quell riots, disturbances, and disorderly assemblages; to suppress houses of ill-fame and gambling houses; to prevent and punish lewd, indecent, and disorderly conduct or exhibitions in the said town, and expel therefrom persons guilty of such conduct who have not resided therein as much as one year.

Seventh. To prevent any cow, horse, hog, or other animal from injuring or trespassing upon any public square or grounds within the corporate limits of the said town, or grazing thereon, whether the same belong to the state, town, or county, and from injuring or destroying any tree growing in such square or grounds.

Sec. 8. Fines and penalties.

Where, by the provisions of the law, the council have authority to pass ordinances on any subject, they may prescribe punishment by fine or imprisonment, or both, for all violations

thereof; provided, that in no case shall the fine exceed fifty dollars or the imprisonment sixty days. Fines may be recovered, with costs, upon warrants issued in the name of the town of Houston*, before the mayor or any councilman of said town.

Whenever the judgment is rendered against any person for a fine, the officer trying the offender may require immediate payment thereof, and in default of such payment may commit the party so in default to jail until such fine and costs be paid, or may compel him to work out such fine and costs on the public streets or in ways or other improvements of said town, upon such terms as the council may by ordinance prescribe. All fines for the violations of the ordinances of said town shall be paid into the treasury thereof and be appropriated as the council may determine.

Editor's note—Penalties are regulated by Code of Virginia, § 15.2-1429.

Sec. 9. Use of Halifax County Jail.

Until a jail or prison-house is provided for said town by the council thereof they shall have the use of the jail of Halifax County for the safe-keeping and confinement of all persons sentenced to imprisonment under the ordinances or by-laws of the said town.

Sec. 10. Certificate of good character required for liquor licensees.

Any person applying to the county court of Halifax County for license to sell spirituous liquors, wines, beer, ale or porter, or any mixture thereof, within the corporate limits of the town of Houston†, or within one mile of the corporate limits of said town, shall produce before the court of the said county a certificate of the council of said town to the effect that the applicant is a suitable person, and that no good reason is known to the council why the license should not be granted. And the said court shall not grant any license to sell liquors within the said limits until and unless such certificate be given.

Sec. 11. Annual tax levy.

To meet the expenses that may be lawfully chargeable to the said town council may annually levy a town levy of so much as in its opinion may be necessary upon all taxable persons and property, resident or situate within the said town not exempt from taxation by the laws of the State; provided, that a capitation tax not greater than fifty cents per head on the male inhabitants of the said town over the age of twenty-one years may be levied each year; and provided, further, that the tax so to be levied on the real and personal property within the said town do not exceed one dollar on the one hundred dollars of the assessed value for any one year.

Sec. 12. Occupation licenses and taxes.

The council of said town may impose, levy, and collect a license tax on all persons doing business in said town, and upon any person or employment therein which it may deem proper,

***Editor's note**—The name of the town was subsequently changed from Houston to Halifax.

†**Editor's note**—The name of the town was subsequently changed from Houston to Halifax.

whether any tax be imposed thereon by the state or not. As to all such persons or employment the council may lay a direct tax, or may require a license therefor under such regulations as it may prescribe and levy a tax thereon.

Sec. 13. Borrowing powers; limitations.

The council may, in the name of and for the use of the said town, contract loans and issue bonds therefore, bearing interest at the rate of six per centum per annum, payable semi-annually and redeemable in thirty-four years or less, which bonds shall not be sold at less than their par value, and the said bonds shall be exempt from taxation by the said town; provided, the council shall not contract any loan or issue bonds therefor unless the same be authorized by a vote of the resident freeholders of said town and majority of the vote be in favor thereof; and provided, further, that in no case shall the aggregate debt of the said town at any one time exceed seven and half per centum of the assessed value of the property, real and personal, within the corporate limits of the said town; and in any election held under this section the order therefor shall state the object for which the money is to be used.

Sec. 14. Supplemental and incidental powers.

The council of said town may pass all by-laws, rules, and ordinances, not repugnant to the constitution and laws of the state, which it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health, and protection of its citizens or their property; and to do such other things, and pass such other by-laws and ordinances, as may be necessary or proper to carry into full effect any power, authority, capacity, or jurisdiction which is, or shall be, granted to, or vested in, said town, or in the council or officers thereof, or which may be necessarily incident to a municipal corporation.

Sec. 15. Inconsistent acts repealed.

All acts and parts of acts in conflict or inconsistent with this act are hereby repealed, so far as they may apply to the town of Houston.*

Sec. 16. Effective date of act.

This act shall be in force from its passage.

*Editor's note—The name of the town was subsequently changed from Houston to Halifax.

CHARTER COMPARATIVE TABLE

ACTS

This table shows the location of the sections of the basic Charter and any amendments thereto.

Year	Chapter	Page	Section this Charter
1890	33	552 et seq.	1-16
1914(Amd.)	122	177	1-16

PART II
CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS*

- Sec. 1-1. How Code designated and cited.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Catchlines of sections.
- Sec. 1-4. History notes.
- Sec. 1-5. Editor's notes and references.
- Sec. 1-6. Severability.
- Sec. 1-7. Offenses under state law.
- Sec. 1-8. General penalty; continuing violations.
- Sec. 1-9. Amendments to Code; effect of new ordinances; amendatory language.
- Sec. 1-10. Supplementation of Code.
- Sec. 1-11. Miscellaneous ordinances not affected by Code.
- Sec. 1-12. Repeal not to affect liabilities.
- Sec. 1-13. Repeal not to revise former ordinance.
- Sec. 1-14. Publication of certain ordinances.
- Sec. 1-15. Requests for franchises.

*Charter references—Incorporation, § 2; corporate boundaries, § 3; fines and penalties, § 8.

Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and may be designated "The Code of the Town of Halifax, Virginia" and may be so cited. Such code may also be cited as "Halifax Town Code."

(Code 1950, ch. 1, § 1)

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

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of council:

Bond. When a bond is required, an undertaking in writing shall be sufficient.

Charter. The term "Charter" shall mean the Charter of the town, as it now exists or as it may be amended in the future.

Code. Whenever the terms "Code" and "this Code" are referred to without further qualification, they shall mean the Code of the Town of Halifax, Virginia, as designated in section 1-1.

Computation of time. Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

*State law reference—*Computation of time, Code of Virginia, §§ 1-13.3, 1-13.3:1.

Council, town council. Wherever the term "council" or "town council" is used, it shall be construed to mean the council of the Town of Halifax.

County. Wherever the terms "the county" and "this county" are used, they shall be construed to mean the County of Halifax in the Commonwealth of Virginia.

Discarded motor vehicle. The term "discarded motor vehicle" shall mean any motor vehicles which are not in operating condition; or which for a period of 60 days or longer have been partially or totally disassembled by the removal of tires and wheels, engines or other essential parts required for operation of the vehicle; or on which there are displayed neither valid license plates nor a valid inspection decal. As used in this section, the words "motor vehicles" shall be construed as any motor vehicle, trailer or semitrailer, as such are defined in the Code of Virginia, § 46.2-100.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations.

*State law reference—*Gender, Code of Virginia, § 1-13.7.

Joint authority. Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.

*State law reference—*Similar provisions, Code of Virginia, § 1-13.1.

May; shall. The term "may" is permissive, and the term "shall" is mandatory.

Month. The term "month" shall mean a calendar month.

State law reference—Similar provisions, Code of Virginia, § 1-13.13.

Number. Words importing the singular shall extend and be applied to the plural, and words importing the plural shall include the singular.

State law reference—Number, Code of Virginia, § 1-13.15.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

State law reference—Similar provisions, Code of Virginia, § 1-13.16.

Officers, agencies. Any reference to an officer, employee, department, board, commission or agency shall be construed as if followed by the phrase "of the Town of Halifax."

Or, and. The term "or" may be read "and," and the term "and" may be read "or," if the sense requires it.

Owner. The term "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

Person. The term "person" shall include any individual, firm, corporation, partnership, business trust, association, company, business, trust, joint venture or other legal entity or combination of individuals.

State law reference—"Person" defined, Code of Virginia, §§ 1-13.19, 1-13.19:1.

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

State law reference—Similar provisions, Code of Virginia, §§ 1-13.6, 1-13.23.

Sidewalk. The term "sidewalk" shall mean the portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

State law reference—Similar provisions, Code of Virginia, § 46.2-100.

Signature, subscription. The term "signature" or "subscription" shall include a mark when a person cannot write.

State. The term "state" shall mean the State of Virginia.

Statute citations. All references to the Code of Virginia shall mean the Code of Virginia, 1950, as currently amended at any time.

Street. The term "street" shall include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the town.

Tense. Words used in the past or present tense shall include the future.

Town. The term "the town" shall mean the Town of Halifax, in the County of Halifax and the Commonwealth of Virginia.

Written; writing; writings; in writing. The terms "written," "writing," "writings," and "in writing" shall include any representation of words, letters, symbols, numbers, or figures whether (i) printed or inscribed on a tangible medium or (ii) stored in an electronic or other medium and retrievable in a perceivable form and whether an electronic signature authorized by Code of Virginia, § 59.1-479 et seq. is or is not affixed.

State law reference—Similar provisions, Code of Virginia, § 1-13.32.

Year. Unless otherwise expressed, the term "year" shall be construed to mean a calendar year; and the term "year" alone shall be equivalent to the expression "year of our Lord."

State law reference—Similar provisions, Code of Virginia, § 1-13.33.

Other words. The rules of construction given in Code of Virginia, § 1-13 et seq., shall govern, so far as applicable, the construction of all other words not defined in this section.
(Code 1950, ch. 1, § 2)

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted. No section of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.
(Code 1950, ch. 1, § 3)

State law reference—Similar provisions applicable to statutes, Code of Virginia, § 1-13.9.

Sec. 1-4. History notes.

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

Sec. 1-5. Editor's notes and references.

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

Sec. 1-6. Severability.

If any part or parts, section or subsection, sentence, clause or phrase of this Code is for any reason declared unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Code.
(Code 1950, ch. 1, § 4)

Sec. 1-7. Offenses under state law.

Wherever under the laws of the State of Virginia, certain acts are made misdemeanors, and penalties prescribed therefor, for which there is no town ordinance specifically applicable, such

acts shall be deemed and declared offenses against the ordinances of the town, and such state laws are hereby made ordinances of the town as fully and completely as if herein set out in extenso.

(Code 1950, ch. 1, § 5)

Sec. 1-8. General penalty; continuing violations.

(a) Wherever in this Code or in any ordinance of the town any act is prohibited or is made declared to be unlawful, or the doing of any act is required, or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Code or ordinance shall be a class 1 misdemeanor. Each day any violation of this Code or of any such ordinance shall continue shall constitute a separate offense.

(b) Notwithstanding any other subsection of this section or any other section of this Code, no penalty for a violation of this Code or other town ordinance shall exceed that prescribed by general law for a like offense.

(Code 1950, ch. 1, § 6)

State law reference—Penalties for violations of ordinances, Code of Virginia, § 15.2-1429.

Sec. 1-9. Amendments to Code; effect of new ordinances; amendatory language.

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

(b) Amendments to any of the sections of this Code may be made in substantially the following language: "That section _____ of The Code of the Town of Halifax, Virginia, is hereby amended to read as follows: . . ." The new provisions shall then be set out in full as enacted.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That The Code of the Town of Halifax, Virginia, is hereby amended by adding a section, to be numbered _____, which section reads as follows: . . ." The new section shall then be set out in full as enacted.

Sec. 1-10. Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace

pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been replaced shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

State law reference—Authority to supplement Code, Code of Virginia, § 15.2-1433.

Sec. 1-11. Miscellaneous ordinances not affected by Code.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any:
- (1) Offense or act committed or done, any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.
 - (2) Prosecution, suit or proceeding pending or any judgment rendered before the effective date of this Code.
 - (3) Ordinance or resolution promising or guaranteeing the payment of money for the town, authorizing the issue of any bonds of the town, any evidence of the town's indebtedness or any contract or obligation assumed by the town.
 - (4) Right or franchise conferred by ordinance or resolution.
 - (5) Appropriation or budget ordinance.
 - (6) Ordinance consistent with this Code levying or imposing taxes, fees or other charges.

- (7) Ordinance providing for any public improvement.
- (8) Ordinance making any assessment.
- (9) Ordinance naming, renaming, opening, altering, relocating, accepting, closing or vacating any street or alley.
- (10) Ordinance relative to position classification, salaries, wages or compensation or bonds of town officers or employees and of members and employees of town boards or commissions.
- (11) Ordinance relative to a plat of a subdivision, an amendment to a zoning map, or the zoning or rezoning of specific property.
- (12) Ordinance annexing territory to the town.
- (13) Ordinance adopted for purposes which have been consummated.
- (14) Ordinance which is temporary, although general in effect, or special, although permanent in effect.
- (15) Personnel or other departmental manual.
- (16) Agreement relating to sharing governmental services, including building code enforcement.

(b) All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

Sec. 1-12. Repeal not to affect liabilities.

No new ordinance shall be construed to repeal a former ordinance as to any offense committed against the former ordinance or as to any act done or penalty, forfeiture or punishment incurred, or as to any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act committed or done, penalty, forfeiture or punishment incurred, right accrued, or claim arising before the new ordinance takes effect, save only that the proceedings thereafter had shall conform, so far as practicable, to the ordinance in force at the time of such proceedings.

(Code 1950, ch. 1, § 7)

Sec. 1-13. Repeal not to revise former ordinance.

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

(Code 1950, ch. 1, § 8)

Sec. 1-14. Publication of certain ordinances.

Whenever any ordinance or resolution granting any right or privilege to any person shall be published in any newspaper having a circulation in the town, as provided by law, the expense of such publication shall be borne entirely by such person, who shall be deemed to have

assumed such expense by the acceptance of the provisions of such ordinance or resolution. Any officer or other person who violates the provisions of this section shall pay to the town the cost of advertising or publishing such notice.

(Code 1950, ch. 1, § 9)

Sec. 1-15. Requests for franchises.

Every franchise asked for from the council shall be presented in printed form at the expense of the petitioner, and a copy of the franchise shall be provided for each member of the council at the meeting when such franchise is so presented, and no request for a franchise shall be considered as having been presented to the council until printed as provided in this section.

(Code 1950, ch. 1, § 10)

Chapter 2

ADMINISTRATION*

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- Sec. 2-1. Seal.
- Sec. 2-2. How instruments executed by town.
- Sec. 2-3. Identification of official vehicles.
- Secs. 2-4—2-30. Reserved.

Article II. Town Council

- Secs. 2-31—2-60. Reserved.

Article III. Officers and Employees

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- Sec. 2-61. Powers and duties of officers generally.
- Sec. 2-62. Reports to mayor and council.
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- Sec. 2-64. Official bonds.
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- Sec. 2-91. Powers and duties generally.
- Sec. 2-92. Annual report to council.
- Sec. 2-93. Vice-mayor.

***Charter references**—Powers generally, §§ 2, 6 et seq.; town council, § 4 et seq.; borrowing powers, limitations, § 13; supplemental and incidental powers, § 14.

Cross references—Any ordinance for personnel or other departmental manual saved from repeal, § 1-11(a)(15); law enforcement, ch. 42; taxation, ch. 62; utilities, ch. 70; provisions for appeal, app. A, art. 9; administration and interpretation, app. A, art. 12; administration of subdivisions, app. B, § 3-1 et seq.

State law references—State and Local Government Conflict of Interests Act, Code of Virginia, § 2.2-3100 et seq.; The Virginia Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq.; Virginia Public Procurement Act, Code of Virginia, § 2.2-4300 et seq.; counties, cities and towns, Code of Virginia, title 15.2; Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq.

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- Sec. 2-102. Qualifications; residence.
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Division 6. Town Treasurer

- Sec. 2-131. Receipts and collections.
- Sec. 2-132. Deposits.
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- Sec. 2-134. Setoffs to be made.
- Sec. 2-135. Transfers between funds or departments, etc.
- Sec. 2-136. Accounts and account books generally.
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- Sec. 2-140. Issuance of licenses.
- Sec. 2-141. Water meter readings and records.
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Article IV. Boards and Commissions

Secs. 2-171—2-200. Reserved.

Article V. Finance

- Sec. 2-201. Fiscal year.
- Sec. 2-202. Town contracts.
- Sec. 2-203. Interest of town officers in contracts.

ARTICLE I. IN GENERAL**Sec. 2-1. Seal.**

The corporate seal of the town shall continue to be the seal of the town until otherwise ordered by the council. No other design or seal shall be used as the seal of the town and no paper issued with municipal authority which requires such seal shall be valid unless the seal provided herein or prescribed by the council is affixed thereto.

(Code 1950, ch. 2, § 2)

State law reference—Seal of locality, Code of Virginia, § 15.2-1402.

Sec. 2-2. How instruments executed by town.

All deeds, bonds, notes, leases, contracts, conveyances, and other instruments, of whatsoever nature or description, authorized by law to be made or entered into by the town, shall, unless otherwise specially provided by the council, be signed by the mayor and, when necessary, acknowledged by the mayor and sealed with the corporate seal and attested by the town clerk. Such instruments, when so signed and sealed, shall be taken as and for the true acts of the town.

(Code 1950, ch. 2, § 3)

Sec. 2-3. Identification of official vehicles.

All motor vehicles owned or operated by any department of the town government shall have the name of the department to which they belong designated in plain letters on each side of such vehicles. The lettering provided for herein shall be as directed by the mayor.

(Code 1950, ch. 2, § 6)

Secs. 2-4—2-30. Reserved.**ARTICLE II. TOWN COUNCIL****Secs. 2-31—2-60. Reserved.**

ARTICLE III. OFFICERS AND EMPLOYEES*

DIVISION 1. GENERALLY

Sec. 2-61. Powers and duties of officers generally.

The powers and duties of the officers and employees of the town, where not prescribed in this Code, shall be as prescribed by the general laws of the state and by the council or mayor. (Code 1950, ch. 2, § 31)

Sec. 2-62. Reports to mayor and council.

The officers and employees of the town shall make such reports to the mayor and council as may be called for by the mayor or council from time to time. (Code 1950, ch. 2, § 32)

Sec. 2-63. Oath of office.

(a) *Required.* Every person elected or appointed to any office in the town shall, before entering upon the duties of his office, take the oath of office prescribed by the laws of the state to be taken by person holding offices under the state.

(b) *Administering oath.* Such oath shall be taken before any person duly qualified to administer it under the laws of the state, and his certificate that such oath has been taken shall be filed with the town clerk.

(c) *Neglecting to take oath.* If any person appointed or elected to any office in the town neglects to take the oath for 30 days after receiving notice of his election or appointment, his office shall be deemed vacant. (Code 1950, ch. 2, § 33)

State law references—Who authorized to administer oaths, Code of Virginia, § 15.2-1410; oath of office, Code of Virginia, §§ 15.2-1512, 49-1.

Sec. 2-64. Official bonds.

(a) *Generally.* Every official bond required by the council shall be given with such security as may be approved by it and shall be made payable to the town, conditioned for the faithful discharge of the duties of the office to which the person giving it has been appointed.

(b) *Additional bonds.* In addition to his official bond, any officer who will be in control of any of the property of the town may be required by the council to furnish an additional bond with security and conditioned that such property will be used solely for town purposes and will be delivered by such officer to his successor in office.

***Charter reference**—Town officers, § 6.

Cross references—Any ordinance relative to position classification, salaries, wages or compensation or bonds of town officers or employees and of members and employees of town boards or commissions saved from repeal, § 1-11(a)(10); officers of fire department, § 34-31; chief of police, § 42-31 et seq.

(c) *Filing of bonds.* All official bonds given by town officers shall be filed with the town clerk.

(d) *Failure to give bond.* Any person elected or appointed to any office who shall, for 30 days after notification of his election or appointment, fail to give such bond and security as may be required of him, shall thereby vacate his office.

(Code 1950, ch. 2, § 34)

Sec. 2-65. Liability of surety on official bond.

The surety on any bond given by an officer or employee of the town shall be equally liable for the acts of any deputy of such officer or employee as for those of the officer or employee himself.

(Code 1950, ch. 2, § 35)

Sec. 2-66. Salaries.

Except where otherwise expressly provided by statute, the several officers and employees of the town shall be paid such salaries as the council shall authorize from time to time by annual appropriation ordinance, or other action in regard thereto, at such periods as may be provided by the council.

(Code 1950, ch. 2, § 36)

Sec. 2-67. Removal from office.

For malfeasance, misfeasance, neglect of duty, incompetence, or any other good cause, the council and mayor may remove from office any officer or employee appointed by them.

(Code 1950, ch. 2, § 37)

Sec. 2-68. Accountability for town property.

Every officer of the town, when entering upon the discharge of his official duties, shall file with the town clerk an itemized receipt for all personal property furnished him by the town, specifying, in detail, its cost or estimated value. The town clerk shall also be responsible for the safe keeping of such property as he may receive from the town, and at the expiration of his term of office, shall surrender the property to the town clerk in as good condition as when received by him, reasonable wear and tear excepted.

(Code 1950, ch. 2, § 38)

Sec. 2-69. Accountability for books, records, and documents.

All books, records, and documents used by any town officer in his office or in connection with his duties shall be deemed to be the property of the town, and the officer in charge of the department for which such books, records, and documents are kept shall be responsible therefor. Any person or officer made responsible by this section for the keeping of such books, records, and documents shall, within ten days after the date of his resignation or removal from office, as the case may be, deliver to the town clerk all such records and documents.

(Code 1950, ch. 2, § 39)

Sec. 2-70. Books and accounts to be available for inspection.

All books, records, and documents in the custody of any officer or employee of the town shall be available and open for inspection by the members of the council and the mayor at any reasonable time.

(Code 1950, ch. 2, § 40)

Sec. 2-71. Unlawful expenditures.

No expenditure shall be incurred by any officer or employee of the town for any purpose in excess of the amount dedicated for such purpose in the general appropriation ordinance for that fiscal year, unless such expenditure is authorized by a vote of a majority of all the members elected to council.

(Code 1950, ch. 2, § 41)

Sec. 2-72. Resisting officers or agents of town.

No person shall resist any officer or obstruct or hinder any employee of the town in the discharge of his duty, or any contractor or other person engaged in the execution of any work for the town.

(Code 1950, ch. 2, § 42)

Secs. 2-73—2-90. Reserved.

DIVISION 2. MAYOR**Sec. 2-91. Powers and duties generally.**

The mayor shall be the administrative and executive head of the town government, and he shall preside over the meetings of the council. The mayor shall have the entire charge and control of the work of the town's departments and of the heads and employees thereof. The mayor shall see that the duties of the officers and employees of the town, whether elected or appointed, are faithfully performed, and that the ordinances of the town are fully executed. The mayor shall have the power to investigate the acts of the town's officers and employees, have access to all books and documents in their offices, and may make such examinations thereof as he may deem necessary.

(Code 1950, ch. 2, § 7)

Sec. 2-92. Annual report to council.

The mayor shall communicate to the council annually at the beginning of each fiscal year, or oftener, if required to do by the council, a general statement of the condition of the town in relation to its government, finances and improvements, with such recommendations as he may deem proper, and may from time to time communicate to the council such suggestions and recommendations as he deems necessary for the efficient government of the town.

(Code 1950, ch. 2, § 9)

Sec. 2-93. Vice-mayor.

A vice-mayor shall be elected by the council from the members of the council. During the absence or disability of the mayor, or in case of a vacancy in the office, the vice-mayor shall perform the duties of the mayor.

(Code 1950, ch. 2, § 10)

Secs. 2-94—2-100. Reserved.

DIVISION 3. TOWN MANAGER**Sec. 2-101. Appointment.**

There shall be appointed a general administrative officer of the town government to be known and designated as the town manager.

Sec. 2-102. Qualifications; residence.

The town manager shall be chosen by the town council on the basis of his executive and administrative qualifications. The choice of a person to fill such position shall not be affected by the place of his residence at the time of his original appointment.

Sec. 2-103. General responsibilities.

Under the direct supervision of the mayor and general direction of the town council, as a group, the town manager is responsible for the proper administration of all the affairs of the town under the jurisdiction prescribed in the town Charter. He is responsible for:

- (1) Serving as the chief officer of the town for all matters relating to personnel, annual budget preparation, purchase of goods and/or services, and other contractual agreements.
- (2) Exercising supervision and control over all departments.
- (3) Serving as chief advisor to the town council.
- (4) Receipt and disbursement of town funds.
- (5) Preparing council agenda and correspondence relating to council meetings, and attending all council meetings.
- (6) Exercising general supervision and control over all departments.
- (7) Recommending to the council measures deemed appropriate for adoption.
- (8) Advising the council as to the needs of all departments.
- (9) Acting as the town's purchasing agent.
- (10) Meeting frequently with the public as a representative of the town.
- (11) Performing other duties as assigned by the mayor and/or the town council.

Sec. 2-104. Departments and agencies supervised.

The departments and agencies over which the town manager shall have general administrative supervision and authority shall be:

- (1) Police department.
- (2) Public works department.
- (3) Water and sewer department.
- (4) Finance department.
- (5) Purchasing department.
- (6) Personnel department.
- (7) Any other department, agency or special duty which may be assigned to him.

Sec. 2-105. Term of office; suspension and dismissal; substitute.

The town manager shall be appointed for an indefinite period and shall serve at the will of the town council; provided, that he may not be removed without a public hearing of any charges made against him, but during such hearing the council may suspend him from office. During the absence or disability of the town manager, the town council may designate some properly qualified person to perform the duties of the office.

Secs. 2-106—2-110. Reserved.

DIVISION 4. TOWN CLERK**Sec. 2-111. Duties as clerk of council.**

(a) *General duties.* The town clerk shall be clerk of council, shall issue notices to each of the councilmen in case of a called meeting, and shall attend all meetings of the council and keep a complete record of its transactions, properly indexed.

(b) *Notification of parties.* The town clerk shall notify all parties presenting communication or petitions to the council of the final action of the council on such communication or petition.

(c) *Publication of reports and ordinances.* The town clerk shall publish such reports and ordinances as the council is required by law to publish, and such other reports and ordinances as the council may direct.

(Code 1950, ch. 2, § 12)

Sec. 2-112. Custodian of town documents.

The town clerk shall keep all official bonds and contracts executed by order of the council, and shall take charge of and carefully preserve all books, papers, records and other documents of the town that are not specially placed in the charge and keeping of some other officer. The

town clerk shall not permit the original copy of any such document to be taken from his custody without leave of the council unless required so to do by law. All such documents shall be kept in a safe and suitable place to be designated by the council.
(Code 1950, ch. 2, § 13)

Sec. 2-113. Custodian of seal.

The town clerk shall have the custody of the corporate seal of the town, and shall affix and attest the seal whenever required so to do by the laws of the state or the ordinances or regulations of the town, or when so directed by the council.
(Code 1950, ch. 2, § 14)

Sec. 2-114. Issuance and service of notices.

The town clerk shall issue and place in the hands of the proper officer to be served all such notices as may be required to be issued under the provisions of any ordinances of the town. Any such notice shall be issued in the manner prescribed by law, and shall be attested by him as town clerk. The town clerk shall file in his office the return of the officer upon any such notice.
(Code 1950, ch. 2, § 15)

Sec. 2-115. When copies of documents to be furnished.

The town clerk shall, upon request, furnish a copy of any ordinance or proceeding of the council or of any public document in his custody to any officer of the town or other person who may be entitled thereto. The town clerk shall be entitled, when furnishing any such copy to any person other than officers of the town entitled thereto, to charge the same fee for such copy as may be allowed by law to the clerks of courts.
(Code 1950, ch. 2, § 16)

State law reference—Copies of circuit court records, Code of Virginia, § 17.1-208.

Secs. 2-116—2-120. Reserved.

DIVISION 5. TOWN FINANCE DIRECTOR

Sec. 2-121. Qualifications.

The finance director shall have the following qualifications:

- (1) Education equivalent to high school graduation, supplemented by courses and training in secretarial skills, bookkeeping, computer operations, business mathematics, and at least two years of related experience.
- (2) Knowledge of basic bookkeeping and accounting. Ability to perform financial recordkeeping with speed and accuracy. Ability to follow written and oral instructions. Ability to deal with the public with courtesy and tact.

Sec. 2-122. Bond.

The town council shall require the finance director, before entering upon his duties, to execute a bond with good security in an amount sufficient to protect the town for the full amount of money which shall go into the hands of the finance director.

Sec. 2-123. General responsibilities.

The finance director shall perform necessary bookkeeping functions within the town office and shall assist in secretarial and other duties as required. Under the direct supervision of the town administrator, the finance director is responsible for:

- (1) Collection and deposits.
- (2) Complaints.
- (3) Water and sewer billing.
- (4) Time card maintenance.
- (5) Posting to the journal and ledger.
- (6) Billing and collection of taxes.
- (7) Assistance with water and sewer reports.
- (8) Ordering and sales of decals.
- (9) Billing and collection of business license taxes.
- (10) Completion of zoning and sewer use permits.
- (11) Computer account maintenance.
- (12) Office supply inventory.
- (13) File maintenance.
- (14) Delinquencies.
- (15) Account reimbursement.
- (16) Budget preparation assistance.
- (17) Assisting in secretarial duties during the absence of the secretary.
- (18) Performing other duties as assigned by the town manager.

Secs. 2-124—2-130. Reserved.

DIVISION 6. TOWN TREASURER

Sec. 2-131. Receipts and collections.

The treasurer shall receive and be the custodian of all revenue of the town, and unless otherwise provided by the council, shall render all statements for and collect all taxes, levies, and assessments imposed by the council, and such rents, charges, fees and other moneys due the town which it is not made the duty of some other officer to collect.

(Code 1950, ch. 2, § 17)

Sec. 2-132. Deposits.

As moneys and revenue belonging to the town are received by the treasurer, he shall promptly pay over the moneys and revenue to the town by depositing the moneys and revenue, subject to the order of the town, in a depository or depositories designated by the council.

(Code 1950, ch. 2, § 18)

Sec. 2-133. Disbursements.

(a) *Form; authorization.* All disbursements of town moneys shall be by check or order of the town signed by the treasurer and countersigned by the mayor. No disbursement shall be made by the treasurer unless such disbursement has been authorized by the council.

(b) *Checks or orders to be numbered.* Every check or order drawn as provided in this section shall be numbered and shall set forth on its face the date of its issue, the name of the person to whom it is payable, the amount for which it is drawn and the department or account to be charged with the expenditure.

(Code 1950, ch. 2, § 19)

Sec. 2-134. Setoffs to be made.

Before paying any claim against the town, the treasurer shall discover whether the person in whose favor the payment is to be made is indebted to the town, and if he is so indebted, the treasurer shall deduct the amount of the account so due the town from the amount of money to be paid such claimant.

(Code 1950, ch. 2, § 20)

Sec. 2-135. Transfers between funds or departments, etc.

The treasurer shall not make or enter in the town's books of account any cash or appropriation transfer between funds or departments except upon order of the council.

(Code 1950, ch. 2, § 21)

Sec. 2-136. Accounts and account books generally.

The treasurer shall keep all accounts and books of account relating to the finances of the town. Such books shall be kept regularly posted up to date and shall exhibit accurate and

detailed statements of all money received and expended by the town, and such other information as may be necessary to show accurately the town's financial condition or as may be required by the council.

(Code 1950, ch. 2, § 22)

Sec. 2-137. Account of bonded and other indebtedness.

The treasurer shall keep an account of each bond or other evidence of debt issued or executed by the town, which shall show the amount of each bond or other evidence of indebtedness and its character; the date when issued, and when due and where payable; under what law it was issued; if registered, in whose name it is so registered; its rate of interest and when and where payable; and what interest has been paid and to whom paid. The treasurer shall cancel all coupons paid by him and retain the coupons until he has settled his accounts for the fiscal year.

(Code 1950, ch. 2, § 23)

Sec. 2-138. Statements and settlements.

At the end of each fiscal year, and more often when directed by the council so to do, the treasurer shall submit to the council a statement of all moneys collected by him for the account of the town from any source, and a full and detailed statement of the financial condition of the town and of his receipts and disbursements since the last settlement of his accounts, and shall make such settlement with the council as it may require.

(Code 1950, ch. 2, § 24)

Sec. 2-139. Annual report.

The treasurer shall make a report to the council, as of August 31 in each year, showing the amount of taxes assessed, the amount collected for town purposes and for school purposes, the amount expended and the purposes for which they were spent, and the balance on hand. This report shall be published in a newspaper having a circulation in the town and recorded in the minutes of council.

(Code 1950, ch. 2, § 25)

Sec. 2-140. Issuance of licenses.

The treasurer shall issue licenses imposed by the council on businesses, trades and professions, all licenses required by the council for the use or operation of vehicles in the town, and such other licenses or permits required by the council which it is not made the duty of some other officer to issue. Such licenses shall be issued, and a record thereof shall be kept, in the manner prescribed by the council.

(Code 1950, ch. 2, § 26)

Sec. 2-141. Water meter readings and records.

The treasurer shall, as often as he may be required by the council, read all meters installed to register the consumption of water from the town water system, and shall keep records of such readings in a manner satisfactory to the council.

(Code 1950, ch. 2, § 27)

Secs. 2-142—2-170. Reserved.

ARTICLE IV. BOARDS AND COMMISSIONS*

Secs. 2-171—2-200. Reserved.

ARTICLE V. FINANCE†**Sec. 2-201. Fiscal year.**

The fiscal year of the town shall begin on July 1 and end on June 30, to conform with the fiscal periods of the state and federal governments.

(Code 1950, ch. 2, § 1)

State law reference—Fiscal year, Code of Virginia, § 15.2-2500.

Sec. 2-202. Town contracts.

All contracts entered into by the town shall be in writing and no contract shall be binding on the town unless authorized by the council.

(Code 1950, ch. 2, § 4)

Sec. 2-203. Interest of town officers in contracts.

No member of the council or other officer or employee of the town shall directly or indirectly contract with the town for furnishing it or any of its departments with labor, supplies, machinery or other articles, or for doing any work for the town, nor shall any such person be interested in the profits of any such contract. Any person violating this section shall be deemed guilty of malfeasance in office and subject to removal therefrom.

(Code 1950, ch. 2, § 5)

*Cross reference—Board of zoning appeals, app. A, § 9-1.

†Cross references—Any ordinance or resolution promising or guaranteeing the payment of money for the town, authorizing the issue of any bonds of the town, any evidence of the town's indebtedness or any contract or obligation assumed by the town saved from repeal, § 1-11(a)(3); any appropriation or budget ordinance saved from repeal, § 1-11(a)(5); taxation, ch. 62.

Chapters 3—5

RESERVED

CD3:1

Chapter 6

ADVERTISING*

- Sec. 6-1. Unlawful advertising.
- Sec. 6-2. Injuring or defacing advertising.
- Sec. 6-3. Untrue, deceptive or misleading statements.

*Cross references—Businesses, ch. 26; using vehicles on streets for advertising or peddling, § 58-5.

State law reference—Outdoor advertising in sight of public highways, Code of Virginia, § 33.1-351 et seq.

Sec. 6-1. Unlawful advertising.

It shall be unlawful for any person in the town to post up any show bill, notice or advertisement, or brand, write, mark or paint any signs, letters or characters upon any building wall, fence or property without first obtaining the consent of the owner or agent of the owner of such property.

(Code 1950, ch. 10, § 3)

Sec. 6-2. Injuring or defacing advertising.

No person shall pull down, write on, cut, injure or deface any handbill, placard, advertisement or public notice of any kind lawfully posted in the town.

(Code 1950, ch. 10, § 4)

Sec. 6-3. Untrue, deceptive or misleading statements.

It shall be unlawful for any person in the town, with intent to sell or in anywise dispose of merchandise, securities, service or anything offered by such person, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, to make, publish, disseminate, circulate or place before the public, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular pamphlet or letter, billboard, sign, radio or television broadcast or electronic media, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which contains any assertion, representation or statement of fact which is untrue, deceptive or misleading.

(Code 1950, ch. 10, § 5)

Chapters 7—9

RESERVED

CD7:1

Chapter 10

ALCOHOLIC BEVERAGES*

Article I. In General

- Sec. 10-1. Profane swearing and intoxication in public; penalty; transportation of public inebriates to detoxification center.
Secs. 10-2—10-30. Reserved.

Article II. Beer and Wine

- Sec. 10-31. Definition.
Sec. 10-32. Lawful to manufacture, sell, etc.
Sec. 10-33. Local license required.
Sec. 10-34. Kinds of licenses.
Sec. 10-35. State license prerequisite to issuance.
Sec. 10-36. Sales to underage persons.
Sec. 10-37. Screens.
Sec. 10-38. Forfeiture of license.
Sec. 10-39. Sale of beer and wine on Sunday; penalty.

***Charter reference**—Certificate of good character required for liquor licenses, § 10.

Cross reference—Businesses, ch. 26.

State law references—Alcoholic Beverage Control Act, Code of Virginia, title 4.1; determining alcohol or drug content of blood, Code of Virginia, § 18.2-267 et seq.; incorporation by reference of certain offenses, traffic rules, etc., Code of Virginia, § 46.2-1313.

ARTICLE I. IN GENERAL

Sec. 10-1. Profane swearing and intoxication in public; penalty; transportation of public inebriates to detoxification center.

If any person profanely curses or swears or is intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature, he shall be deemed guilty of a class 4 misdemeanor. In any area in which there is located a court-approved detoxification center a law-enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to such detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center.

(Code 1950, ch. 10, § 23)

State law reference—Similar provisions, Code of Virginia, § 18.2-388.

Secs. 10-2—10-30. Reserved.

ARTICLE II. BEER AND WINE

Sec. 10-31. Definition.

The term "beverage" as used in this article shall mean beer, ale, porter, wine, similar fermented malt or vinous liquors, and fruit juice containing one-half of one per centum or more of alcohol by volume, and not more than three and two-tenths per centum of alcohol by weight.

(Code 1950, ch. 4, § 1)

Cross reference—Definitions generally, § 1-2.

Sec. 10-32. Lawful to manufacture, sell, etc.

It shall be lawful to manufacture, bottle, sell, offer for sale, distribute, carry, ship, transport, possess, drink, use, advertise, and dispense in the town beverages as defined in section 10-31, subject to the provisions, conditions and exceptions set forth in this article.

(Code 1950, ch. 4, § 2)

Sec. 10-33. Local license required.

No person in the town shall manufacture or bottle for sale, keep or store for sale, or sell or offer for sale beverages as defined in this article without first having obtained the licenses required under the provisions of this article.

(Code 1950, ch. 4, § 3)

Sec. 10-34. Kinds of licenses.

Licenses issued under authority of this article shall be as follows:

- (1) Manufacturer's licenses, which shall authorize the licensees to manufacture beverages to sell the beverages in barrels, bottles, or other closed containers to other persons for resale only.

- (2) Bottlers' license, which shall authorize the licensees to receive shipments of beverages in barrels or other closed containers, and to bottle and sell the beverages to other persons for resale only.
 - (3) Wholesalers' licenses, which shall authorize the licensees to sell beverages in barrels, bottles, or other closed containers to other persons for resale only.
 - (4) Retailer's licenses, which shall authorize the licensees to sell beverages at retail only and not to sell for resale.
- (Code 1950, ch. 4, § 4)

Sec. 10-35. State license prerequisite to issuance.

Licenses provided in this article shall be issued only to such persons as have previously secured the proper state licenses.
(Code 1950, ch. 4, § 5)

Sec. 10-36. Sales to underage persons.

No person licensed as a retailer under this article shall sell or serve any beverage defined in this article to any person under 21 years of age.
(Code 1950, ch. 4, § 6)

Sec. 10-37. Screens.

No person licensed as a retailer under this article shall sell, offer for sale, serve or permit the consumption of any beverages behind a screen or any other similar device in his place of business which may conceal such sale, offering for sale or consumption from the view of persons who may be in such place of business and not behind such screen or other similar device.
(Code 1950, ch. 4, § 7)

Sec. 10-38. Forfeiture of license.

No person licensed under the provisions of this article shall sell or promote any sale of any alcoholic beverages or liquors not included within the term "beverages" as defined in this article, on his premises or in connection with his business, unless otherwise permitted by law so to do. Upon conviction of a violation of this section such person shall, in addition to any punishment by law for such offense, forfeit any license issued to him under this article, and no other license shall be issued to him under this article within three years from the date of such forfeiture.
(Code 1950, ch. 4, § 8)

Sec. 10-39. Sale of beer and wine on Sunday; penalty.

It shall be unlawful for any person, corporate or natural, to sell or offer for sale or to employ another person to sell or offer for sale, any beer or wine, as defined by the Alcoholic Beverage Control Act (Code of Virginia, title 4.1), between the hours of 12:00 midnight each Saturday

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and 1:00 post meridian each Sunday and between the hours of 12:00 midnight on each Sunday and 6:00 ante meridian on each Monday, within the corporate limits of the town, and any person violating any of the provisions of this section shall be guilty of a class 1 misdemeanor. (Code 1950, ch. 4, § 9)

Chapters 11—13

RESERVED

CD11:1

Chapter 14

AMUSEMENTS AND ENTERTAINMENTS*

- Sec. 14-1. Carnivals and shows prohibited.
- Sec. 14-2. Poolrooms and bowling alleys—Closing hours.
- Sec. 14-3. Same—Minors not allowed on premises.

*Cross reference—Businesses, ch. 26.

State law references—Charitable gaming, Code of Virginia, § 18.2-340.15 et seq.; minors in public places of amusement, Code of Virginia, §§ 18.2-432, 40.1-100; public dancehalls, Code of Virginia, § 18.2-433.

Sec. 14-1. Carnivals and shows prohibited.

No carnivals or shows of like nature shall be held in the town unless approved by the council and duly licensed by the town.

(Code 1950, ch. 10, § 11)

Sec. 14-2. Poolrooms and bowling alleys—Closing hours.

It shall be unlawful for the owner or keeper of any public billiard or pool table or bowling alley in the town to keep his place of business open, or to suffer his billiard or pool tables to be used, between the hours of 12:00 a.m. and 6:00 a.m.

(Code 1950, ch. 10, § 34)

Sec. 14-3. Same—Minors not allowed on premises.

It shall be unlawful for any person in the town under 16 years of age to loaf or lounge in any poolroom or bowling alley, or for any keeper, proprietor or manager of any public poolroom or bowling alley to permit any such person under 16 years of age to loaf or lounge in such poolroom or bowling alley.

(Code 1950, ch. 10, § 35)

Chapters 15—17

RESERVED

CD15:1

Chapter 18

ANIMALS*

Article I. In General

- Sec. 18-1. Definitions.
- Sec. 18-2. Penalty.
- Sec. 18-3. Keeping livestock in town.
- Sec. 18-4. Livestock running at large.
- Sec. 18-5. Fowl running at large.
- Sec. 18-6. Dangerous or vicious animals.
- Sec. 18-7. Cruelty to animals; penalty.
- Sec. 18-8. Fighting cocks or other animals; attendance at fighting; penalty.
- Sec. 18-9. Disposition of dead animals.
- Sec. 18-10. Impounded animals.
- Secs. 18-11—18-30. Reserved.

Article II. Dogs

Division 1. Generally

- Sec. 18-31. Female dogs in heat.
- Sec. 18-32. Unlicensed dogs at large.
- Secs. 18-33—18-50. Reserved.

Division 2. Dangerous Dogs

- Sec. 18-51. Definitions.
- Sec. 18-52. Issuance of summons; confinement of dangerous or vicious dog; hearing; euthanasia.
- Sec. 18-53. Exceptions.
- Sec. 18-54. Dangerous dog registration certificate; fees; collar and tag required.
- Sec. 18-55. Conditions for certificates or renewals.
- Sec. 18-56. Confinement of dangerous animal; leash and muzzle required when off owner's property.
- Sec. 18-57. Responsibility of custodial parent or legal guardian.
- Sec. 18-58. Notifications to local animal control authority.

*Charter reference—Enumeration of powers, § 7.

Cross references—Environment, ch. 30; health and sanitation, ch. 38.

State law references—Livestock and poultry, Code of Virginia, § 3.1-723 et seq.; comprehensive animal laws, Code of Virginia, § 3.1-796.66 et seq.; general authority of town to regulate animals and fowl, Code of Virginia, § 3.1-796.94:1(B); cruelty to animals, Code of Virginia, § 3.1-796.122 et seq.; dogs and cats deemed personal property, rights relating thereto, Code of Virginia, § 3.1-796.127; penalties for offenses involving animals, Code of Virginia, § 3.1-796.128, 18.2-403.1 et seq.; diseased animals, dead animals, etc., Code of Virginia, §§ 18.2-323, 18.2-510; game, inland fisheries and boating, Code of Virginia, title 29.1; hunting near public schools and public parks, Code of Virginia, § 29.1-527; estrays, Code of Virginia, § 55-202 et seq.

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- Sec. 18-59. Penalty for failure to comply with division.
Sec. 18-60. Disposition of fees.
Sec. 18-61. Neutering or spaying required for issuance of certificates or renewals; insurance.
Sec. 18-62. Determination by animal control officer; appeal.

ARTICLE I. IN GENERAL

Sec. 18-1. Definitions.

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

Livestock means all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in Code of Virginia, § 3.1-73.6; enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 3.1-796.66.

Sec. 18-2. Penalty.

Except as otherwise provided in this chapter, any person who violates any provision of this chapter shall be guilty of a class 4 misdemeanor.

Sec. 18-3. Keeping livestock in town.

(a) *Permit required.* It shall be unlawful for any person to keep livestock stabled or penned in the town without a permit from the town so to do, which shall designate the location at which such stable or pen shall be located and the number of animals to be kept at such location. Any person aggrieved by the refusal of the town to grant the permit required herein may appeal such action to the council for final determination.

(b) *Suspension of permit for nuisance.* Whenever any condition or restriction attached to such permit is violated, or the manner in which such stable or pen is kept constitutes a nuisance or is offensive or a menace to the public health in the opinion of the state health officer for the county, such permit shall be suspended by the town.
(Code 1950, ch. 3, § 1)

Sec. 18-4. Livestock running at large.

No person shall permit his livestock to run at large in the town. Livestock going to or from pasture shall not be deemed to be running at large if attended by the owner thereof or the person furnishing pasture, or the employee of either.
(Code 1950, ch. 3, § 2)

Sec. 18-5. Fowl running at large.

No fowl shall be permitted to run at large in the town.
(Code 1950, ch. 3, § 3)

Sec. 18-6. Dangerous or vicious animals.

(a) *Keeping dangerous or vicious animals prohibited.* If any person permits any dangerous or vicious animal owned or kept by him to go at large, with or without a license, he shall be guilty of a violation of this Code, and such animal shall be killed by order of the town manager if, after two days notice from the town manager, such animal is not removed beyond the corporate limits of the town by the owner thereof.

(b) *Complaint of vicious animal.* A complaint that any animal is a vicious animal shall be made to the town manager, who shall issue a warrant summoning the owner of the animal to appear within two days to answer the charge of permitting a vicious animal to be at large.

(c) *Hearing.* The town manager shall hear the evidence presented and determine thereupon whether or not the party summoned is the owner of a vicious animal.

(d) *Determination of ownership.* The occupant of any lot or premises on which any vicious animal shall be harbored for a period of five days shall be deemed the owner of the animal.

(e) *Applicability to dogs.* This section shall not be applicable to dogs.
(Code 1950, ch. 3, § 6)

Sec. 18-7. Cruelty to animals; penalty.

(a) *Cruelty prohibited; penalty.* Any person who (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of these things, or being the owner of such animal permits such acts to be done by another, shall be guilty of a class 1 misdemeanor.

(b) *Dehorning of cattle.* Nothing in this section shall be construed to prohibit the dehorning of cattle.

(c) *Definition of animal.* For the purposes of this section the term "animal" shall be construed to include birds and fowl.

(d) *Applicability to hunting, fishing and trapping.* This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including, but not limited to Code of Virginia, title 29.1, or to farming activities as provided under this title or regulations promulgated thereto.

(e) *Court ordered counseling.* In addition to the penalties provided in subsection (a) of this section, the court may, in its discretion, require any person convicted of a violation of subsection (a) of this section to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

(f) *Killing of domestic dog or cat for fur or hide prohibited.* It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection shall constitute a class 1 misdemeanor.

(g) *Ownership prohibition.* Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.
(Code 1950, ch. 3, § 7)

State law reference—Similar provisions, Code of Virginia, § 3.1-796.122.

Sec. 18-8. Fighting cocks or other animals; attendance at fighting; penalty.

(a) *Engaging in and wagering on animal fights.* Any person engaging in the fighting of cocks or other animals, except dogs, for money, prize or anything of value, or betting or wagering money or anything of value on the result of such fight, shall be guilty of a class 3 misdemeanor.

(b) *Attendance at fighting of animal.* Attendance at the fighting of cocks or other animals, except dogs, where an admission fee is charged, directly or indirectly, shall constitute a class 3 misdemeanor.

(c) *Attendance at fighting of dogs.* Attendance at an exhibition of the fighting of dogs shall constitute a class 1 misdemeanor.
(Code 1950, ch. 10, § 17)

State law reference—Similar provisions, Code of Virginia, § 3.1-796.125.

Sec. 18-9. Disposition of dead animals.

(a) *Depositing dead animals on public property prohibited; burial.* It shall be unlawful for any person to deposit any dead animal upon any street, sidewalk, or any other public property in the town. The owner of any animal which dies in the town shall cause the carcass to be carried beyond the limits of the town and buried in some suitable place at least two feet beneath the ground.

(b) *Disposal of animal carcass found on public property.* If the dead carcass of any animal is found upon any street, sidewalk or other public property in the town, and the owner or custodian of such animal cannot be determined, the chief of police or a police officer shall cause the carcass to be buried as provided in this section at the expense of the town.
(Code 1950, ch. 3, § 8)

Sec. 18-10. Impounded animals.

(a) *Confinement period; identification of animal; expenses.* An animal impounded pursuant to this chapter shall be kept for a period of not less than five days, such period to commence on the day immediately following the day the animal is initially confined, unless sooner claimed by the rightful owner thereof. The operator or custodian of the pound shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next 48 hours following its confinement. If any animal confined pursuant to this section is claimed by its rightful owner, such owner may be charged with the actual expenses incurred in keeping the animal impounded.

(b) *Humane destruction or disposition of animal.* If an animal confined pursuant to this section has not been claimed upon expiration of the appropriate holding period as provided by subsection (a) of this section, it shall be deemed abandoned and become the property of the pound. Such animal may be humanely destroyed or disposed of by the methods set forth in subsections (b)(1) through (b)(5) of this section. No pound shall release more than two animals or a family of animals during any 30-day period to any one person under subsections (b)(2), (b)(3) or (b)(4) of this section.

- (1) Release to any humane society, animal shelter, or other releasing agency within the commonwealth, provided that each humane society, animal shelter, or other releasing agency obtains a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment and updates such statements as changes occur;
- (2) Adoption by a resident of the county or city for which the pound is operated and who will pay the required license fee, if any, on such animal, provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;
- (3) Adoption by a resident of an adjacent political subdivision of the commonwealth, provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;
- (4) Adoption by any other person, provided that such person has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment, and provided that no animal may be adopted by any person who is not a resident of the county or city for which the pound is operated, or of an adjacent political subdivision, unless the animal is first sterilized, and the pound may require that the sterilization be done at the expense of the person adopting the animal; or
- (5) Release for the purposes of adoption or euthanasia only, to an animal shelter, or any other releasing agency located in and lawfully operating under the laws of another

state, provided that such animal shelter, or other releasing agency: (i) maintains records that would comply with Code of Virginia, § 3.1-796.105; (ii) requires that adopted dogs and cats be sterilized; (iii) obtains a signed statement from each of its directors, operators, staff, and animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and updates such statement as changes occur; and (iv) has provided to the pound, animal shelter, or other releasing agency within the Commonwealth a statement signed by an authorized representative specifying the entity's compliance with clauses (i) through (iii), and the provisions of adequate care and performance of humane euthanasia, as necessary in accordance with the provisions of this chapter.

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

(c) *Euthanasia of critically injured, critically ill or unweaned animal.* Nothing in this section shall prohibit the immediate euthanasia of a critically injured, critically ill, or unweaned animal for humane purposes. Any animal euthanized pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the state veterinarian.

(d) *Owner's signed consent to immediate euthanasia.* Nothing in this section shall prohibit the immediate euthanasia or disposal by the methods listed in subsections (b)(1) through (b)(5) of this section of an animal that has been released to a pound, animal shelter, other releasing agency, or animal control officer by the animal's rightful owner after the rightful owner has read and signed a statement (i) surrendering all property rights in such animal, (ii) stating that no other person has a right of property in the animal, and (iii) acknowledging that the animal may be immediately euthanized or disposed of in accordance with subsections (b)(1) through (b)(5) of this section.

(e) *Feral dogs or cats posing risk of injury.* Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or other form of identification which, based on the written statement of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, from being euthanized after being kept for a period of not less than three days, at least one of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The statement of the disinterested person shall be kept with the animal as required by Code of Virginia, § 3.1-796.105. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal.

(f) *Definitions.* For purposes of this section:

Animal shall not include agricultural animals.

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

State law reference—Similar provisions, Code of Virginia, § 3.1-796.96.

Secs. 18-11—18-30. Reserved.

ARTICLE II. DOGS

DIVISION 1. GENERALLY

Sec. 18-31. Female dogs in heat.

It shall be unlawful for any person who owns or is in possession of a female dog to allow the female dog, during the erotic season, to run at large in the town. If the owner or possessor of any such animal is not known to the chief of police, or being known, fails to fasten up such animal during each period, either before or after a conviction for a violation of this section, after having been notified by the chief of police so to do, such animal shall be impounded. (Code 1950, ch. 3, § 4)

Sec. 18-32. Unlicensed dogs at large.

It shall be unlawful for any dog required by law to be licensed to run at large in the town without being so licensed, and the chief of police or such other person as may be designated by the town manager may impound any dog found at large in the town in violation of this section. (Code 1950, ch. 3, § 5)

Secs. 18-33—18-50. Reserved.

DIVISION 2. DANGEROUS DOGS*

Sec. 18-51. Definitions.

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

Dangerous dog means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal, or killed a companion animal; however, when a dog attacks or bites another dog, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the other dog as a result of the attack or bite or (ii) both dogs are owned by the same person. No dog shall be found to be a dangerous dog as a result of biting, attacking or inflicting injury on another dog while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

Vicious dog means a canine or canine crossbreed that has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior

*State law reference—Dangerous dogs, Code of Virginia, § 3.1-796.93:1.

CHAPTER 18 ANIMALS

ARTICLE I. IN GENERAL

(adopted 04-10-07)

Add

Sec. 18-11. Allowing animals to defecate on public property or property of another. "Stoop and Scoop Law"

It shall be unlawful for any person knowingly or willingly to allow any animal belonging to that person to defecate on any public property, or the property of another without the consent of the owner of the property or his agent, provided that it shall not be unlawful to allow defecation by such animal within the curb or gutter area of a public street or roadway, and provided that defecation by an animal on public property shall not be unlawful if the owner of the animal removes the animal's excrement immediately and disposes of it in a public trash receptacle or on the owner's own property in a lawful manner.

Add

Sec. 18-12. Animals causing unsanitary conditions or odors.

It shall be unlawful for any person who owns, keeps, or controls any animal to keep that animal in such a manner as to cause offensive odors beyond the boundary of that person's own property.

Add

Sec. 18-13. Permitting animals to trespass.

It shall be a Class 4 misdemeanor for any person who owns, keeps, or controls any animal to allow any such animal to go upon the premises of another person after being requested by the owner or tenant of any premises not to permit the animal to trespass upon such premises. The defendant may enter a written appearance, waiver of court hearing and plea of guilty, and pay a fine of \$20.00 plus court costs. A court hearing may not be waived if the animal did more than \$10.00 worth of damage to property.

Add

Sec. 18-14. Noisy animals.

- (a) It shall be unlawful for any person to allow within the town prolonged or intense barking or other harsh or excessive noises to be made by any dog or animal under his ownership or control, at any time, so as to disturb the quiet, comfort, or repose of one or more members of the community.
- (b) For the purpose of this section, a harsh or excessive dog or animal noise is one which disturbs the quiet, comfort, or repose of a reasonable person with normal sensitivities.
- (c) For the purpose of this section, a person shall be deemed to have allowed his dog or animal to bark or create other harsh or excessive noises if he has once been put on notice by the police department or the animal control officer that the animal is

disturbing one or more members of the community and he thereafter fails to confine such animal inside his dwelling unit or other enclosed structure or take similar action calculated to terminate such disturbance. It shall not be necessary for the police department or animal control officer to issue a new notice for each repeated occurrence.

- (d) It shall be a Class 4 misdemeanor for any person who owns, keeps, or controls any animal to allow his dog or animal to bark or create other harsh or excessive noises if he has once been put on notice by the police department or the animal control officer that the animal is disturbing one or more members of the community. The defendant may enter a written appearance, waiver of court hearing and plea of guilty, and pay a fine of \$20.00 plus court costs.
- (e) Notwithstanding the provisions of subsections (a) through (d) of this section, harsh or excessive dog or animal noise emanating from any commercial kennel established prior to the development of any residential property upon which such sounds may be audible shall not be considered noises in violation of this section.

Secs. 18-15--18-30. Reserved.

that resulted in a previous finding by a court or an animal control officer as authorized by local ordinance pursuant to the provisions of section 18-62, that it is a dangerous dog, provided that its owner has been given notice of that finding.

Cross reference—Definitions generally, § 1-2.

Sec. 18-52. Issuance of summons; confinement of dangerous or vicious dog; hearing; euthanasia.

Any animal control officer who has reason to believe that a canine or canine crossbreed within his 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 a 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 such 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 may permit the owner or custodian to confine the animal until such 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 this division. 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 Code of Virginia, § 3.1-796.119.

Sec. 18-53. Exceptions.

No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the local governing body prohibit the ownership of a particular breed of canine or canine crossbreed. 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 (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian, or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that 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.

Sec. 18-54. Dangerous dog registration certificate; fees; collar and tag required.

The owner of any animal found to be a dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the local animal control officer for a fee of \$50.00 or an amount as set by local ordinance but not to exceed the costs incurred by the locality to administer this program, 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 that 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.

Sec. 18-55. Conditions for certificates or renewals.

All certificates or renewals thereof required to be obtained under this division shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, and (ii) that 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. 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 (i) 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 (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

Sec. 18-56. Confinement of dangerous animal; leash and muzzle required when off owner's property.

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 such 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.

Sec. 18-57. Responsibility of custodial parent or legal guardian.

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.

Sec. 18-58. Notifications to local animal control authority.

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 (i) is loose or unconfined; (ii) bites a person or attacks another animal; (iii) is sold, given away, or dies; or (iv) has been moved to a different address.

Sec. 18-59. Penalty for failure to comply with division.

The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this division shall be guilty of a class 1 misdemeanor.

Sec. 18-60. Disposition of fees.

All fees collected pursuant to this division, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this division, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under Code of Virginia, § 3.1-796.104:1.

Sec. 18-61. Neutering or spaying required for issuance of certificates or renewals; insurance.

(a) *Neutering or spaying required.* All certificates or renewals thereof required to be obtained under this division shall only be issued to persons 18 years of age or older who present satisfactory evidence that the animal has been neutered or spayed.

(b) *Insurance.* 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 \$100,000.00, that covers animal bites.

Sec. 18-62. Determination by animal control officer; appeal.

Notwithstanding the provisions of section 18-52, an 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 may order the animal's owner to comply with the provisions of this division. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits.

Chapters 19—21

RESERVED

CD19:1

Chapter 22

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

- Sec. 22-1. Commercial building prohibited in residence districts.
- Sec. 22-2. When toilet facilities required generally.
- Sec. 22-3. Requirements for apartment buildings.
- Sec. 22-4. Location of buildings in residence district.
- Sec. 22-5. Materials to be used for construction in business districts.
- Sec. 22-6. When buildings to have main entrances facing street.
- Sec. 22-7. Violations of chapter.
- Sec. 22-8. Camping trailers.
- Sec. 22-9. Residential building permits.
- Secs. 22-10—22-30. Reserved.

Article II. Building Permit

- Sec. 22-31. When building permit required.
- Sec. 22-32. Application.
- Sec. 22-33. Issuance; approval of chief of police; appeal.
- Sec. 22-34. Failure to begin or continue work.
- Secs. 22-35—22-60. Reserved.

Article III. Unsafe Buildings

- Sec. 22-61. Authority to require removal, repair, etc., of buildings and other structures.

*Charter reference—Enumeration of powers, § 7.

Cross references—Environment, ch. 30; fire prevention and protection, ch. 34; solid waste, ch. 54; streets, sidewalks and other public places, ch. 58; utilities, ch. 70; zoning, app. A; nonconforming uses, app. A, art. 7; subdivisions, app. B.

State law references—Access to and use of buildings by disabled, Code of Virginia, § 2.2-1159; removal, repair, etc., of buildings and other structures, Code of Virginia, § 15.2-906 et seq.; light, ventilation, sanitation, use and occupancy of buildings, Code of Virginia, § 15.2-1117; ordinance regulating the building of houses, Code of Virginia, § 15.2-2279; limitation of prosecutions of building code violations, Code of Virginia, § 19.2-8; Virginia Industrialized Building Safety Law, Code of Virginia, § 36-70 et seq.; Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.; effect of building code on other building regulations, Code of Virginia, § 36-98; provisions of building code, Code of Virginia, § 36-99; enforcement of building code, appeals from decisions of local building department, inspection of buildings, inspection warrants, Code of Virginia, § 36-105; voluntary apprenticeship, Code of Virginia, § 40.1-117 et seq.; contractors, Code of Virginia, § 54.1-1100 et seq.; local licensing of certain contractors, Code of Virginia, § 54.1-1117.

ARTICLE I. IN GENERAL

Sec. 22-1. Commercial building prohibited in residence districts.

No building or structure to be used for business or commercial purposes shall be erected after June 6, 1939, in residence district of the town, as determined by the zoning ordinances of the town, and no business or commercial enterprise not operated in such district on such date shall be operated therein thereafter; provided, that a doctor's or physician's office may be constructed, built and operated as such in the town in a residential district, as well as in a business district.

(Code 1950, ch. 5, § 5)

Sec. 22-2. When toilet facilities required generally.

Every house used as a human habitation, every building operating a wholesale or retail mercantile business, every warehouse, every public building, every recreation or tourist camp, transient lodginghouse, trailer camp, or other place where human beings congregate or are employed in the town, shall be provided by the owner thereof with toilet facilities deemed adequate by the state health officer for the county.

(Code 1950, ch. 5, § 6)

Sec. 22-3. Requirements for apartment buildings.

(a) *General requirements.* It shall be unlawful for any person to construct, repair or alter any building in the town for the purpose of making the building into apartments for the housing of people unless each such apartment has a private and separate water closet in which shall be located a wash basin, a bathtub, or shower bath, and a toilet or commode, all of which shall be connected to running water; such toilet or commode to be connected by a sewer pipe either to the public sewer line of the town or to a septic tank with a drainage area adequate to dispose of the waste drained or to be drained into the sewer pipe in a sanitary manner, which shall meet the requirements and specifications provided by the state board of health and shall be approved by the state health office for the county.

(b) *Occupancy of apartment in violation of section prohibited.* It shall be unlawful for any person to rent or lease, or to offer for rent or lease, or to live in or occupy any apartment which is constructed, repaired or altered so as to violate the provisions of this section.

(Code 1950, ch. 5, § 7)

Sec. 22-4. Location of buildings in residence district.

It shall be unlawful for any person to construct, assist in the construction of, or cause or permit to be constructed on property situated in a residential district of the town within ten feet of any property line which separates such property from the private property of any other

person, any building having an area of more than 400 square feet; provided, that any building destroyed by fire or act of God may be replaced at the same location, regardless of the provisions of this section.

(Code 1950, ch. 5, § 8)

Sec. 22-5. Materials to be used for construction in business districts.

It shall be unlawful for any person to erect any business building in a business district of the town unless the outside walls of such building consist of brick, tiling, terracotta, stone or cement not less than four inches thick, and unless the roof of such building is composed of some noncombustible or combustion-resistant material.

(Code 1950, ch. 5, § 9)

Sec. 22-6. When buildings to have main entrances facing street.

It shall be unlawful for any person to construct, cause to be constructed, or permit to be constructed on his property in the town, any building built, designed or intended for residential purposes within 150 feet of Mountain Road Street, Main Street, Church Street, or Maple Avenue, or any other street which has been made a part of the street system of the town by the council, unless such building fronts on and has its main and front entrance facing on such streets. It is the intent of this section that porches or any other appendages to buildings shall be considered a part thereof.

(Code 1950, ch. 5, § 10)

Sec. 22-7. Violations of chapter.

No person shall be entitled to purchase water from the town for use in any building erected, altered or used in violation of any of the terms of this chapter, and the imposition of a penalty for any such violation shall not be deemed to excuse the violation or to permit it to continue, but the town may at any time cause the removal of any building constructed in violation of this chapter.

(Code 1950, ch. 5, § 13)

Sec. 22-8. Camping trailers.

No camping trailer or other similar vehicle intended for temporary resident shall be parked or placed within the corporate limits of the town for more than 24 hours unless the following conditions are met:

- (1) It is to provide emergency housing for an immediate member of the family (i.e. mother, father, son or daughter) or a resident of the town.
- (2) All property owners, and/or renters, within 1,000 feet in all directions from the proposed site, sign a statement, solicited by an authorized town official, that they do not object to the trailer being parked.
- (3) All trailers shall be parked to the rear, and directly behind, where a dwelling house is located and occupied.

- (4) No trailer is to be permitted on empty or separately assessed lots.
 - (5) No permit to park a trailer shall be issued for more than 12 consecutive months.
 - (6) If water and sewer lines are connected to town through the residence where the trailer is parked, double minimums will apply.
 - (7) State department of health regulations will be met.
 - (8) A special trailer fee, in addition to regular taxes, of \$6.00 per month shall be payable a year in advance, or for the period of the permit.
 - (9) The renewal of a permit to park the trailer at the end of the 12-month period, shall be contingent on meeting the above mentioned eight conditions, i.e., treated as the issuance of a new permit.
- (Code 1950, ch. 5, § 14)

Sec. 22-9. Residential building permits.

(a) *Building permit requirements.* The following requirements shall be necessary to obtain a building permit for residential building within the corporate limits of the town:

- (1) All residential dwellings must be erected on a lot not less than 75 feet in width at the front, and the total square footage of the lot shall not be less than 15,000 square feet. No dwelling house shall be built closer than ten feet from any property line, and no accessory building shall be closer than three feet from any property line.
- (2) All buildings must comply with the water and sewer regulations of the state public health department.
- (3) The value of the proposed residential building must not be less than 90 percent of the value of houses located within 300 feet of the property lines of the residence being built. The builder must comply with both of these figures.

(b) *Appraised value under certain circumstances.* In subsection (a) of this section, if there is only one house immediately adjoining, or within 300 feet of the property line of the house to be built, its' appraised value shall be used to determine the 90 percent figure. Also, the appraised value of the houses already built shall be determined from the last county assessed values. The value of the house being built will be subject to the certification by the contractor.

(Code 1950, ch. 5, § 15)

Secs. 22-10—22-30. Reserved.

ARTICLE II. BUILDING PERMIT

Sec. 22-31. When building permit required.

Before the excavation for, or the erection or construction of any building, wall or structure, or any part thereof in the town shall be started, and before any building or structure shall be moved, altered or demolished, where the total value of such building, wall or structure will be

in excess of \$50.00, an application for a permit for such erection, construction, moving, alteration or demolition shall be made to the town manager by the owner or his authorized agent. It shall be unlawful for any person to begin the excavation for, or erection, construction, alteration, moving or demolishing of, any building, wall or structure, or part thereof, until a proper permit has been issued therefor.

(Code 1950, ch. 5, § 1)

Sec. 22-32. Application.

The application for the permit required by the preceding section shall be made on forms furnished by the town manager and shall contain such information as is called for in the forms and any additional information that may be requested by the town manager. In the application there shall be set forth with certainty the proposed building line with reference to the street, the character of the building and its size and type of construction, and the purpose for which the building is to be occupied or used.

(Code 1950, ch. 5, § 2)

Sec. 22-33. Issuance; approval of chief of police; appeal.

When the application for a permit is in compliance with all ordinances of the town governing the permit, the town manager shall issue the permit, except in cases where the approval of the council is required, in which case the town manager shall present the application to the council. The town manager shall issue no permit for any building, wall or structure, or part thereof, until the building, wall or structure has been approved by the chief of police as to the street line and grade and availability of water and sewer facilities. Any person aggrieved by the refusal of the town manager to grant the permit required in this chapter may appeal such action to the council for final determination.

(Code 1950, ch. 5, § 3)

Sec. 22-34. Failure to begin or continue work.

Every permit shall be considered canceled if active work is not commenced within 60 days from the date issued and continued with due diligence to completion.

(Code 1950, ch. 5, § 4)

Secs. 22-35—22-60. Reserved.

ARTICLE III. UNSAFE BUILDINGS*

Sec. 22-61. Authority to require removal, repair, etc., of buildings and other structures.

(a) *Abatement procedure.* All buildings or structures or premises which are unsafe, unsanitary, or which constitute a fire hazard, or are otherwise dangerous to the health, safety, or the general welfare of the public, or which by reason of inadequate maintenance,

*Cross reference—Environment, ch. 30.

dilapidation, obsolescence or abandonment, are, severally in contemplation of this section, unsafe premises. All such unsafe buildings are declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the following procedure:

- (1) The town through its own agents or employees may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the town, if the owner and lien holder of such property after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure the building, wall or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by the town to remove, repair or secure any building, wall or other structure for at least 30 days following the later of the return of the receipt or newspaper publication.
- (2) If necessary, such notice shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected, and approved by the code enforcement officer. The code enforcement officer shall cause to be posted at each entrance to any unsafe building a notice: "THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE ENFORCEMENT OFFICER." Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents, or other servants, to remove such notice without written permission of the code enforcement officer, or for any person to enter the building except for the purpose of making the required repairs or of demolishing the building.
- (3) The owner, agent or person in control shall have the right, except in cases of emergency, to appeal from the decision of the code enforcement officer, as provided in this section, and to appear before the town council at a specified time and place to show cause why he should not comply with such notice.
- (4) In case the owner, agent, or person in control cannot be found within the stated time limit, or if such owner, agent or person in control shall fail, neglect, or refuse to comply with notice to repair, rehabilitate or remove hazards to human life from premises or repair, improve, or demolish and remove any unsafe building or structure or portion thereof, the code enforcement officer, after having competitively ascertained the cost, shall cause such building, structure, premises or portion thereof to be repaired, improved, vacated, demolished or removed.
- (5) The decision of the code enforcement officer shall be final in cases of emergency which, in his opinion, involve imminent danger to human life or health. The code enforcement officer shall promptly cause any unsafe premises, building, structure, or portion

thereof to be made safe or removed. For this purpose the code enforcement officer may at once enter such structures, with such assistance and at such cost as he may deem necessary. The code enforcement officer may vacate adjacent structures and protect the public by appropriate fence or such other means as may be necessary, and for this purpose may close a public or private way.

(b) *Unpaid charges to become lien.* Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, §§ 58.1-3940 et seq. and 58.1-3965 et seq. The town may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.
(Code 1950, ch. 5, § 1A)

State law reference—Similar provisions, Code of Virginia, § 15.2-906.

Chapters 23—25

RESERVED

CD23:1

Chapter 26

BUSINESSES*

Article I. In General

- Sec. 26-1. Business hours.
- Sec. 26-2. Closing hours for restaurants, cafes, etc.
- Sec. 26-3. Weights and measures.
- Secs. 26-4—26-30. Reserved.

Article II. Licenses

- Sec. 26-31. License requirement.
- Sec. 26-32. Due dates and penalties.
- Sec. 26-33. Situs of gross receipts.
- Sec. 26-34. Limitations and extensions.
- Sec. 26-35. Appeals and rulings.
- Sec. 26-36. Recordkeeping and audits.
- Sec. 26-37. Rate of license taxes.
- Sec. 26-38. Certain public service corporations.
- Sec. 26-39. Proof of gross receipt.
- Sec. 26-40. Other license taxes.
- Sec. 26-41. Operating business without license.

***Charter references**—Enumeration of powers, § 7; occupation licenses and taxes, § 12.

Cross references—Advertising, ch. 6; alcoholic beverages, ch. 10; amusements and entertainments, ch. 14; peddlers and solicitors, ch. 50; general commercial district C-1, app. A, art. 5; industrial; limited, district M-1, app. A, art. 6.

State law references—Sale of ice cream and similar products, state preemption, Code of Virginia, § 3.1-562.4; going out of business sales, Code of Virginia, §§ 18.2-223, 18.2-224; local licensing of bail bondsmen, Code of Virginia, § 19.2-152.1; professions and occupations, Code of Virginia, title 54.1; local regulation of precious metals dealers, Code of Virginia, § 54.1-4111; records of firearms dealers, Code of Virginia, § 54.1-4200 et seq.; local license taxes, Code of Virginia, § 58.1-3700 et seq.; enforcement, collection, refunds, remedies and review of local taxes, Code of Virginia, § 58.1-3900 et seq.

ARTICLE I. IN GENERAL

Sec. 26-1. Business hours.

(a) *Closing hours generally; inspection.* All business enterprises and establishments and all private and public clubs operating in the business districts of the town shall be closed and shall not be open or in operation in any way from 2:00 a.m. until 5:00 a.m. of each day, except that pool and billiard parlors shall be closed from 10:00 p.m. until 5:00 a.m. each day; and if any of such business enterprises or establishments, or private or public clubs are operated after 10:00 p.m., they shall be open to regular police inspection by the police officers of the town, and any other state or county police officers who may accompany them, at any time between 10:00 p.m. and 12:00 midnight, upon request of a police officer of the town.

(b) *Failure to allow inspection.* A failure to permit such officer or officers, upon request as provided in subsection (a) of this section, to enter and inspect such business establishments and enterprises and such private and public clubs, between the hours of 10:00 p.m. and 12:00 midnight, and a failure to close as provided in subsection (a) of this section shall be deemed violations of this section and punishable as such.

(c) *Separate offenses.* Each day that such violation exists shall be deemed a separate violation and shall be punishable as such.

(d) *Persons participating in violation.* All persons participating in the controlling and/or operation of such business enterprises and establishments and private and public clubs, and the employees engaged therein, shall be deemed to be in violation of this section if they in any way knowingly participate in the operation during such forbidden hours, or fail to permit police inspection.

(e) *Penalty for violation.* Each violation of this section shall be punishable by a fine of from \$10.00 to \$100.00 and/or confinement in jail from ten to 30 days.

(f) *Repeated violations.* In the event of three or more violations of this section by persons in connection with any one business enterprise or establishment, or any one private or public club, within one year, such enterprise, establishment or club shall be deemed a public nuisance and the license to operate the enterprise, establishment or club shall be revoked for the remainder of the calendar year.

(g) *Exceptions to section.* The following are not subject to this section:

- (1) Unattended coin-operated laundries and other coin-operated devices and machines, when unattended;
 - (2) Twenty-four-hour pharmacies and groceries.
- (Code 1950, ch. 10, § 55)

Sec. 26-2. Closing hours for restaurants, cafes, etc.

All restaurants, cafes and eating-houses in the town shall close at 2:00 a.m., on Saturday night and shall not reopen until 5:00 a.m. the following Sunday morning.
(Code 1950, ch. 10, § 16)

Sec. 26-3. Weights and measures.

No person shall sell or exchange, or offer or expose for sale or exchange in the town, any commodity as of specified weight or quantity without having proper weights and measures for the purpose of weighing or measuring the commodity, nor unless the actual weight or quantity so sold, exchanged, offered or exposed, shall be as great as that represented, pretended, indicated or claimed. The owner, proprietor or custodian of every balance, weight, measure or weighing device in the town shall permit the town manager or inspectors designated by him to inspect and test the balance, weight, measure or weighing device at any reasonable time such officers may desire to do so. In addition to any other penalty provided by law for a violation of this section, upon conviction, the license of a person to do business in the town may, in the discretion of the town manager, be revoked.
(Code 1950, ch. 10, § 49)

Secs. 26-4—26-30. Reserved.

ARTICLE II. LICENSES***Sec. 26-31. License requirement.**

Every person shall apply for a license for each business or profession when engaging in a business in this jurisdiction if (i) the person has a definite place of business in this jurisdiction; (ii) there is no definite place of business anywhere and the person resides in this jurisdiction; or (iii) there is no definite place of business in this jurisdiction but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to Code of Virginia, § 58.1-3715, or public service corporation. A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:

- (1) Each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction;

*State law reference—Uniform license ordinance provisions, Code of Virginia, § 58.1-3703.1.

- (2) All of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and
- (3) The taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

Sec. 26-32. Due dates and penalties.

(a) *License application generally.* Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in this jurisdiction on or before January 1 of the license year, or no later than March 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the assessing official.

(b) *Payment of tax.* The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1 or a later date, including installment payment dates, or 30 or more days after beginning business, at the locality's option.

(c) *Extension of time.* The assessing official may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ten percent of the portion paid after the due date.

(d) *Penalty for failure to file.* A penalty of ten percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the treasurer or other collecting official may impose a ten percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the official who assessed such penalties. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control. The term "acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to

remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered. The term "events beyond the taxpayer's control" includes, but is not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(e) *Interest on late payments.* Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and any penalties charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any BPOL tax from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Code of Virginia, § 58.1-3916. No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

Sec. 26-33. Situs of gross receipts.

(a) *General rule.* Whenever the tax imposed by this article is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within this jurisdiction. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

- (1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of Code of Virginia, § 58.1-3715;
- (2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries

of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the state department of taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality;

- (3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then to the definite place of business at which the rental of such property is managed; and
- (4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements.* The assessor may enter into agreements with any other political subdivision of the state concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the state department of taxation pursuant to Code of Virginia, § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of Code of Virginia, § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

Sec. 26-34. Limitations and extensions.

(a) *Generally.* Where before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this article, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) *Assessment in certain cases.* Notwithstanding Code of Virginia, § 58.1-3903, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.

(c) *Period for collection.* The period for collecting any local license tax shall not expire prior to the period specified in Code of Virginia, § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to this subdivision of the ordinance, two years after the final determination of an appeal for which collection has been stayed pursuant to section 26-35(b) or section 26-35(d), or two years after the final decision in a court application pursuant to Code of Virginia, § 58.1-3984 or a similar law for which collection has been stayed, whichever is later.

Sec. 26-35. Appeals and rulings.

(a) *Application for appeal; review of claim.* Any person assessed with a local license tax as a result of an appealable event as defined in this section may apply within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, to the assessor for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an appealable event shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed).

(b) *Suspension of collection activity until final determination.* Provided a timely and complete application is made, collection activity shall be suspended until a final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of section 26-32(e), but no further penalty shall be imposed while collection action is suspended. The term "jeopardized

by delay" includes a finding that the application is frivolous, or that a taxpayer desires to (i) depart quickly from the locality, (ii) remove his property therefrom, (iii) conceal himself or his property therein, or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(c) *Application for correction of assessment.* Any person assessed with a local license tax as a result of a determination, upon an application for correction pursuant to subsection (a) of this section, that is adverse to the position asserted by the taxpayer in such application may apply within 90 days of the determination by the assessing official to the tax commissioner for a correction of such assessment. The tax commissioner shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The application shall be treated as an application pursuant to Code of Virginia, § 58.1-1821, and the tax commissioner may issue an order correcting such assessment pursuant to Code of Virginia, § 58.1-1822. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to Code of Virginia, § 58.1-3984. However, the burden shall be on the party making the application to show that the ruling of the tax commissioner is erroneous. Neither the tax commissioner nor the state department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

(d) *Collections jeopardized by delay.* On receipt of a notice of intent to file an appeal to the tax commissioner under subsection (c) of this section, the assessing official shall further suspend collection activity until a final determination is issued by the tax commissioner, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of section 26-32(e), but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in subsection (b) of this section.

(e) *Request for written ruling.* Any taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the state department of taxation upon which the ruling was based or (ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(f) *Appealable event.* For purposes of this section, "appealable event" means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the local

assessing official's (i) examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment, (ii) determination regarding the rate or classification applicable to the licensable business, (iii) assessment of a local license tax when no return has been filed by the taxpayer, or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

(g) *Disposition of pending applications for correction.* Any taxpayer whose application for correction pursuant to the provisions of subsection (a) of this section has been pending for more than two years without the issuance of a final determination may, upon not less than 30 days' written notice to the assessor, elect to treat the application as denied and appeal the assessment to the tax commissioner in accordance with the provisions of subsection (c) of this section. The tax commissioner shall not consider an appeal filed pursuant to the provisions of this division if he finds that the absence of final determination on the part of the assessor was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the assessor to make his determination.

Sec. 28-36. Recordkeeping and audits.

Every person who is assessable with a local license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the town. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. If the records are maintained outside the town, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

Sec. 28-37. Rate of license taxes.

Any business shall be subject to the license tax at the rate set forth below for the class of enterprise listed:

- (1) For contracting, and persons constructing for their own account for sale, \$0.16 per \$100.00 of gross receipts;
- (2) For retail sales, \$0.20 per \$100.00 of gross receipts;
- (3) For financial, real estate and professional services, \$0.58 per \$100.00 of gross receipts; and
- (4) For repair, personal and business services, and all other businesses and occupations not specifically listed or excepted in this section, \$0.36 per \$100.00 of gross receipts.

Sec. 26-38. Certain public service corporations.

A license tax is imposed, in addition to any tax levied under Code of Virginia, § 58.1-2600 et seq., on (i) telephone and telegraph companies; (ii) water companies; and (iii) heat, light and power companies (except electric suppliers, gas utilities and gas suppliers as defined in Code of Virginia, § 58.1-400.2 and pipeline distribution companies as defined in Code of Virginia, § 58.1-2600) at a rate of one-half of one percent of the gross receipts of such company accruing from sales to the ultimate consumer in the town. However, in the case of telephone companies, charges for long distance telephone calls shall not be included in gross receipts for purposes of license taxation. The license tax authorized by this section shall not be imposed on pipeline distribution companies as defined in Code of Virginia, § 58.1-2600 or on gas suppliers, gas utilities or electric suppliers as defined in Code of Virginia, § 58.1-400.2.

Sec. 26-39. Proof of gross receipt.

Every person operating a business in the town whose town license tax is based on gross receipt shall submit to the town annually a copy of schedule "C" of the applicable federal income tax form.

Sec. 26-40. Other license taxes.

The license taxes specified in Code of Virginia, § 58.1-3700 et seq., where not included in the chapter, are adopted and incorporated in this section as if set out at length herein.

Sec. 26-41. Operating business without license.

Any person who operates a business in the town without a current town license shall be guilty of a class 1 misdemeanor.

CHAPTER 26 BUSINESSES

(adopted HTC 10-12-2010)

Secs. 26-42—26-50 Reserved

ARTICLE III. Yard Sales

Section 26-52. Definitions.

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

Personal property means property which is owned, utilized and maintained by an individual or members of his residence and acquired in the normal course of living in or maintaining a residence. It does not include property or merchandise which was purchased for resale or obtained on consignment.

Yard sale means and includes all general sales, open to the public, conducted from or on a residential premise in any residential zone for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This shall not include a situation where no more than five specific items are held out for sale and all advertisements of such sale specifically name those items to be sold.

Section 26-53. Property permitted to be sold.

It shall be unlawful for any individual to sell or offer for sale, under authority granted by this article, property other than personal property.

Section 26-54. Permit--Required.

No yard sale shall be conducted unless and until the individuals desiring to conduct such a sale shall obtain a permit therefore from the police department, setting forth the following information:

- (1) Full name and address of applicant.
- (2) The location at which the proposed yard sale is to be held.
- (3) The date when the sale shall be held (may include an alternate rain date).
- (4) The date, or dates of any other yard sales within a twelve month period starting with the first permitted yard sale.
- (5) An affirmative statement that the property to be sold was owned by the applicant as his personal property or by his or her immediate family and was neither acquired nor consigned for the purpose resale.

Section 26-55. Same--Fee.

There shall be an administrative processing fee of \$30.00 for the issuance of a permit under this article, provided, however that no fee will be charged for the first four permits issued to a residence and/or family household during any calendar year.

Section 26-56. Same--Conditions.

(a) *Time and location of sale.* The permit issued under this article shall set forth and restrict the time and location of the yard sale. If members of more than one residence join

in requesting permit, then such permit shall be considered as having been issued for each and all such residences.

(b) *Cancellation; rescheduling of sale.* Upon illness, or other unforeseen event, which necessitates the cancellation of the yard sale as proposed, the applicant may file a written request with the town manager, within five calendar days, for specific authorization to reschedule the yard sale to a new date under the terms and conditions of initial permit.

Section 26-57. Hours of operation.

Yard sales permitted under this article shall be limited in time to the hours of 8:00 a.m. to 5:00 p.m. on the days of sale. Each day shall constitute a separate yard sale.

Section 26-58. 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 shall be permitted to be displayed on the property of the residence where the yard sale is being conducted.

(2) *Directional signs.* Two signs of not more than four square feet each are permitted provided permission to erect such signs is received from the property owners upon whose property such signs are placed.

(b) *Time limitation.* No sign shall be exhibited more than two days prior to the day such sale is to be held.

(c) *Removal of signs.* Signs must be removed each day at the close of the yard sale activities.

(d) *Snipe signs prohibited.* No off-premise sign of any material shall be tacked, nailed stapled, pasted, painted or attached in any way to a post, tree, utility pole, tower, antenna, fence, wall or other supporting structure.

Section 26-59. Exemptions from article.

The provisions of this article shall not apply to the following:

(1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by a licensed merchant of the town from or at a place permitted by the town manager or his designee.

(4) Any bona fide charitable, religious, eleemosynary, educational, cultural or governmental institution or organization, when the proceeds from the sale are used directly for the institution or organizations charitable purposes and the goods or articles are not sold on a consignment basis.

Section 26-60. Right of entry.

(a) A police officer or the building official shall have the right of entry at reasonable times to any premises showing evidence of a sale for purpose of enforcement or inspection and may close the premises from such a sale or arrest any individual who violates the provisions of this article.

Section 26-61. Penalty.

Any person violating the terms of this article shall be guilty of a class 4 misdemeanor.

Secs. 26-62—26-70 Reserved

Chapters 27—29

RESERVED

CD27:1

Chapter 30

ENVIRONMENT*

Article I. In General

Secs. 30-1—30-30. Reserved.

Article II. Outdoor Lighting Control

- Sec. 30-31. Purpose and intent.
- Sec. 30-32. Conformance with applicable codes; conflict.
- Sec. 30-33. Approved materials and methods of installation; new technology.
- Sec. 30-34. Definitions.
- Sec. 30-35. General requirements for shielding and filtration.
- Sec. 30-36. Restrictions and prohibitions on use of specific outdoor light fixtures.
- Sec. 30-37. Exemptions.
- Sec. 30-38. Procedures for compliance with this article.
- Sec. 30-39. Violations.
- Sec. 30-40. Application; nonconforming devices.
- Secs. 30-41—30-70. Reserved.

Article III. Noise

- Sec. 30-71. General policy.
- Sec. 30-72. Definitions.
- Sec. 30-73. Residential property noise limits.
- Sec. 30-74. Commercial and industrial property noise limits.
- Sec. 30-75. Public property noise limits.
- Sec. 30-76. Special provisions and exemptions.
- Sec. 30-77. Exception permits.
- Sec. 30-78. Building operations.
- Sec. 30-79. Business noises at night.
- Sec. 30-80. Miscellaneous noises prohibited.

*Charter reference—Enumeration of powers, § 7.

Cross references—Animals, ch. 18; buildings and building regulations, ch. 22; unsafe buildings, § 22-61 et seq.; health and sanitation, ch. 38; solid waste, ch. 54; streets, sidewalks and other public places, ch. 58; utilities, ch. 70; zoning, app. A; subdivisions, app. B.

State law references—Erosion and sediment control, Code of Virginia, § 10.1-560 et seq.; local stormwater management programs, Code of Virginia, § 10.1-603.3; local air pollution ordinances, Code of Virginia, § 10.1-1321; abatement or removal of nuisances, Code of Virginia, §§ 15.2-900, 15.2-1115.

ARTICLE I. IN GENERAL

Secs. 30-1—30-30. Reserved.

ARTICLE II. OUTDOOR LIGHTING CONTROL

Sec. 30-31. Purpose and intent.

This article is intended to restrict the permitted use of outdoor artificial illuminating devices, control light trespass, minimize the detrimental effect artificial outdoor lighting has on astronomical observations and encourage good lighting practices such that lighting systems are designed to conserve energy and costs, while providing for nighttime safety, utility, security and productivity.

Sec. 30-32. Conformance with applicable codes; conflict.

(a) *Conformance with building code and article.* All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this article and any building code now in effect or which may hereafter be enacted.

(b) *Conflicts.* If any provision of this article conflicts with any other section of this Code or any other ordinance of the city, the provisions of this article shall govern.

Sec. 30-33. Approved materials and methods of installation; new technology.

(a) *Alternative materials or methods of installation.* The provisions of this article shall not prevent the use of any alternate material or method of installation not specified in this article, or new lighting technology. The alternate must be approved by the building and zoning official prior to its use within the city.

(b) *Standards for alternative materials, methods or technologies.* The building and zoning official may approve any alternate material or method of installation or new lighting technology if he finds such material, method or technology:

- (1) Provides approximate equivalence to those specific requirements of this article; or
- (2) Satisfactorily complies with the intent of this article.

Sec. 30-34. Definitions.

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

Filtered means the use of an outer lens which services to control the spectral distribution from a light source. The outer lens shall be glass, acrylic or some other translucent enclosure. Quartz glass does not comply with this requirement.

Individual means any private individual, tenant, lessee, owner, or any commercial entity, including but not limited to companies, partnerships, joint ventures or corporations.

Installed means the initial installation of outdoor light fixtures defined in this section.

Outdoor light fixtures means outdoor artificial illuminating devices, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but shall not be limited to, search, spot or flood lights for buildings and structures, recreational areas, parking lot lighting, landscape lighting, billboards and other signage and street lighting.

Shielded, fully (fixtures) means fixtures that are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

Shielded, partially (fixtures) means fixtures that are shielded in such a manner that the bottom edge of the shield is below the plane of the center line of the lamp reducing light above the horizontal.

Cross reference—Definitions generally, § 1-2.

Sec. 30-35. General requirements for shielding and filtration.

(a) *Shielding standards.* All outdoor illuminating devices, except those exempt from this section by section 30-37, shall be shielded as set forth as follows:

- (1) High pressure sodium, metal halide, fluorescent, tungsten, halogen, incandescent and mercury vapor type lamp fixtures shall be fully shielded.
- (2) Fluorescent type lamp fixtures used to illuminate outdoor advertising signs shall be mounted at the top of the sign structure and shall be partially shielded.

(b) *Filtering.* A filter shall be used for all metal halide, fluorescent and mercury vapor type lamp fixtures.

(c) *Shielding or filtering of other types of lamp fixtures.* Other types of lamp fixtures not specified in this section, and not specifically exempt from this section by section 30-37 shall be shielded and/or filtered as determined by the building and zoning official.

Sec. 30-36. Restrictions and prohibitions on use of specific outdoor light fixtures.

(a) *Permit required; hours of operation.* Except for emergency purposes, no person shall operate a search light within the city without obtaining a permit to do so from the city. No search light shall be operated between the hours of 11:00 p.m. and sunrise.

(b) *Direction of fixture.* No shielded fixture, fully or partially, shall be directed upward toward the sky.

(c) *Hours of use.* No outdoor recreational facility, public or private, shall be illuminated after 11:00 p.m. by lighting fixtures which do not comply with the provisions of this article, except to conclude a recreational or sporting event or other activity in progress prior to 11:00 p.m.

(d) *Directing light into adjacent properties.* Low wattage, unshielded lighting devices shall not be installed in a manner which will direct light into adjacent properties. Flood and spot lights shall be aimed so the high beam of the light does not exceed a point on the ground adjacent to the structure supporting the flood or spot light, the distance of such point from the structure being equal to the height of the flood or spot light above the ground.

Sec. 30-37. Exemptions.

The shielding and filtration requirements set forth in section 30-35 shall not apply to the following:

- (1) Low pressure sodium fixtures.
- (2) Outdoor lighting fixtures installed prior to the effective date of this Code. However, such fixtures, when exempted, shall be extinguished, either automatically or manually, between 11:00 p.m. and sunrise. Street lights and parking lot lights installed prior to the effective date of this Code are not required to be extinguished between 11:00 p.m. and sunrise.
- (3) Fossil fuel light, produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels.
- (4) Incandescent fixtures of 150 watts or less, and other sources of 70 watts or less. Tungsten halogen lamps are not considered an incandescent light source for purposes of this exemption.
- (5) Airport navigational lighting systems.
- (6) Outdoor advertising signs of the type constructed of translucent material and wholly illuminated from within.

Sec. 30-38. Procedures for compliance with this article.

(a) *Applications.* Any individual applying for an electrical, building or use permit and intending to install outdoor lighting fixtures shall, as a part of such application, submit evidence to the building and zoning official that the proposed work will comply with the provisions of this article.

(b) *Contents of application or submission.* The submission shall contain, but shall not necessarily be limited to the following (all or part of which may be part of or in addition to the information required elsewhere in the zoning regulations upon application for the required permit):

- (1) Plans indicating the location of the outdoor lighting fixture(s) on the premises and the type of illuminating devices, fixtures, lamps, supports, and other devices intended to be used.

- (2) Description of the illuminating devices, fixtures, lamps, supports and other devices, etc. This description shall include, but is not limited to, manufacturers' catalog cuts and/or drawings—(including—sections—where—required) and shall include—detailed photometric data.
- (3) These plans and descriptions shall be sufficiently complete to enable the building and zoning official to determine whether compliance with the requirements of this article will be secured. If the city engineer is unable to make such a determination from the plans and descriptions, he may request the applicant to submit evidence of compliance by certified test reports as performed by a recognized testing laboratory. All test reports shall comply with procedures established by the American National Standards Institute (ANSI) and the Illuminating Engineering Society of North America (IES) for testing of luminaries.

Sec. 30-39. Violations.

(a) *Violation a misdemeanor.* A violation of this article shall be a misdemeanor, and a fine of \$300.00 a day shall be imposed for each day the violation exists after expiration of the abatement period provided for in this section.

(b) *Notification.* When a violation of this article is discovered by the city, a notice of violation shall be served upon, or sent by certified mail to, the owner, lessee or other person in control of the premises. The notice shall specify the nature of the violation and shall order the responsible party to abate the violation within 30 days after receipt of the notice.

Sec. 30-40. Application; nonconforming devices.

Outdoor light fixtures installed prior to the effective date of this Code shall not be altered, replaced, relocated or recreated unless brought into compliance with this article. This section shall not apply to reasonable and normal repairs and maintenance to the fixtures which are necessitated by ordinary wear, weather or accident. In addition, no change in use, replacement, structural alteration or restoration shall be permitted for any fixture which has not been used for a period of 12 consecutive months, unless it is brought into compliance with this article.

Secs. 30-41—30-70. Reserved.

ARTICLE III. NOISE*

Sec. 30-71. General policy.

It is declared to be the policy of the town that the peace, health, safety and welfare of its citizens require protection from excessive and unreasonable noises from any and all sources in

*Editor's note—The town's former noise ordinance was in ch. 10, § 33, of the former Code.
 State law references—Local regulations of noise, Code of Virginia, § 15.2-917 et seq.; motor vehicle exhaust system, Code of Virginia, § 46.2-1047 et seq.; unlawful use of warning devices, Code of Virginia, § 46.2-1060.

the community. It is the intention of the council to control the adverse effect of such noise sources on the citizens under any condition of use, especially those conditions of use that have the most severe impact on any person.

Sec. 30-72. Definitions.

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

Emergencies means essential activities necessary to restore, preserve, protect, or save lives or property from imminent danger of loss or harm.

Local ambient means the lowest sound level repeating itself during a six-minute period as measured with a precision sound level meter, using slow response and A-weighting. The minimum sound level shall be determined with the noise source at issue silent, and in the same location as the measurement of the noise level of the source at issue. However, for purposes of this article, in no case shall the local ambient be considered or determined to less than 30 dB(A) for interior noise with respect to the requirements set forth in section 30-73(b) and 40 dB(A) with respect to requirements set forth in all other sections. If a significant portion of the local ambient is produced by one or more individual identifiable sources that would otherwise be operating continuously during the six-minute measurement period and contributing significantly to the ambient sound level, determination of the local ambient shall be accomplished with these separate identifiable noise sources silent.

Noise level means the maximum continuous sound level or repetitive peak level produced by a source or group of sources as measured with a precision sound level meter using A-weighting scale, and the meter response function set to "Slow."

Precision sound level meter means a device for measuring sound level in decibel units within the performance specifications in the American National Standards Institute Standard S1.4, Specification for Sound Level Meters.

Property plane means a vertical plane passing through a property line, which determines the property boundaries in space.

Sound level, expressed in decibels (dB), means a logarithmic indication of the ratio between the acoustic energy present at a given location and the lowest amount of acoustic energy audible to sensitive human ears and weighted by frequency to account for characteristics of human hearing, as given in the American National Standards Institute Standard S1.1, Acoustic Terminology, paragraph 2.9, or successor reference. All references to "dB" in this article utilize the A-level weighting scale, abbreviated "dB(A)," measured as set forth in this section.

Vehicle means any device by which any person or property may be propelled, moved or drawn on a highway or street.

Cross reference—Definitions generally, § 1-2.

Sec. 30-73. Residential property noise limits.

(a) *Residential noise level limit.* No person shall produce, suffer or allow to be produced by any machine, animal or device, or any combination, on residential property a noise level more than six dB above the local ambient at any point outside of the property planes.

(b) *Multifamily residential property noise level limit.* No person shall produce, suffer or allow to be produced by any machine, animal or device, or any combination, on multifamily residential property a noise level more than six dB above the local ambient three feet from any wall, floor or ceiling inside any dwelling unit on the same property, when the windows and doors of the dwelling unit are closed, except within the dwelling unit in which the noise source may be located.

Sec. 30-74. Commercial and industrial property noise limits.

No person shall produce, suffer or allow to be produced by any machine or device, or any combination, on commercial or industrial property a noise level more than eight dB above the local ambient at any point outside of the property planes.

Sec. 30-75. Public property noise limits.

(a) *Generally.* No person shall produce, suffer or allow to be produced by any machine or device, or any combination, on public property a noise level more than 15 dB above the local ambient at a distance of 25 feet or more, unless otherwise provided in this section.

(b) *Exemptions for sound performances and special events.* Sound performances and special events not exceeding 80 dB(A) measured at a distance of 50 feet are exempt from this article when approval has been obtained from the council.

(c) *Vehicle horns and other warning devices.* Vehicle horns, or other devices primarily intended to create a loud noise for warning purposes, shall not be used when the vehicle is at rest or when a situation endangering life, health or property is not imminent.

Sec. 30-76. Special provisions and exemptions.

(a) *Daytime exceptions.* Any noise source that does not produce a noise level exceeding 70 dB(A) at a distance of 25 feet under its most noisy condition of use shall be exempt from the provisions of sections 30-73(a), 30-74 and 30-75(a) between the hours of 8:00 a.m. and 6:00 p.m. daily, except on Sundays and holidays, when the exemption shall apply between noon and 6:00 p.m.

(b) *Safety devices.* Aural warning devices that are required by law to protect the health, safety and welfare of the community shall not produce a noise level more than three dB above the standard or minimum level stipulated by law.

(c) *Emergencies.* Emergencies are exempt from this article.

(d) *Construction.* Notwithstanding any other provision of this article, between the hours of 8:00 a.m. and 8:00 p.m. daily, except on Sundays and holidays, when the exemption shall apply between 10:00 a.m. and 6:00 p.m., construction, alteration or repair activities that are authorized by a valid city permit shall be allowed if they meet at least one of the following noise limitations:

- (1) No individual piece of equipment shall produce a noise level exceeding 83 dB(A) at a distance of 25 feet. If the device is housed within a structure on property, the measurement shall be made outside the structure at a distance as close to 25 feet from the equipment as possible.
- (2) The noise level at any point outside of the property planes of the project shall not exceed 86 dB(A).

Sec. 30-77. Exception permits.

If an applicant can show to the council that a diligent investigation of available noise abatement techniques indicates that immediate compliance with the requirements of this article would be impractical or unreasonable, a permit to allow exception from the provisions contained in all or a portion of this article may be issued, with appropriate conditions to minimize the public detriment caused by such exceptions. Any such permit shall be of as short duration as possible, up to six months, but renewable on a showing of good cause, and shall be conditioned by a schedule of compliance and details of methods for compliance in appropriate cases.

Sec. 30-78. Building operations.

(a) *Operations prohibited on certain days and hours.* The erection, including excavation, demolition, alteration or repair of any building in a residential or business district on January 1 (New Year's Day), the last Monday in May (Memorial Day), July 4 (Independence Day), the first Monday in September (Labor Day), the fourth Thursday in November (Thanksgiving Day) and December 25 (Christmas Day), or other than between the hours of 7:00 a.m. and sunset on any day of the week, is prohibited, except in cases of necessity in the interest of public health, safety and welfare, and then only with a permit from the city manager or his designee.

(b) *Holidays.* When one of the regular holidays mentioned in subsection (a) of this section falls on a Saturday, the preceding Friday shall be declared the holiday. When one of the regular holidays falls on a Sunday, the following Monday shall be declared the holiday.

State law reference—Legal holidays, Code of Virginia, § 2.2-3300.

Sec. 30-79. Business noises at night.

The operation of any garage, filling station, auto repair business, taxicab business, plant, store, factory or other place of business, between the hours of 8:00 p.m. and 7:00 a.m., in such manner as to create loud and disturbing noises of such frequency or such volume as to annoy

or disturb the quiet, comfort or repose of any citizen, and particularly the creation of disturbing noises of such frequency and volume as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel, boardinghouse or other type of residence, is prohibited.

Sec. 30-80. Miscellaneous noises prohibited.

(a) *Generally.* It shall be unlawful for any person to make, continue or cause to be made or continued any excessive or unusually loud noise or any noise which disturbs, injures or endangers the comfort, health, safety, welfare or environment of others, within the limits of the town.

(b) *Certain machines or devices regulated; violation.*

- (1) Using, operating or permitting to be played, used or operated, any radio receiving set, television set, musical instrument, phonograph or other machine, radio or device for the producing or reproducing of sound in such 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 for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto, shall be deemed a violation.
- (2) The operation of any such set, instrument, phonograph or other machine, radio or device in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, vehicle or unit in which it is located shall be prima facie evidence of a violation of this section.

(c) *Permit for relief from designated noise level; application; expiration.*

- (1) Applications for a permit for relief from the noise level designated in this section on the basis of undue hardship or for special activities may be made to the town manager or his duly authorized representative. Any permit granted by the town manager under this section shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. Such authorization may prescribe any conditions or requirements deemed necessary to minimize effects upon the community or the surrounding neighborhood.
- (2) Any permit issued pursuant to subsection (c)(1) of this section shall be valid no longer than three years from the date it is issued.